

109TH CONGRESS } 2d Session }	SENATE	{ REPORT 109-_____
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SAFE PORT ACT

—Ordered to be printed

Mr. King of New York, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H. R. 4954]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4954), to improve maritime and cargo security through enhanced layered defenses, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Security and Accountability For Every Port Act of
4 2006” or the “SAFE Port Act”.

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

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

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

- Sec. 101. Area Maritime Transportation Security Plan to include salvage response plan.
- Sec. 102. Requirements relating to maritime facility security plans.
- Sec. 103. Unannounced inspections of maritime facilities.
- Sec. 104. Transportation security card.
- Sec. 105. Study to identify redundant background records checks.
- Sec. 106. Prohibition of issuance of transportation security cards to persons convicted of certain felonies.
- Sec. 107. Long-range vessel tracking.
- Sec. 108. Establishment of interagency operational centers for port security.
- Sec. 109. Notice of arrival for foreign vessels on the Outer Continental Shelf.
- Sec. 110. Enhanced crewmember identification.

Subtitle B—Port Security Grants; Training and Exercise Programs

- Sec. 111. Risk assessment tool.
- Sec. 112. Port security grants.
- Sec. 113. Port Security Training Program.
- Sec. 114. Port Security Exercise Program.
- Sec. 115. Facility exercise requirements.

Subtitle C—Port Operations

- Sec. 121. Domestic radiation detection and imaging.
- Sec. 122. Inspection of car ferries entering from abroad.
- Sec. 123. Random searches of containers.
- Sec. 124. Work stoppages and employee-employer disputes.
- Sec. 125. Threat assessment screening of port truck drivers.
- Sec. 126. Border Patrol unit for United States Virgin Islands.
- Sec. 127. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.
- Sec. 128. Center of Excellence for Maritime Domain Awareness.

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.
- Sec. 202. Post-incident resumption of trade.
- Sec. 203. Automated Targeting System.

3

- Sec. 204. Container security standards and procedures.
- Sec. 205. Container Security Initiative.

Subtitle B—Customs–Trade Partnership Against Terrorism

- Sec. 211. Establishment.
- Sec. 212. Eligible entities.
- Sec. 213. Minimum requirements.
- Sec. 214. Tier 1 participants in C–TPAT.
- Sec. 215. Tier 2 participants in C–TPAT.
- Sec. 216. Tier 3 participants in C–TPAT.
- Sec. 217. Consequences for lack of compliance.
- Sec. 218. Third party validations.
- Sec. 219. Revalidation.
- Sec. 220. Noncontainerized cargo.
- Sec. 221. C–TPAT program management.
- Sec. 222. Additional personnel.
- Sec. 223. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

- Sec. 231. Pilot integrated scanning system.
- Sec. 232. Screening and scanning of cargo containers.
- Sec. 233. International cooperation and coordination.
- Sec. 234. Foreign port assessments.
- Sec. 235. Pilot program to improve the security of empty containers.
- Sec. 236. Information sharing relating to supply chain security cooperation.

TITLE III—ADMINISTRATION

- Sec. 301. Office of Cargo Security Policy.
- Sec. 302. Reauthorization of Homeland Security Science and Technology Advisory Committee.
- Sec. 303. Research, development, test, and evaluation efforts in furtherance of maritime and cargo security.

TITLE IV—AGENCY RESOURCES AND OVERSIGHT

- Sec. 401. Trade and customs revenue functions of the department.
- Sec. 402. Office of international trade; oversight.
- Sec. 403. Resources.
- Sec. 404. Negotiations.
- Sec. 405. International Trade Data System.
- Sec. 406. In-bond cargo.
- Sec. 407. Sense of the Senate.

TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE

- Sec. 501. Establishment of Domestic Nuclear Detection Office.
- Sec. 502. Technology research and development investment strategy for nuclear and radiological detection.

TITLE VI—COMMERCIAL MOBILE SERVICE ALERTS

- Sec. 601. Short title.
- Sec. 602. Federal Communications Commission duties.
- Sec. 603. Commercial Mobile Service Alert Advisory Committee.
- Sec. 604. Research and development.
- Sec. 605. Grant program for remote community alert systems.
- Sec. 606. Funding.
- Sec. 607. Essential services disaster assistance.
- Sec. 608. Community disaster loans.
- Sec. 609. Public facilities.
- Sec. 610. Expedited payments.
- Sec. 611. Use of local contracting.
- Sec. 612. FEMA programs.
- Sec. 613. Homeland security definition.

TITLE VII—OTHER MATTERS

- Sec. 701. Security plan for essential air service and small community airports.
- Sec. 702. Disclosures regarding homeland security grants.
- Sec. 703. Trucking security.
- Sec. 704. Air and Marine Operations of the Northern Border Air Wing.
- Sec. 705. Phaseout of vessels supporting oil and gas development.
- Sec. 706. Coast Guard property in Portland, Maine.
- Sec. 707. Methamphetamine and methamphetamine precursor chemicals.
- Sec. 708. Aircraft charter customer and lessee prescreening program.
- Sec. 709. Protection of health and safety during disasters.

TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

- Sec. 801. Short title.
- Sec. 802. Prohibition on acceptance of any payment instrument for unlawful Internet gambling.
- Sec. 803. Internet gambling in or through foreign jurisdictions.

1 SEC. 2. DEFINITIONS.

2 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—Except as otherwise provided, the term “ap-
3 propriate congressional committees” means—

4 (A) the Committee on Appropriations of
5 the Senate;

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

8 (C) the Committee on Finance of the Sen-
9 ate;

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

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

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

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

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

20 (I) other congressional committees, as ap-
21 propriate.

1 (2) COMMERCIAL OPERATIONS ADVISORY COM-
2 MITTEE.—The term “Commercial Operations Advi-
3 sory Committee” means the Advisory Committee es-
4 tablished pursuant to section 9503(c) of the Omni-
5 bus Budget Reconciliation Act of 1987 (19 U.S.C.
6 2071 note) or any successor committee.

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

16 (4) COMMISSIONER.—The term “Commis-
17 sioner” means the Commissioner responsible for the
18 United States Customs and Border Protection of the
19 Department of Homeland Security.

20 (5) CONTAINER.—The term “container” has
21 the meaning given the term in the International

1 Convention for Safe Containers, with annexes, done
2 at Geneva, December 2, 1972 (29 UST 3707).

3 (6) CONTAINER SECURITY DEVICE.—The term
4 “container security device” means a device, or sys-
5 tem, designed, at a minimum, to identify positively
6 a container, to detect and record the unauthorized
7 intrusion of a container, and to secure a container
8 against tampering throughout the supply chain.
9 Such a device, or system, shall have a low false
10 alarm rate as determined by the Secretary.

11 (7) DEPARTMENT.—The term “Department”
12 means the Department of Homeland Security.

13 (8) EXAMINATION.—The term “examination”
14 means an inspection of cargo to detect the presence
15 of misdeclared, restricted, or prohibited items that
16 utilizes nonintrusive imaging and detection tech-
17 nology.

18 (9) INSPECTION.—The term “inspection”
19 means the comprehensive process used by the United
20 States Customs and Border Protection to assess
21 goods entering the United States to appraise them

1 for duty purposes, to detect the presence of re-
2 stricted or prohibited items, and to ensure compli-
3 ance with all applicable laws. The process may in-
4 clude screening, conducting an examination, or con-
5 ducting a search.

6 (10) INTERNATIONAL SUPPLY CHAIN.—The
7 term “international supply chain” means the end-to-
8 end process for shipping goods to or from the
9 United States beginning at the point of origin (in-
10 cluding manufacturer, supplier, or vendor) through a
11 point of distribution to the destination.

12 (11) RADIATION DETECTION EQUIPMENT.—The
13 term “radiation detection equipment” means any
14 technology that is capable of detecting or identifying
15 nuclear and radiological material or nuclear and ra-
16 diological explosive devices.

17 (12) SCAN.—The term “scan” means utilizing
18 nonintrusive imaging equipment, radiation detection
19 equipment, or both, to capture data, including im-
20 ages of a container.

1 (13) SCREENING.—The term “screening”
2 means a visual or automated review of information
3 about goods, including manifest or entry documenta-
4 tion accompanying a shipment being imported into
5 the United States, to determine the presence of
6 misdeclared, restricted, or prohibited items and as-
7 sess the level of threat posed by such cargo.

8 (14) SEARCH.—The term “search” means an
9 intrusive examination in which a container is opened
10 and its contents are devanned and visually inspected
11 for the presence of misdeclared, restricted, or pro-
12 hibited items.

13 (15) SECRETARY.—The term “Secretary”
14 means the Secretary of Homeland Security.

15 (16) TRANSPORTATION DISRUPTION.—The
16 term “transportation disruption” means any signifi-
17 cant delay, interruption, or stoppage in the flow of
18 trade caused by a natural disaster, heightened threat
19 level, an act of terrorism, or any transportation se-
20 curity incident (as defined in section 70101(6) of
21 title 46, United States Code).

1 (17) TRANSPORTATION SECURITY INCIDENT.—
2 The term “transportation security incident” has the
3 meaning given the term in section 70101(6) of title
4 46, United States Code.

5 **TITLE I—SECURITY OF UNITED**
6 **STATES SEAPORTS**

7 **Subtitle A—General Provisions**

8 **SEC. 101. AREA MARITIME TRANSPORTATION SECURITY**
9 **PLAN TO INCLUDE SALVAGE RESPONSE**
10 **PLAN.**

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

13 (1) in subparagraph (E), by striking “and”
14 after the semicolon;

15 (2) by redesignating subparagraph (F) as sub-
16 paragraph (G); and

17 (3) by inserting after subparagraph (E) the fol-
18 lowing:

19 “(F) include a salvage response plan—

20 “(i) to identify salvage equipment capable
21 of restoring operational trade capacity; and

1 “(ii) to ensure that the waterways are
2 cleared and the flow of commerce through
3 United States ports is reestablished as effi-
4 ciently and quickly as possible after a maritime
5 transportation security incident; and”.

6 **SEC. 102. REQUIREMENTS RELATING TO MARITIME FACIL-**
7 **ITY SECURITY PLANS.**

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

10 (1) in paragraph (3)—

11 (A) in subparagraph (C)(ii), by striking
12 “facility” and inserting “facility, including ac-
13 cess by persons engaged in the surface trans-
14 portation of intermodal containers in or out of
15 a port facility”;

16 (B) in subparagraph (F), by striking
17 “and” at the end;

18 (C) in subparagraph (G), by striking the
19 period at the end and inserting “; and”; and

20 (D) by adding at the end the following:

1 security plan periodically, but not less than 2 times
2 per year, at least 1 of which shall be an inspection
3 of the facility that is conducted without notice to the
4 facility.”.

5 **SEC. 104. TRANSPORTATION SECURITY CARD.**

6 (a) IN GENERAL.—Section 70105 of title 46, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(g) APPLICATIONS FOR MERCHANT MARINERS’
10 DOCUMENTS.—The Assistant Secretary of Homeland Se-
11 curity for the Transportation Security Administration and
12 the Commandant of the Coast Guard shall concurrently
13 process an application from an individual for merchant
14 mariner’s documents under chapter 73 of title 46, United
15 States Code, and an application from that individual for
16 a transportation security card under this section.

17 “(h) FEES.—The Secretary shall ensure that the fees
18 charged each individual applying for a transportation se-
19 curity card under this section who has passed a back-
20 ground check under section 5103a(d) of title 49, United
21 States Code, and who has a current hazardous materials

1 endorsement in accordance with section 1572 of title 49,
2 Code of Federal Regulations, and each individual with a
3 current merchant mariners' document who has passed a
4 criminal background check under section 7302(d)—

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

8 “(2) do not include costs associated with per-
9 forming a background check for that individual, ex-
10 cept for any incremental costs in the event that the
11 scope of such background checks diverge.

12 “(i) IMPLEMENTATION SCHEDULE.—In imple-
13 menting the transportation security card program under
14 this section, the Secretary shall—

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

18 “(2) implement the program, based upon such
19 risk and other factors as determined by the Sec-
20 retary, at all facilities regulated under this chapter
21 at—

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

4 “(B) the 40 United States ports that are
5 next in order of priority to the ports described
6 in subparagraph (A) not later than January 1,
7 2008; and

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

10 “(j) TRANSPORTATION SECURITY CARD PROCESSING
11 DEADLINE.—Not later than January 1, 2009, the Sec-
12 retary shall process and issue or deny each application for
13 a transportation security card under this section for indi-
14 viduals with current and valid merchant mariners’ docu-
15 ments on the date of the enactment of the SAFE Port
16 Act.

17 “(k) DEPLOYMENT OF TRANSPORTATION SECURITY
18 CARD READERS.—

19 “(1) PILOT PROGRAM.—

20 “(A) IN GENERAL.—The Secretary shall
21 conduct a pilot program to test the business

1 processes, technology, and operational impacts
2 required to deploy transportation security card
3 readers at secure areas of the marine transpor-
4 tation system.

5 “(B) GEOGRAPHIC LOCATIONS.—The pilot
6 program shall take place at not fewer than 5
7 distinct geographic locations, to include vessels
8 and facilities in a variety of environmental set-
9 tings.

10 “(C) COMMENCEMENT.—The pilot pro-
11 gram shall commence not later than 180 days
12 after the date of the enactment of the SAFE
13 Port Act.

14 “(2) CORRELATION WITH TRANSPORTATION SE-
15 CURITY CARDS.—

16 “(A) IN GENERAL.—The pilot program de-
17 scribed in paragraph (1) shall be conducted
18 concurrently with the issuance of the transpor-
19 tation security cards described in subsection (b)
20 to ensure card and card reader interoperability.

1 “(B) FEE.—An individual charged a fee
2 for a transportation security card issued under
3 this section may not be charged an additional
4 fee if the Secretary determines different trans-
5 portation security cards are needed based on
6 the results of the pilot program described in
7 paragraph (1) or for other reasons related to
8 the technology requirements for the transpor-
9 tation security card program.

10 “(3) REGULATIONS.—Not later than 2 years
11 after the commencement of the pilot program under
12 paragraph (1)(C), the Secretary, after a notice and
13 comment period that includes at least 1 public hear-
14 ing, shall promulgate final regulations that require
15 the deployment of transportation security card read-
16 ers that are consistent with the findings of the pilot
17 program and build upon the regulations prescribed
18 under subsection (a).

19 “(4) REPORT.—Not later than 120 days before
20 the promulgation of regulations under paragraph
21 (3), the Secretary shall submit a comprehensive re-

1 port to the appropriate congressional committees (as
2 defined in section 2(1) of SAFE Port Act) that in-
3 cludes—

4 “(A) the findings of the pilot program with
5 respect to technical and operational impacts of
6 implementing a transportation security card
7 reader system;

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

12 “(C) an analysis of the viability of equip-
13 ment under the extreme weather conditions of
14 the marine environment.

15 “(1) PROGRESS REPORTS.—Not later than 6 months
16 after the date of the enactment of the SAFE Port Act,
17 and every 6 months thereafter until the requirements
18 under this section are fully implemented, the Secretary
19 shall submit a report on progress being made in imple-
20 menting such requirements to the appropriate congres-

1 sional committees (as defined in section 2(1) of the SAFE
2 Port Act).

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

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

11 “(2) the Secretary determines that the vessel is
12 at risk of a severe transportation security incident.”.

13 (b) CLARIFICATION OF ELIGIBILITY FOR TRANSPOR-
14 TATION SECURITY CARDS.—Section 70105 of title 46,
15 United States Code, is amended—

16 (1) in subsection (b)(2)—

17 (A) in subparagraph (E), by striking
18 “and” at the end;

19 (B) in subparagraph (F), by striking the
20 period at the end and inserting “; and”; and

21 (C) by adding at the end the following:

1 carried out for the Department that are similar to the
2 background records check required under section 5103a
3 of title 49, United States Code, to identify redundancies
4 and inefficiencies in connection with such checks.

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

9 (1) an identification of redundancies and ineffi-
10 ciencies referred to in subsection (a); and

11 (2) recommendations for eliminating such
12 redundancies and inefficiencies.

13 **SEC. 106. PROHIBITION OF ISSUANCE OF TRANSPORTATION**
14 **SECURITY CARDS TO PERSONS CONVICTED**
15 **OF CERTAIN FELONIES.**

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

21 (1) treason, or conspiracy to commit treason;

1 (2) espionage, or conspiracy to commit espio-
2 nage;

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

5 (4) a crime listed in chapter 113B of title 18,
6 United States Code, a comparable State law, or con-
7 spiracy to commit such crime.

8 **SEC. 107. LONG-RANGE VESSEL TRACKING.**

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

13 (b) VOLUNTARY PROGRAM.—The Secretary may
14 issue regulations to establish a voluntary long-range auto-
15 mated vessel tracking system for vessels described in sec-
16 tion 70115 of title 46, United States Code, during the pe-
17 riod before regulations are issued under such section.

1 **SEC. 108. ESTABLISHMENT OF INTERAGENCY OPER-**
2 **ATIONAL CENTERS FOR PORT SECURITY.**

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

6 **“§ 70107A. Interagency operational centers for port**
7 **security**

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

12 “(b) CHARACTERISTICS.—The interagency oper-
13 ational centers established under this section shall—

14 “(1) utilize, as appropriate, the compositional
15 and operational characteristics of existing centers,
16 including—

17 “(A) the pilot project interagency oper-
18 ational centers for port security in Miami, Flor-
19 ida; Norfolk/Hampton Roads, Virginia; Charles-
20 ton, South Carolina; and San Diego, California;
21 and

1 “(B) the virtual operation center of the
2 Port of New York and New Jersey;

3 “(2) be organized to fit the security needs, re-
4 quirements, and resources of the individual port area
5 at which each is operating;

6 “(3) in addition to the Coast Guard, provide, as
7 the Secretary determines appropriate, for participa-
8 tion by representatives of the United States Customs
9 and Border Protection, the United States Immigra-
10 tion and Customs Enforcement, the Transportation
11 Security Administration, the Department of Justice,
12 the Department of Defense, and other Federal agen-
13 cies, State and local law enforcement or port secu-
14 rity personnel, members of the Area Maritime Secu-
15 rity Committee, and other public and private sector
16 stakeholders adversely affected by a transportation
17 security incident or transportation disruption; and

18 “(4) be incorporated in the implementation and
19 administration of—

20 “(A) maritime transportation security
21 plans developed under section 70103;

1 “(B) maritime intelligence activities under
2 section 70113 and information sharing activi-
3 ties consistent with section 1016 of the Na-
4 tional Security Intelligence Reform Act of 2004
5 (6 U.S.C. 485) and the Homeland Security In-
6 formation Sharing Act (6 U.S.C. 481 et seq.);

7 “(C) short- and long-range vessel tracking
8 under sections 70114 and 70115;

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

11 “(E) the transportation security incident
12 response plans required by section 70104; and

13 “(F) other activities, as determined by the
14 Secretary.

15 “(c) SECURITY CLEARANCES.—The Secretary shall
16 sponsor and expedite individuals participating in inter-
17 agency operational centers in gaining or maintaining their
18 security clearances. Through the Captain of the Port, the
19 Secretary may identify key individuals who should partici-
20 pate. The port or other entities may appeal to the Captain
21 of the Port for sponsorship.

1 “(d) SECURITY INCIDENTS.—During a transpor-
2 tation security incident on or adjacent to waters subject
3 to the jurisdiction of the United States, the Coast Guard
4 Captain of the Port designated by the Commandant of the
5 Coast Guard in a maritime security command center de-
6 scribed in subsection (a) shall act as the incident com-
7 mander, unless otherwise directed by the President.

8 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to affect the normal command and
10 control procedures for operational entities in the Depart-
11 ment, unless so directed by the Secretary.

12 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated \$60,000,000 for each
14 of the fiscal years 2007 through 2012 to carry out this
15 section.”.

16 (b) REPORT REQUIREMENT.—Nothing in this section
17 or the amendments made by this section relieves the Com-
18 mandant of the Coast Guard from complying with the re-
19 quirements of section 807 of the Coast Guard and Mari-
20 time Transportation Act of 2004 (Public Law 108–293;
21 118 Stat. 1082). The Commandant shall utilize the infor-

1 mation developed in making the report required by that
2 section in carrying out the requirements of this section.

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

13 (d) CLERICAL AMENDMENT.—The chapter analysis
14 for chapter 701 of title 46, United States Code, is amend-
15 ed by inserting after the item relating to section 70107
16 the following:

“70107A. Interagency operational centers for port security”.

17 **SEC. 109. NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON**
18 **THE OUTER CONTINENTAL SHELF.**

19 (a) NOTICE OF ARRIVAL.—Not later than 180 days
20 after the date of the enactment of this Act, the Secretary

1 of the department in which the Coast Guard is operating
2 shall update and finalize the rulemaking on notice of ar-
3 rival for foreign vessels on the Outer Continental Shelf.

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

10 **SEC. 110. ENHANCED CREWMEMBER IDENTIFICATION.**

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

13 (1) in subsection (a) by striking “The” and in-
14 sserting “Not later than 1 year after the date of en-
15 actment of the SAFE Port Act, the”; and

16 (2) in subsection (b) by striking “The” and in-
17 sserting “Not later than 1 year after the date of en-
18 actment of the SAFE Port Act, the”.

1 **Subtitle B—Port Security Grants;**
2 **Training and Exercise Programs**

3 **SEC. 111. RISK ASSESSMENT TOOL.**

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

13 **SEC. 112. PORT SECURITY GRANTS.**

14 (a) **BASIS FOR GRANTS.**—Section 70107(a) of title
15 46, United States Code, is amended by striking “for mak-
16 ing a fair and equitable allocation of funds” and inserting
17 “for the allocation of funds based on risk”.

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

20 (1) in paragraph (2), by inserting after “crew-
21 members.” the following: “Grants awarded under

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

11 “(A) \$1,000,000 per project; or

12 “(B) such greater amount as may be ap-
13 proved by the Secretary, which may not exceed
14 10 percent of the total amount of the grant.”;

15 and

16 (2) by adding at the end the following:

17 “(5) The cost of conducting exercises or train-
18 ing for prevention and detection of, preparedness
19 for, response to, or recovery from terrorist attacks.

20 “(6) The cost of establishing or enhancing
21 mechanisms for sharing terrorism threat information

1 and ensuring that the mechanisms are interoperable
2 with Federal, State, and local agencies.

3 “(7) The cost of equipment (including software)
4 required to receive, transmit, handle, and store clas-
5 sified information.”.

6 (c) MULTIPLE-YEAR PROJECTS, ETC.—Section
7 70107 of title 46, United States Code, is amended—

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

12 “(e) MULTIPLE-YEAR PROJECTS.—

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

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

1 “(f) CONSISTENCY WITH PLANS.—The Secretary
2 shall ensure that each grant awarded under subsection
3 (e)—

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

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

9 “(g) APPLICATIONS.—Any entity subject to an Area
10 Maritime Transportation Security Plan may submit an ap-
11 plication for a grant under this section, at such time, in
12 such form, and containing such information and assur-
13 ances as the Secretary may require.

14 “(h) REPORTS.—Not later than 180 days after the
15 date of the enactment of the SAFE Port Act, the Sec-
16 retary, acting through the Commandant of the Coast
17 Guard, shall submit a report to Congress, in a secure for-
18 mat, describing the methodology used to allocate port se-
19 curity grant funds on the basis of risk.”; and

20 (2) in subsection (i)(1), as redesignated, by
21 striking “program” and inserting “Secretary”.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
2 70107(l) of title 46, United States Code, as redesignated,
3 is amended to read as follows:

4 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$400,000,000 for each
6 of the fiscal years 2007 through 2011 to carry out this
7 section.”.

8 (e) BASIS FOR GRANTS.—Section 70107(a) of title
9 46, United States Code, is amended by striking “national
10 economic and strategic defense concerns” and inserting
11 “national economic, energy, and strategic defense con-
12 cerns based upon the most current risk assessments avail-
13 able”.

14 **SEC. 113. PORT SECURITY TRAINING PROGRAM.**

15 (a) IN GENERAL.—The Secretary, acting through the
16 Under Secretary for Preparedness and in coordination
17 with the Commandant of the Coast Guard, shall establish
18 a Port Security Training Program (referred to in this sec-
19 tion as the “Training Program”) for the purpose of en-
20 hancing the capabilities of each facility required to submit
21 a plan under section 70103(c) of title 46, United States

1 Code, to prevent, prepare for, respond to, mitigate against,
2 and recover from threatened or actual acts of terrorism,
3 natural disasters, and other emergencies.

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

6 (1) reaches multiple disciplines, including Fed-
7 eral, State, and local government officials, commer-
8 cial seaport personnel and management, and govern-
9 mental and nongovernmental emergency response
10 providers;

11 (2) provides training at the awareness, perform-
12 ance, and management and planning levels;

13 (3) utilizes multiple training mediums and
14 methods;

15 (4) addresses port security topics, including—

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

19 (B) facility security force operations and
20 management;

- 1 (C) physical security and access control at
- 2 facilities;
- 3 (D) methods of security for preventing and
- 4 countering cargo theft;
- 5 (E) container security;
- 6 (F) recognition and detection of weapons,
- 7 dangerous substances, and devices;
- 8 (G) operation and maintenance of security
- 9 equipment and systems;
- 10 (H) security threats and patterns;
- 11 (I) security incident procedures, including
- 12 procedures for communicating with govern-
- 13 mental and nongovernmental emergency re-
- 14 sponse providers; and
- 15 (J) evacuation procedures;
- 16 (5) is consistent with, and supports implemen-
- 17 tation of, the National Incident Management Sys-
- 18 tem, the National Response Plan, the National In-
- 19 frastructure Protection Plan, the National Prepared-
- 20 ness Guidance, the National Preparedness Goal, the

1 National Maritime Transportation Security Plan,
2 and other such national initiatives;

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

5 (7) addresses security requirements under facil-
6 ity security plans; and

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

12 (c) VESSEL AND FACILITY SECURITY PLANS.—Sec-
13 tion 70103(c)(3) of title 46, United States Code, is
14 amended—

15 (1) by redesignating subparagraphs (F), (G),
16 and (H) (as added by section 102(1)(D)) as sub-
17 paragraphs (G), (H), and (I), respectively; and

18 (2) by inserting after subparagraph (E) the fol-
19 lowing:

20 “(F) provide a strategy and timeline for con-
21 ducting training and periodic unannounced drills;”.

1 (d) CONSULTATION.—The Secretary shall ensure
2 that, in carrying out the Program, the Office of Grants
3 and Training shall consult with commercial seaport per-
4 sonnel and management.

5 (e) TRAINING PARTNERS.—In developing and deliv-
6 ering training under the Training Program, the Secretary,
7 in coordination with the Maritime Administration of the
8 Department of Transportation, and consistent with sec-
9 tion 109 of the Maritime Transportation Security Act of
10 2002 (46 U.S.C. 70101 note), shall—

11 (1) work with government training facilities,
12 academic institutions, private organizations, em-
13 ployee organizations, and other entities that provide
14 specialized, state-of-the-art training for govern-
15 mental and nongovernmental emergency responder
16 providers or commercial seaport personnel and man-
17 agement; and

18 (2) utilize, as appropriate, government training
19 facilities, courses provided by community colleges,
20 public safety academies, State and private univer-
21 sities, and other facilities.

1 **SEC. 114. PORT SECURITY EXERCISE PROGRAM.**

2 (a) IN GENERAL.—The Secretary, acting through the
3 Under Secretary for Preparedness and in coordination
4 with the Commandant of the Coast Guard, shall establish
5 a Port Security Exercise Program (referred to in this sec-
6 tion as the “Exercise Program”) for the purpose of testing
7 and evaluating the capabilities of Federal, State, local, and
8 foreign governments, commercial seaport personnel and
9 management, governmental and nongovernmental emer-
10 gency response providers, the private sector, or any other
11 organization or entity, as the Secretary determines to be
12 appropriate, to prevent, prepare for, mitigate against, re-
13 spond to, and recover from acts of terrorism, natural dis-
14 asters, and other emergencies at facilities required to sub-
15 mit a plan under section 70103(c) of title 46, United
16 States Code.

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

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

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

3 (B) live, in the case of the most at-risk fa-
4 cilities;

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

8 (D) consistent with the National Incident
9 Management System, the National Response
10 Plan, the National Infrastructure Protection
11 Plan, the National Preparedness Guidance, the
12 National Preparedness Goal, the National Mari-
13 time Transportation Security Plan, and other
14 such national initiatives;

15 (E) evaluated against clear and consistent
16 performance measures;

17 (F) assessed to learn best practices, which
18 shall be shared with appropriate Federal, State,
19 and local officials, commercial seaport personnel
20 and management, governmental and nongovern-

1 mental emergency response providers, and the
2 private sector; and

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

5 (2) assists State and local governments and fa-
6 cilities in designing, implementing, and evaluating
7 exercises that—

8 (A) conform to the requirements of para-
9 graph (1); and

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

13 (c) IMPROVEMENT PLAN.—The Secretary shall estab-
14 lish a port security exercise improvement plan process
15 to—

16 (1) identify and analyze each port security exer-
17 cise for lessons learned and best practices;

18 (2) disseminate lessons learned and best prac-
19 tices to participants in the Exercise Program;

1 (3) monitor the implementation of lessons
2 learned and best practices by participants in the Ex-
3 ercise Program; and

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

6 **SEC. 115. FACILITY EXERCISE REQUIREMENTS.**

7 The Secretary of the Department in which the Coast
8 Guard is operating shall require each high risk facility to
9 conduct live or full-scale exercises described in section
10 105.220(c) of title 33, Code of Federal Regulations, not
11 less frequently than once every 2 years, in accordance with
12 the facility security plan required under section 70103(c)
13 of title 46, United States Code.

14 **Subtitle C—Port Operations**

15 **SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.**

16 (a) SCANNING CONTAINERS.—Subject to section
17 1318 of title 19, United States Code, not later than De-
18 cember 31, 2007, all containers entering the United States
19 through the 22 ports through which the greatest volume
20 of containers enter the United States by vessel shall be
21 scanned for radiation. To the extent practicable, the Sec-

1 retary shall deploy next generation radiation detection
2 technology.

3 (b) STRATEGY.—The Secretary shall develop a strat-
4 egy for the deployment of radiation detection capabilities
5 that includes—

6 (1) a risk-based prioritization of ports of entry
7 at which radiation detection equipment will be de-
8 ployed;

9 (2) a proposed timeline of when radiation detec-
10 tion equipment will be deployed at each port of entry
11 identified under paragraph (1);

12 (3) the type of equipment to be used at each
13 port of entry identified under paragraph (1), includ-
14 ing the joint deployment and utilization of radiation
15 detection equipment and nonintrusive imaging equip-
16 ment;

17 (4) standard operating procedures for exam-
18 ining containers with such equipment, including sen-
19 sor alarming, networking, and communications and
20 response protocols;

21 (5) operator training plans;

1 (6) an evaluation of the environmental health
2 and safety impacts of nonintrusive imaging tech-
3 nology and a radiation risk reduction plan, in con-
4 sultation with the Nuclear Regulatory Commission,
5 the Occupational Safety and Health Administration,
6 and the National Institute for Occupational Safety
7 and Health, that seeks to minimize radiation expo-
8 sure of workers and the public to levels as low as
9 reasonably achievable;

10 (7) the policy of the Department for using non-
11 intrusive imaging equipment in tandem with radi-
12 ation detection equipment; and

13 (8) a classified annex that—

14 (A) details plans for covert testing; and

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

17 (c) REPORT.—Not later than 90 days after the date
18 of the enactment of this Act, the Secretary shall submit
19 the strategy developed under subsection (b) to the appro-
20 priate congressional committees.

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

5 (e) OTHER WEAPONS OF MASS DESTRUCTION
6 THREATS.—Not later than 180 days after the date of the
7 enactment of this Act, the Secretary shall submit to the
8 appropriate congressional committees a report on the fea-
9 sibility of, and a strategy for, the development of equip-
10 ment to detect and prevent shielded nuclear and radio-
11 logical threat material and chemical, biological, and other
12 weapons of mass destruction from entering the United
13 States.

14 (f) STANDARDS.—The Secretary, acting through the
15 Director for Domestic Nuclear Detection and in collabora-
16 tion with the National Institute of Standards and Tech-
17 nology, shall publish technical capability standards and
18 recommended standard operating procedures for the use
19 of nonintrusive imaging and radiation detection equipment
20 in the United States. Such standards and procedures—

1 but not later than December 31, 2008, the Secretary
2 shall expand the strategy developed under subsection
3 (b), in a manner consistent with the requirements of
4 subsection (b), to provide for the deployment of radi-
5 ation detection capabilities at all other United States
6 ports of entry not covered by the strategy developed
7 under subsection (b).

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

13 (i) INTERMODAL RAIL RADIATION DETECTION TEST
14 CENTER.—

15 (1) ESTABLISHMENT.—In accordance with sub-
16 section (b), and in order to comply with this section,
17 the Secretary shall establish an Intermodal Rail Ra-
18 diation Detection Test Center (referred to in this
19 subsection as the “Test Center”).

20 (2) PROJECTS.—The Secretary shall conduct
21 multiple, concurrent projects at the Test Center to

1 rapidly identify and test concepts specific to the
2 challenges posed by on-dock rail.

3 (3) LOCATION.—The Test Center shall be lo-
4 cated within a public port facility at which a major-
5 ity of the containerized cargo is directly laden from
6 (or unladen to) on-dock, intermodal rail.

7 **SEC. 122. INSPECTION OF CAR FERRIES ENTERING FROM**
8 **ABROAD.**

9 Not later than 120 days after the date of the enact-
10 ment of this Act, the Secretary, acting through the Com-
11 missioner, and in coordination with the Secretary of State
12 and in cooperation with ferry operators and appropriate
13 foreign government officials, shall seek to develop a plan
14 for the inspection of passengers and vehicles before such
15 passengers board, or such vehicles are loaded onto, a ferry
16 bound for a United States facility required to submit a
17 plan under section 70103(e) of title 46, United States
18 Code.

19 **SEC. 123. RANDOM SEARCHES OF CONTAINERS.**

20 Not later than 1 year after the date of the enactment
21 of this Act, the Secretary, acting through the Commis-

1 sioner, shall develop and implement a plan, utilizing best
2 practices for empirical scientific research design and ran-
3 dom sampling, to conduct random searches of containers
4 in addition to any targeted or preshipment inspection of
5 such containers required by law or regulation or conducted
6 under any other program conducted by the Secretary.
7 Nothing in this section shall be construed to mean that
8 implementation of the random sampling plan precludes
9 additional searches of containers not inspected pursuant
10 to the plan.

11 **SEC. 124. WORK STOPPAGES AND EMPLOYEE-EMPLOYER**
12 **DISPUTES.**

13 Section 70101(6) of title 46, United States Code, is
14 amended by adding at the end the following: “In this para-
15 graph, the term ‘economic disruption’ does not include a
16 work stoppage or other employee-related action not related
17 to terrorism and resulting from an employee-employer dis-
18 pute.”.

1 **SEC. 125. THREAT ASSESSMENT SCREENING OF PORT**
2 **TRUCK DRIVERS.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the Secretary shall implement a threat
5 assessment screening, including name-based checks
6 against terrorist watch lists and immigration status check,
7 for all port truck drivers with access to secure areas of
8 a port who have a commercial driver's license but do not
9 have a current and valid hazardous materials endorsement
10 issued in accordance with section 1572 of title 49, Code
11 of Federal Regulations, that is the same as the threat as-
12 sessment screening required for facility employees and
13 longshoremen by the Commandant of the Coast Guard
14 under Coast Guard Notice USCG-2006-24189 (Federal
15 Register, Vol. 71, No. 82, Friday, April 28, 2006).

16 **SEC. 126. BORDER PATROL UNIT FOR UNITED STATES VIR-**
17 **GIN ISLANDS.**

18 (a) IN GENERAL.—The Secretary may establish at
19 least 1 Border Patrol unit for the United States Virgin
20 Islands.

1 (b) REPORT.—Not later than 180 days after the date
2 of the enactment of this Act, the Secretary shall submit
3 a report to the appropriate congressional committees that
4 includes the schedule, if any, for carrying out subsection
5 (a).

6 **SEC. 127. REPORT ON ARRIVAL AND DEPARTURE MANI-**
7 **FESTS FOR CERTAIN COMMERCIAL VESSELS**
8 **IN THE UNITED STATES VIRGIN ISLANDS.**

9 Not later than 90 days after the date of the enact-
10 ment of this Act, the Secretary shall submit to the appro-
11 priate congressional committees a report on the impact of
12 implementing the requirements of section 231 of the Im-
13 migration and Nationality Act (8 U.S.C. 1221) (relating
14 to providing United States border officers with arrival and
15 departure manifests) with respect to commercial vessels
16 that are fewer than 300 gross tons and operate exclusively
17 between the territorial waters of the United States Virgin
18 Islands and the territorial waters of the British Virgin Is-
19 lands.

1 **SEC. 128. CENTER OF EXCELLENCE FOR MARITIME DOMAIN**
2 **AWARENESS.**

3 (a) **ESTABLISHMENT.**—The Secretary shall establish
4 a university-based Center for Excellence for Maritime Do-
5 main Awareness following the merit-review processes and
6 procedures that have been established by the Secretary for
7 selecting university program centers of excellence.

8 (b) **DUTIES.**—The Center established under sub-
9 section (a) shall—

10 (1) prioritize its activities based on the “Na-
11 tional Plan to Improve Maritime Domain Aware-
12 ness” published by the Department in October 2005;

13 (2) recognize the extensive previous and ongoing
14 work and existing competence in the field of
15 maritime domain awareness at numerous academic
16 and research institutions, such as the Naval Post-
17 graduate School;

18 (3) leverage existing knowledge and continue
19 development of a broad base of expertise within aca-
20 demia and industry in maritime domain awareness;
21 and

1 (1) describe the roles, responsibilities, and au-
2 thorities of Federal, State, local, and tribal govern-
3 ment agencies and private-sector stakeholders that
4 relate to the security of the movement of containers
5 through the international supply chain;

6 (2) identify and address gaps and unnecessary
7 overlaps in the roles, responsibilities, or authorities
8 described in paragraph (1);

9 (3) identify and make recommendations regard-
10 ing legislative, regulatory, and organizational
11 changes necessary to improve coordination among
12 the entities or to enhance the security of the inter-
13 national supply chain;

14 (4) provide measurable goals, including objec-
15 tives, mechanisms, and a schedule, for furthering the
16 security of commercial operations from point of ori-
17 gin to point of destination;

18 (5) build on available resources and consider
19 costs and benefits;

1 (6) provide incentives for additional voluntary
2 measures to enhance cargo security, as rec-
3 ommended by the Commissioner;

4 (7) consider the impact of supply chain security
5 requirements on small- and medium-sized compa-
6 nies;

7 (8) include a process for sharing intelligence
8 and information with private-sector stakeholders to
9 assist in their security efforts;

10 (9) identify a framework for prudent and meas-
11 ured response in the event of a transportation secu-
12 rity incident involving the international supply chain;

13 (10) provide protocols for the expeditious re-
14 sumption of the flow of trade in accordance with sec-
15 tion 202;

16 (11) consider the linkages between supply chain
17 security and security programs within other systems
18 of movement, including travel security and terrorism
19 finance programs; and

20 (12) expand upon and relate to existing strate-
21 gies and plans, including the National Response

1 Plan, the National Maritime Transportation Secu-
2 rity Plan, the National Strategy for Maritime Secu-
3 rity, and the 8 supporting plans of the Strategy, as
4 required by Homeland Security Presidential Direc-
5 tive 13.

6 (c) CONSULTATION.—In developing protocols under
7 subsection (b)(10), the Secretary shall consult with Fed-
8 eral, State, local, and private sector stakeholders, includ-
9 ing the National Maritime Security Advisory Committee
10 and the Commercial Operations Advisory Committee.

11 (d) COMMUNICATION.—To the extent practicable, the
12 strategic plan developed under subsection (a) shall provide
13 for coordination with, and lines of communication among,
14 appropriate Federal, State, local, and private-sector stake-
15 holders on law enforcement actions, intermodal rerouting
16 plans, and other strategic infrastructure issues resulting
17 from a transportation security incident or transportation
18 disruption.

19 (e) UTILIZATION OF ADVISORY COMMITTEES.—As
20 part of the consultations described in subsection (a), the
21 Secretary shall, to the extent practicable, utilize the

1 Homeland Security Advisory Committee, the National
2 Maritime Security Advisory Committee, and the Commer-
3 cial Operations Advisory Committee to review, as nec-
4 essary, the draft strategic plan and any subsequent up-
5 dates to the strategic plan.

6 (f) INTERNATIONAL STANDARDS AND PRACTICES.—

7 In furtherance of the strategic plan required under sub-
8 section (a), the Secretary is encouraged to consider pro-
9 posed or established standards and practices of foreign
10 governments and international organizations, including
11 the International Maritime Organization, the World Cus-
12 toms Organization, the International Labor Organization,
13 and the International Organization for Standardization,
14 as appropriate, to establish standards and best practices
15 for the security of containers moving through the inter-
16 national supply chain.

17 (g) REPORT.—

18 (1) INITIAL REPORT.—Not later than 270 days
19 after the date of the enactment of this Act, the Sec-
20 retary shall submit to the appropriate congressional

1 committees a report that contains the strategic plan
2 required by subsection (a).

3 (2) FINAL REPORT.—Not later than 3 years
4 after the date on which the strategic plan is sub-
5 mitted under paragraph (1), the Secretary shall sub-
6 mit a report to the appropriate congressional com-
7 mittees that contains an update of the strategic
8 plan.

9 **SEC. 202. POST-INCIDENT RESUMPTION OF TRADE.**

10 (a) IN GENERAL.—The Secretary shall develop and
11 update, as necessary, protocols for the resumption of trade
12 in accordance with section 201(b)(10) in the event of a
13 transportation disruption or a transportation security inci-
14 dent. The protocols shall include—

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

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

1 (3) a plan to provide training for the periodic
2 instruction of personnel of the United States Cus-
3 toms and Border Protection, the Coast Guard, and
4 the Transportation Security Administration in trade
5 resumption functions and responsibilities; and

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

11 (b) VESSELS.—In determining the prioritization of
12 vessels accessing facilities (as defined under section 70101
13 of title 46, United States Code), the Commandant of the
14 Coast Guard may, to the extent practicable and consistent
15 with the protocols and plans required under this section
16 to ensure the safe and secure transit of vessels to ports
17 in the United States after a transportation security inci-
18 dent, give priority to a vessel—

19 (1) that has an approved security plan under
20 section 70103(c) of title 46, United States Code, or
21 a valid international ship security certificate, as pro-

1 vided under part 104 of title 33, Code of Federal
2 Regulations;

3 (2) that is manned by individuals who are de-
4 scribed in section 70105(b)(2)(B) of title 46, United
5 States Code; and

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

9 (c) CARGO.—In determining the prioritization of the
10 resumption of the flow of cargo and consistent with the
11 protocols established under this section, the Commissioner
12 may give preference to cargo—

13 (1) entering a port of entry directly from a for-
14 eign seaport designated under the Container Secu-
15 rity Initiative;

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

19 (3) that has undergone—

20 (A) a nuclear or radiological detection
21 scan;

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

3 (C) a system to positively identify the con-
4 tainer at the last port of departure prior to ar-
5 rival in the United States, which data has been
6 evaluated and analyzed by personnel of the
7 United States Customs and Border Protection.

8 (d) COORDINATION.—The Secretary shall ensure that
9 there is appropriate coordination among the Commandant
10 of the Coast Guard, the Commissioner, and other Federal
11 officials following a maritime disruption or maritime
12 transportation security incident in order to provide for the
13 resumption of trade.

14 (e) COMMUNICATION.—Consistent with section 201,
15 the Commandant of the Coast Guard, Commissioner, and
16 other appropriate Federal officials, shall promptly commu-
17 nicate any revised procedures or instructions intended for
18 the private sector following a maritime disruption or mari-
19 time transportation security incident.

1 **SEC. 203. AUTOMATED TARGETING SYSTEM.**

2 (a) IN GENERAL.—The Secretary, acting through the
3 Commissioner, shall—

4 (1) identify and seek the submission of data re-
5 lated to the movement of a shipment of cargo
6 through the international supply chain; and

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

9 (b) REQUIREMENT.—The Secretary, acting through
10 the Commissioner, shall require the electronic trans-
11 mission to the Department of additional data elements for
12 improved high-risk targeting, including appropriate secu-
13 rity elements of entry data, as determined by the Sec-
14 retary, to be provided as advanced information with re-
15 spect to cargo destined for importation into the United
16 States prior to loading of such cargo on vessels at foreign
17 seaports.

18 (c) CONSIDERATION.—The Secretary, acting through
19 the Commissioner, shall—

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

1 (A) requiring additional nonmanifest docu-
2 mentation;

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

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

8 (D) such other actions the Secretary con-
9 siders beneficial for improving the information
10 relied upon for the Automated Targeting Sys-
11 tem and any successor targeting system in fur-
12 thering the security and integrity of the inter-
13 national supply chain; and

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

18 (d) REGULATIONS.—The Secretary shall promulgate
19 regulations to carry out this section. In promulgating such
20 regulations, the Secretary shall adhere to the parameters
21 applicable to the development of regulations under section

1 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note),
2 including provisions relating to consultation, technology,
3 analysis, use of information, confidentiality, and timing re-
4 quirements.

5 (e) SYSTEM IMPROVEMENTS.—The Secretary, acting
6 through the Commissioner, shall—

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

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

15 (3) ensure that the Automated Targeting Sys-
16 tem has the capability to electronically compare
17 manifest and other available data for cargo entered
18 into or bound for the United States to detect any
19 significant anomalies between such data and facili-
20 tate the resolution of such anomalies;

1 (4) ensure that the Automated Targeting Sys-
2 tem has the capability to electronically identify, com-
3 pile, and compare select data elements for cargo en-
4 tered into or bound for the United States following
5 a maritime transportation security incident, in order
6 to efficiently identify cargo for increased inspection
7 or expeditious release; and

8 (5) develop a schedule to address the rec-
9 ommendations of the Comptroller General of the
10 United States, the Inspector General of the Depart-
11 ment of the Treasury, and the Inspector General of
12 the Department with respect to the operation of the
13 Automated Targeting System.

14 (f) SECURE TRANSMISSION OF CERTAIN INFORMA-
15 TION.—All information required by the Department from
16 supply chain partners shall be transmitted in a secure
17 fashion, as determined by the Secretary, so as to protect
18 the information from unauthorized access.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the United States
21 Customs and Border Protection to carry out the Auto-

1 mated Targeting System for identifying high-risk ocean-
2 borne container cargo for inspection—

3 (1) \$33,200,000 for fiscal year 2008;

4 (2) \$35,700,000 for fiscal year 2009; and

5 (3) \$37,485,000 for fiscal year 2010.

6 **SEC. 204. CONTAINER SECURITY STANDARDS AND PROCE-**
7 **DURES.**

8 (a) **ESTABLISHMENT.**—

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

14 (2) **INTERIM RULE.**—Not later than 180 days
15 after the date of the enactment of this Act, the Sec-
16 retary shall issue an interim final rule pursuant to
17 the proceeding described in paragraph (1).

18 (3) **MISSED DEADLINE.**—If the Secretary is un-
19 able to meet the deadline established pursuant to
20 paragraph (2), the Secretary shall submit a letter to
21 the appropriate congressional committees explaining

1 why the Secretary is unable to meet that deadline
2 and describing what must be done before such min-
3 imum standards and procedures can be established.

4 (4) DEADLINE FOR ENFORCEMENT.—Not later
5 than 2 years after the date on which the standards
6 and procedures are established pursuant to para-
7 graph (1), all containers bound for ports of entry in
8 the United States shall meet such standards and
9 procedures.

10 (b) REVIEW AND ENHANCEMENT.—The Secretary
11 shall regularly review and enhance the standards and pro-
12 cedures established pursuant to subsection (a), as appro-
13 priate, based on tests of technologies as they become com-
14 mercially available to detect container intrusion and the
15 highest consequence threats, particularly weapons of mass
16 destruction.

17 (c) INTERNATIONAL CARGO SECURITY STAND-
18 ARDS.—The Secretary, in consultation with the Secretary
19 of State, the Secretary of Energy, and other Federal Gov-
20 ernment officials, as appropriate, and with the Commer-
21 cial Operations Advisory Committee, the Homeland Secu-

1 rity Advisory Committee, and the National Maritime Secu-
2 rity Advisory Committee, is encouraged to promote and
3 establish international standards for the security of con-
4 tainers moving through the international supply chain
5 with foreign governments and international organizations,
6 including the International Maritime Organization, the
7 International Organization for Standardization, the Inter-
8 national Labor Organization, and the World Customs Or-
9 ganization.

10 (d) INTERNATIONAL TRADE AND OTHER OBLIGA-
11 TIONS.—In carrying out this section, the Secretary shall
12 consult with appropriate Federal departments and agen-
13 cies and private sector stakeholders and ensure that ac-
14 tions under this section do not violate international trade
15 obligations or other international obligations of the United
16 States.

17 **SEC. 205. CONTAINER SECURITY INITIATIVE.**

18 (a) ESTABLISHMENT.—The Secretary, acting
19 through the Commissioner, shall establish and implement
20 a program (referred to in this section as the “Container
21 Security Initiative” or “CSI”) to identify and examine or

1 search maritime containers that pose a security risk before
2 loading such containers in a foreign port for shipment to
3 the United States, either directly or through a foreign
4 port.

5 (b) ASSESSMENT.—The Secretary, acting through
6 the Commissioner, may designate foreign seaports to par-
7 ticipate in the Container Security Initiative after the Sec-
8 retary has assessed the costs, benefits, and other factors
9 associated with such designation, including—

10 (1) the level of risk for the potential com-
11 promise of containers by terrorists, or other threats
12 as determined by the Secretary;

13 (2) the volume of cargo being imported to the
14 United States directly from, or being transshipped
15 through, the foreign seaport;

16 (3) the results of the Coast Guard assessments
17 conducted pursuant to section 70108 of title 46,
18 United States Code;

19 (4) the commitment of the government of the
20 country in which the foreign seaport is located to co-
21 operating with the Department in sharing critical

1 data and risk management information and to main-
2 tain programs to ensure employee integrity; and

3 (5) the potential for validation of security prac-
4 tices at the foreign seaport by the Department.

5 (c) NOTIFICATION.—The Secretary shall notify the
6 appropriate congressional committees of the designation
7 of a foreign port under the Container Security Initiative
8 or the revocation of such a designation before notifying
9 the public of such designation or revocation.

10 (d) NEGOTIATIONS.—The Secretary, in cooperation
11 with the Secretary of State and in consultation with the
12 United States Trade Representative, may enter into nego-
13 tiations with the government of each foreign nation in
14 which a seaport is designated under the Container Secu-
15 rity Initiative to ensure full compliance with the require-
16 ments under the Container Security Initiative.

17 (e) OVERSEAS INSPECTIONS.—

18 (1) REQUIREMENTS AND PROCEDURES.—The
19 Secretary shall—

20 (A) establish minimum technical capability
21 criteria and standard operating procedures for

1 the use of nonintrusive inspection and nuclear
2 and radiological detection systems in conjunc-
3 tion with CSI;

4 (B) require each port designated under
5 CSI to operate nonintrusive inspection and nu-
6 clear and radiological detection systems in ac-
7 cordance with the technical capability criteria
8 and standard operating procedures established
9 under subparagraph (A);

10 (C) continually monitor the technologies,
11 processes, and techniques used to inspect cargo
12 at ports designated under CSI to ensure adher-
13 ence to such criteria and the use of such proce-
14 dures; and

15 (D) consult with the Secretary of Energy
16 in establishing the minimum technical capa-
17 bility criteria and standard operating proce-
18 dures established under subparagraph (A) per-
19 taining to radiation detection technologies to
20 promote consistency in detection systems at for-
21 eign ports designated under CSI.

1 (2) CONSTRAINTS.—The criteria and proce-
2 dures established under paragraph (1)(A)—

3 (A) shall be consistent, as practicable, with
4 relevant standards and procedures utilized by
5 other Federal departments or agencies, or de-
6 veloped by international bodies if the United
7 States consents to such standards and proce-
8 dures;

9 (B) shall not apply to activities conducted
10 under the Megaports Initiative of the Depart-
11 ment of Energy; and

12 (C) shall not be designed to endorse the
13 product or technology of any specific company
14 or to conflict with the sovereignty of a country
15 in which a foreign seaport designated under the
16 Container Security Initiative is located.

17 (f) SAVINGS PROVISION.—The authority of the Sec-
18 retary under this section shall not affect any authority or
19 duplicate any efforts or responsibilities of the Federal
20 Government with respect to the deployment of radiation
21 detection equipment outside of the United States.

1 (g) COORDINATION.—The Secretary shall—

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

7 (2) work with the private sector or host govern-
8 ments, when possible, to obtain radiation detection
9 equipment that meets the Department’s and the De-
10 partment of Energy’s technical specifications for
11 such equipment.

12 (h) STAFFING.—The Secretary shall develop a human
13 capital management plan to determine adequate staffing
14 levels in the United States and in foreign seaports includ-
15 ing, as appropriate, the remote location of personnel in
16 countries in which foreign seaports are designated under
17 the Container Security Initiative.

18 (i) ANNUAL DISCUSSIONS.—The Secretary, in coordi-
19 nation with the appropriate Federal officials, shall hold
20 annual discussions with foreign governments of countries
21 in which foreign seaports designated under the Container

1 Security Initiative are located regarding best practices,
2 technical assistance, training needs, and technological de-
3 velopments that will assist in ensuring the efficient and
4 secure movement of international cargo.

5 (j) LESSER RISK PORT.—The Secretary, acting
6 through the Commissioner, may treat cargo loaded in a
7 foreign seaport designated under the Container Security
8 Initiative as presenting a lesser risk than similar cargo
9 loaded in a foreign seaport that is not designated under
10 the Container Security Initiative, for the purpose of clear-
11 ing such cargo into the United States.

12 (k) PROHIBITION.—

13 (1) IN GENERAL.—The Secretary shall issue a
14 “do not load” order, using existing authorities, to
15 prevent the onload of any cargo loaded at a port
16 designated under CSI that has been identified as
17 high risk, including by the Automated Targeting
18 System, unless the cargo is determined to no longer
19 be high risk through—

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

4 (B) a search of the cargo; or

5 (C) additional information received by the
6 Department.

7 (2) RULE OF CONSTRUCTION.—Nothing in this
8 subsection shall be construed to interfere with the
9 ability of the Secretary to deny entry of any cargo
10 into the United States.

11 (1) REPORT.—

12 (1) IN GENERAL.—Not later than September
13 30, 2007, the Secretary, acting through the Com-
14 missioner, shall, in consultation with other appro-
15 priate government officials and the Commercial Op-
16 erations Advisory Committee, submit a report to the
17 appropriate congressional committees on the effec-
18 tiveness of, and the need for any improvements to,
19 the Container Security Initiative. The report shall
20 include—

1 (A) a description of the technical assist-
2 ance delivered to, as well as needed at, each
3 designated seaport;

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

6 (C) a summary of the requests made by
7 the United States to foreign governments to
8 conduct physical or nonintrusive inspections of
9 cargo at designated seaports, and whether each
10 such request was granted or denied by the for-
11 eign government;

12 (D) an assessment of the effectiveness of
13 screening, scanning, and inspection protocols
14 and technologies utilized at designated seaports
15 and the effect on the flow of commerce at such
16 seaports, as well as any recommendations for
17 improving the effectiveness of screening, scan-
18 ning, and inspection protocols and technologies
19 utilized at designated seaports;

20 (E) a description and assessment of the
21 outcome of any security incident involving a for-

1 eign seaport designated under the Container
2 Security Initiative;

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

5 (G) a description of the potential for re-
6 mote targeting to decrease the number of per-
7 sonnel who are deployed at foreign ports under
8 CSI; and

9 (H) a summary and assessment of the ag-
10 gregate number and extent of trade compliance
11 lapses at each seaport designated under the
12 Container Security Initiative.

13 (2) UPDATED REPORT.—Not later than Sep-
14 tember 30, 2010, the Secretary, acting through the
15 Commissioner, shall, in consultation with other ap-
16 propriate government officials and the Commercial
17 Operations Advisory Committee, submit an updated
18 report to the appropriate congressional committees
19 on the effectiveness of, and the need for any im-
20 provements to, the Container Security Initiative. The
21 updated report shall address each of the elements re-

1 required to be included in the report provided for
2 under paragraph (1).

3 (m) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the United States
5 Customs and Border Protection to carry out the provisions
6 of this section—

7 (1) \$144,000,000 for fiscal year 2008;

8 (2) \$146,000,000 for fiscal year 2009; and

9 (3) \$153,300,000 for fiscal year 2010.

10 **Subtitle B—Customs–Trade**
11 **Partnership Against Terrorism**

12 **SEC. 211. ESTABLISHMENT.**

13 (a) ESTABLISHMENT.—The Secretary, acting
14 through the Commissioner, is authorized to establish a vol-
15 untary government-private sector program (to be known
16 as the “Customs–Trade Partnership Against Terrorism”
17 or “C–TPAT”) to strengthen and improve the overall se-
18 curity of the international supply chain and United States
19 border security, and to facilitate the movement of secure
20 cargo through the international supply chain, by providing
21 benefits to participants meeting or exceeding the program

1 requirements. Participants in C-TPAT shall include Tier
2 1 participants, Tier 2 participants, and Tier 3 partici-
3 pants.

4 (b) **MINIMUM SECURITY REQUIREMENTS.**—The Sec-
5 retary, acting through the Commissioner, shall review the
6 minimum security requirements of C-TPAT at least once
7 every year and update such requirements as necessary.

8 **SEC. 212. ELIGIBLE ENTITIES.**

9 Importers, customs brokers, forwarders, air, sea, land
10 carriers, contract logistics providers, and other entities in
11 the international supply chain and intermodal transpor-
12 tation system are eligible to apply to voluntarily enter into
13 partnerships with the Department under C-TPAT.

14 **SEC. 213. MINIMUM REQUIREMENTS.**

15 An applicant seeking to participate in C-TPAT
16 shall—

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

19 (2) conduct an assessment of its supply chain
20 based upon security criteria established by the Sec-

1 retary, acting through the Commissioner, includ-
2 ing—

- 3 (A) business partner requirements;
- 4 (B) container security;
- 5 (C) physical security and access controls;
- 6 (D) personnel security;
- 7 (E) procedural security;
- 8 (F) security training and threat awareness;
- 9 and
- 10 (G) information technology security;

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

14 (4) meet all other requirements established by
15 the Commissioner, in consultation with the Commer-
16 cial Operations Advisory Committee.

17 **SEC. 214. TIER 1 PARTICIPANTS IN C-TPAT.**

18 (a) BENEFITS.—The Secretary, acting through the
19 Commissioner, shall offer limited benefits to a Tier 1 par-
20 ticipant who has been certified in accordance with the
21 guidelines referred to in subsection (b). Such benefits may

1 include a reduction in the score assigned pursuant to the
2 Automated Targeting System of not greater than 20 per-
3 cent of the high-risk threshold established by the Sec-
4 retary.

5 (b) GUIDELINES.—Not later than 180 days after the
6 date of the enactment of this Act, the Secretary, acting
7 through the Commissioner, shall update the guidelines for
8 certifying a C-TPAT participant's security measures and
9 supply chain security practices under this section. Such
10 guidelines shall include a background investigation and ex-
11 tensive documentation review.

12 (c) TIMEFRAME.—To the extent practicable, the Sec-
13 retary, acting through the Commissioner, shall complete
14 the Tier 1 certification process within 90 days of receipt
15 of an application for participation in C-TPAT.

16 **SEC. 215. TIER 2 PARTICIPANTS IN C-TPAT.**

17 (a) VALIDATION.—The Secretary, acting through the
18 Commissioner, shall validate the security measures and
19 supply chain security practices of a Tier 1 participant in
20 accordance with the guidelines referred to in subsection
21 (e). Such validation shall include on-site assessments at

1 appropriate foreign locations utilized by the Tier 1 partici-
2 pant in its supply chain and shall, to the extent prac-
3 ticable, be completed not later than 1 year after certifi-
4 cation as a Tier 1 participant.

5 (b) BENEFITS.—The Secretary, acting through the
6 Commissioner, shall extend benefits to each C-TPAT par-
7 ticipant that has been validated as a Tier 2 participant
8 under this section, which may include—

9 (1) reduced scores in the Automated Targeting
10 System;

11 (2) reduced examinations of cargo; and

12 (3) priority searches of cargo.

13 (c) GUIDELINES.—Not later than 180 days after the
14 date of the enactment of this Act, the Secretary, acting
15 through the Commissioner, shall develop a schedule and
16 update the guidelines for validating a participant's secu-
17 rity measures and supply chain security practices under
18 this section.

19 **SEC. 216. TIER 3 PARTICIPANTS IN C-TPAT.**

20 (a) IN GENERAL.—The Secretary, acting through the
21 Commissioner, shall establish a third tier of C-TPAT par-

1 ticipation that offers additional benefits to participants
2 who demonstrate a sustained commitment to maintaining
3 security measures and supply chain security practices that
4 exceed the guidelines established for validation as a Tier
5 2 participant in C-TPAT under section 215.

6 (b) CRITERIA.—The Secretary, acting through the
7 Commissioner, shall designate criteria for validating a C-
8 TPAT participant as a Tier 3 participant under this sec-
9 tion. Such criteria may include—

10 (1) compliance with any additional guidelines
11 established by the Secretary that exceed the guide-
12 lines established pursuant to section 215 of this Act
13 for validating a C-TPAT participant as a Tier 2
14 participant, particularly with respect to controls over
15 access to cargo throughout the supply chain;

16 (2) submission of additional information re-
17 garding cargo prior to loading, as determined by the
18 Secretary;

19 (3) utilization of container security devices,
20 technologies, policies, or practices that meet stand-
21 ards and criteria established by the Secretary; and

1 (4) compliance with any other cargo require-
2 ments established by the Secretary.

3 (c) BENEFITS.—The Secretary, acting through the
4 Commissioner, in consultation with the Commercial Oper-
5 ations Advisory Committee and the National Maritime Se-
6 curity Advisory Committee, shall extend benefits to each
7 C-TPAT participant that has been validated as a Tier 3
8 participant under this section, which may include—

9 (1) the expedited release of a Tier 3 partici-
10 pant's cargo in destination ports within the United
11 States during all threat levels designated by the Sec-
12 retary;

13 (2) further reduction in examinations of cargo;

14 (3) priority for examinations of cargo; and

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

17 (5) inclusion in joint incident management exer-
18 cises, as appropriate.

19 (d) DEADLINE.—Not later than 2 years after the
20 date of the enactment of this Act, the Secretary, acting
21 through the Commissioner, shall designate appropriate

1 criteria pursuant to subsection (b) and provide benefits
2 to validated Tier 3 participants pursuant to subsection (c).

3 **SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.**

4 (a) IN GENERAL.—If at any time a C-TPAT partici-
5 pant's security measures and supply chain security prac-
6 tices fail to meet any of the requirements under this sub-
7 title, the Commissioner may deny the participant benefits
8 otherwise available under this subtitle, in whole or in part.
9 The Commissioner shall develop procedures that provide
10 appropriate protections to C-TPAT participants before
11 benefits are revoked. Such procedures may not limit the
12 ability of the Commissioner to take actions to protect the
13 national security of the United States.

14 (b) FALSE OR MISLEADING INFORMATION.—If a C-
15 TPAT participant knowingly provides false or misleading
16 information to the Commissioner during the validation
17 process provided for under this subtitle, the Commissioner
18 shall suspend or expel the participant from C-TPAT for
19 an appropriate period of time. The Commissioner, after
20 the completion of the process under subsection (c), may
21 publish in the Federal Register a list of participants who

1 have been suspended or expelled from C-TPAT pursuant
2 to this subsection, and may make such list available to
3 C-TPAT participants.

4 (c) RIGHT OF APPEAL.—

5 (1) IN GENERAL.—A C-TPAT participant may
6 appeal a decision of the Commissioner pursuant to
7 subsection (a). Such appeal shall be filed with the
8 Secretary not later than 90 days after the date of
9 the decision, and the Secretary shall issue a deter-
10 mination not later than 180 days after the appeal is
11 filed.

12 (2) APPEALS OF OTHER DECISIONS.—A C-
13 TPAT participant may appeal a decision of the
14 Commissioner pursuant to subsection (b). Such ap-
15 peal shall be filed with the Secretary not later than
16 30 days after the date of the decision, and the Sec-
17 retary shall issue a determination not later than 180
18 days after the appeal is filed.

19 **SEC. 218. THIRD PARTY VALIDATIONS.**

20 (a) PLAN.—The Secretary, acting through the Com-
21 missioner, shall develop a plan to implement a 1-year vol-

1 unitary pilot program to test and assess the feasibility,
2 costs, and benefits of using third party entities to conduct
3 validations of C-TPAT participants.

4 (b) CONSULTATIONS.—Not later than 120 days after
5 the date of the enactment of this Act, after consulting with
6 private sector stakeholders, including the Commercial Op-
7 erations Advisory Committee, the Secretary shall submit
8 a report to the appropriate congressional committees on
9 the plan described in subsection (a).

10 (c) PILOT PROGRAM.—

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

16 (2) AUTHORITY OF THE SECRETARY.—The de-
17 cision to validate a C-TPAT participant is solely
18 within the discretion of the Secretary, or the Sec-
19 retary's designee.

1 (d) CERTIFICATION OF THIRD PARTY ENTITIES.—

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

4 (1) demonstrates to the satisfaction of the Sec-
5 retary that the entity has the ability to perform vali-
6 dations in accordance with standard operating proce-
7 dures and requirements designated by the Secretary;
8 and

9 (2) agrees—

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

14 (B) to maintain liability insurance cov-
15 erage at policy limits and in accordance with
16 conditions to be established by the Secretary;
17 and

18 (3) signs an agreement to protect all propri-
19 etary information of C-TPAT participants with re-
20 spect to which the entity will conduct validations.

1 (e) INFORMATION FOR ESTABLISHING LIMITS OF LI-
2 ABILITY INSURANCE.—A third party entity seeking a cer-
3 tificate under subsection (d) shall submit to the Secretary
4 necessary information for establishing the limits of liabil-
5 ity insurance required to be maintained by the entity
6 under this Act.

7 (f) ADDITIONAL REQUIREMENTS.—The Secretary
8 shall ensure that—

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

11 (A) any beneficial interest in or any direct
12 or indirect control over the C-TPAT partici-
13 pant for which the validation services are per-
14 formed; or

15 (B) any other conflict of interest with re-
16 spect to the C-TPAT participant; and

17 (2) the C-TPAT participant has entered into a
18 contract with the third party entity under which the
19 C-TPAT participant agrees to pay all costs associ-
20 ated with the validation.

21 (g) MONITORING.—

1 (1) IN GENERAL.—The Secretary shall regu-
2 larly monitor and inspect the operations of a third
3 party entity conducting validations under subsection
4 (c) to ensure that the entity is meeting the minimum
5 standard operating procedures and requirements for
6 the validation of C-TPAT participants established
7 by the Secretary and all other applicable require-
8 ments for validation services.

9 (2) REVOCATION.—If the Secretary determines
10 that a third party entity is not meeting the min-
11 imum standard operating procedures and require-
12 ments designated by the Secretary under subsection
13 (d)(1), the Secretary shall—

14 (A) revoke the entity’s certificate of con-
15 formance issued under subsection (d)(1); and

16 (B) review any validations conducted by
17 the entity.

18 (h) LIMITATION ON AUTHORITY.—The Secretary
19 may only grant a C-TPAT validation by a third party en-
20 tity pursuant to subsection (c) if the C-TPAT participant

1 voluntarily submits to validation by such third party enti-
2 ty.

3 (i) REPORT.—Not later than 30 days after the com-
4 pletion of the pilot program conducted pursuant to sub-
5 section (c), the Secretary shall submit a report to the ap-
6 propriate congressional committees that contains—

7 (1) the results of the pilot program, including
8 the extent to which the pilot program ensured suffi-
9 cient protection for proprietary commercial informa-
10 tion;

11 (2) the cost and efficiency associated with vali-
12 dations under the pilot program;

13 (3) the impact of the pilot program on the rate
14 of validations conducted under C-TPAT;

15 (4) any impact on national security of the pilot
16 program; and

17 (5) any recommendations by the Secretary
18 based upon the results of the pilot program.

19 **SEC. 219. REVALIDATION.**

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

1 (1) a revalidation process for Tier 2 and Tier
2 3 participants;

3 (2) a framework based upon objective criteria
4 for identifying participants for periodic revalidation
5 not less frequently than once during each 4-year pe-
6 riod following the initial validation; and

7 (3) an annual plan for revalidation that in-
8 cludes—

9 (A) performance measures;

10 (B) an assessment of the personnel needed
11 to perform the revalidations; and

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

14 **SEC. 220. NONCONTAINERIZED CARGO.**

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

19 **SEC. 221. C-TPAT PROGRAM MANAGEMENT.**

20 (a) **IN GENERAL.**—The Secretary, acting through the
21 Commissioner, shall establish sufficient internal quality

1 controls and record management to support the manage-
2 ment systems of C-TPAT. In managing the program, the
3 Secretary shall ensure that the program includes:

4 (1) STRATEGIC PLAN.—A 5-year plan to iden-
5 tify outcome-based goals and performance measures
6 of the program.

7 (2) ANNUAL PLAN.—An annual plan for each
8 fiscal year designed to match available resources to
9 the projected workload.

10 (3) STANDARDIZED WORK PROGRAM.—A stand-
11 dardized work program to be used by agency per-
12 sonnel to carry out the certifications, validations,
13 and revalidations of participants. The Secretary
14 shall keep records and monitor staff hours associ-
15 ated with the completion of each such review.

16 (b) DOCUMENTATION OF REVIEWS.—The Secretary,
17 acting through the Commissioner, shall maintain a record
18 management system to document determinations on the
19 reviews of each C-TPAT participant, including certifi-
20 cations, validations, and revalidations.

1 (c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In
2 consultation with the Commercial Operations Advisory
3 Committee, the Secretary, acting through the Commis-
4 sioner, shall develop and implement procedures to ensure
5 the protection of confidential data collected, stored, or
6 shared with government agencies or as part of the applica-
7 tion, certification, validation, and revalidation processes.

8 (d) RESOURCE MANAGEMENT STAFFING PLAN.—
9 The Secretary, acting through the Commissioner, shall—

10 (1) develop a staffing plan to recruit and train
11 staff (including a formalized training program) to
12 meet the objectives identified in the strategic plan of
13 the C-TPAT program; and

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

17 (e) REPORT TO CONGRESS.—In connection with the
18 President's annual budget submission for the Department,
19 the Secretary shall report to the appropriate congressional
20 committees on the progress made by the Commissioner to
21 certify, validate, and revalidate C-TPAT participants.

1 Such report shall be due on the same date that the Presi-
2 dent's budget is submitted to the Congress.

3 **SEC. 222. ADDITIONAL PERSONNEL.**

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

11 **SEC. 223. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) C-TPAT.—There are authorized to be appro-
13 priated to the United States Customs and Border Protec-
14 tion to carry out the provisions of sections 211 through
15 221 to remain available until expended—

16 (1) \$65,000,000 for fiscal year 2008;

17 (2) \$72,000,000 for fiscal year 2009; and

18 (3) \$75,600,000 for fiscal year 2010.

19 (b) **ADDITIONAL PERSONNEL.**—In addition to any
20 amounts otherwise appropriated to the United States Cus-
21 toms and Border Protection, there are authorized to be

1 appropriated for the purpose of meeting the staffing re-
2 quirement provided for in section 222, to remain available
3 until expended—

4 (1) \$8,500,000 for fiscal year 2008;

5 (2) \$17,600,000 for fiscal year 2009;

6 (3) \$19,000,000 for fiscal year 2010;

7 (4) \$20,000,000 for fiscal year 2011; and

8 (5) \$21,000,000 for fiscal year 2012.

9 **Subtitle C—Miscellaneous**

10 **Provisions**

11 **SEC. 231. PILOT INTEGRATED SCANNING SYSTEM.**

12 (a) DESIGNATIONS.—Not later than 90 days after
13 the date of the enactment of this Act, the Secretary shall
14 designate 3 foreign seaports through which containers
15 pass or are transshipped to the United States for the es-
16 tablishment of pilot integrated scanning systems that cou-
17 ple nonintrusive imaging equipment and radiation detec-
18 tion equipment. In making the designations under this
19 paragraph, the Secretary shall consider 3 distinct ports
20 with unique features and differing levels of trade volume.

21 (b) COORDINATION.—The Secretary shall—

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

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

10 (c) PILOT SYSTEM IMPLEMENTATION.—Not later
11 than 1 year after the date of the enactment of this Act,
12 the Secretary shall achieve a full-scale implementation of
13 the pilot integrated scanning system at the ports des-
14 ignated under subsection (a), which—

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

17 (2) shall electronically transmit the images and
18 information to appropriate United States Govern-
19 ment personnel in the country in which the port is
20 located or in the United States for evaluation and
21 analysis;

1 (3) shall resolve every radiation alarm accord-
2 ing to established Department procedures;

3 (4) shall utilize the information collected to en-
4 hance the Automated Targeting System or other rel-
5 evant programs;

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

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

11 (d) REPORT.—Not later than 180 days after achiev-
12 ing full-scale implementation under subsection (c), the
13 Secretary, in consultation with the Secretary of State and,
14 as appropriate, the Secretary of Energy, shall submit a
15 report to the appropriate congressional committees, that
16 includes—

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

19 (2) an analysis of the efficacy of the Automated
20 Targeting System or other relevant programs in uti-

1 lizing the images captured to examine high-risk con-
2 tainers;

3 (3) an evaluation of the effectiveness of the in-
4 tegrated scanning system in detecting shielded and
5 unshielded nuclear and radiological material;

6 (4) an evaluation of software and other tech-
7 nologies that are capable of automatically identifying
8 potential anomalies in scanned containers; and

9 (5) an analysis of the need and feasibility of ex-
10 panding the integrated scanning system to other
11 container security initiative ports, including—

12 (A) an analysis of the infrastructure re-
13 quirements;

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

16 (C) an evaluation of the scalability of the
17 system to meet both current and future fore-
18 casted trade flows;

19 (D) the ability of the system to automati-
20 cally maintain and catalog appropriate data for

1 reference and analysis in the event of a trans-
2 portation disruption;

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

6 (F) the ability of administering personnel
7 to efficiently manage and utilize the data pro-
8 duced by a nonintrusive scanning system;

9 (G) the ability to safeguard commercial
10 data generated by, or submitted to, a nonintru-
11 sive scanning system; and

12 (H) an assessment of the reliability of cur-
13 rently available technology to implement an in-
14 tegrated scanning system.

15 **SEC. 232. SCREENING AND SCANNING OF CARGO CON-**
16 **TAINERS.**

17 (a) ONE HUNDRED PERCENT SCREENING OF CARGO
18 CONTAINERS AND 100 PERCENT SCANNING OF HIGH-
19 RISK CONTAINERS.—

20 (1) SCREENING OF CARGO CONTAINERS.—The
21 Secretary shall ensure that 100 percent of the cargo

1 containers originating outside the United States and
2 unloaded at a United States seaport undergo a
3 screening to identify high-risk containers.

4 (2) SCANNING OF HIGH-RISK CONTAINERS.—
5 The Secretary shall ensure that 100 percent of the
6 containers that have been identified as high-risk
7 under paragraph (1), or through other means, are
8 scanned or searched before such containers leave a
9 United States seaport facility.

10 (b) FULL-SCALE IMPLEMENTATION.—The Secretary,
11 in coordination with the Secretary of Energy and foreign
12 partners, as appropriate, shall ensure integrated scanning
13 systems are fully deployed to scan, using nonintrusive im-
14 aging equipment and radiation detection equipment, all
15 containers entering the United States before such con-
16 tainers arrive in the United States as soon as possible,
17 but not before the Secretary determines that the inte-
18 grated scanning system—

19 (1) meets the requirements set forth in section
20 231(c);

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

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

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

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

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

13 (c) REPORT.—Not later than 6 months after the sub-
14 mission of a report under section 231(d), and every 6
15 months thereafter, the Secretary shall submit a report to
16 the appropriate congressional committees describing the
17 status of full-scale deployment under subsection (b) and
18 the cost of deploying the system at each foreign port at
19 which the integrated scanning systems are deployed.

1 **SEC. 233. INTERNATIONAL COOPERATION AND COORDINA-**
2 **TION.**

3 (a) INSPECTION TECHNOLOGY AND TRAINING.—

4 (1) IN GENERAL.—The Secretary, in coordina-
5 tion with the Secretary of State, the Secretary of
6 Energy, and appropriate representatives of other
7 Federal agencies, may provide technical assistance,
8 equipment, and training to facilitate the implemen-
9 tation of supply chain security measures at ports
10 designated under the Container Security Initiative.

11 (2) ACQUISITION AND TRAINING.—Unless oth-
12 erwise prohibited by law, the Secretary may—

13 (A) lease, loan, provide, or otherwise assist
14 in the deployment of nonintrusive inspection
15 and radiation detection equipment at foreign
16 land and sea ports under such terms and condi-
17 tions as the Secretary prescribes, including non-
18 reimbursable loans or the transfer of ownership
19 of equipment; and

20 (B) provide training and technical assist-
21 ance for domestic or foreign personnel respon-

1 sible for operating or maintaining such equip-
2 ment.

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

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

8 **“§ 70110. Actions and assistance for foreign ports and**
9 **United States territories”; and**

10 (2) by adding at the end the following:

11 “(e) ASSISTANCE FOR FOREIGN PORTS AND UNITED
12 STATES TERRITORIES.—

13 “(1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Secretary of Transportation, the Sec-
15 retary of State, and the Secretary of Energy, shall
16 identify assistance programs that could facilitate im-
17 plementation of port security antiterrorism measures
18 in foreign countries and territories of the United
19 States. The Secretary shall establish a program to
20 utilize the programs that are capable of imple-
21 menting port security antiterrorism measures at

1 ports in foreign countries and territories of the
2 United States that the Secretary finds to lack effective
3 antiterrorism measures.

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

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

14 “(B) the relative openness of such ports;
15 and
16

17 “(C) the significant number of shipments
18 of narcotics to the United States that are
19 moved through such ports.”.

20 (c) REPORT ON SECURITY AT PORTS IN THE CARIB-
21 BEAN BASIN.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the
3 Comptroller General of the United States shall sub-
4 mit a report to the appropriate congressional com-
5 mittees on the security of ports in the Caribbean
6 Basin.

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

9 (A) shall include—

10 (i) an assessment of the effectiveness
11 of the measures employed to improve secu-
12 rity at ports in the Caribbean Basin and
13 recommendations for any additional meas-
14 ures to improve such security;

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

18 (iii) an estimate of the financial im-
19 pact in the United States of any action
20 taken pursuant to section 70110 of title
21 46, United States Code, that affects trade

1 between such ports and the United States;
2 and
3 (iv) an assessment of the additional
4 resources and program changes that are
5 necessary to maximize security at ports in
6 the Caribbean Basin; and
7 (B) may be submitted in both classified
8 and redacted formats.

9 (d) CLERICAL AMENDMENT.—The chapter analysis
10 for chapter 701 of title 46, United States Code, is amend-
11 ed by striking the item relating to section 70110 and in-
12 serting the following:

 “70110. Actions and assistance for foreign ports and United States terri-
 tories.”.

13 **SEC. 234. FOREIGN PORT ASSESSMENTS.**

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

16 “(d) PERIODIC REASSESSMENT.—The Secretary, act-
17 ing through the Commandant of the Coast Guard, shall
18 reassess the effectiveness of antiterrorism measures main-
19 tained at ports as described under subsection (a) and of

1 procedures described in subsection (b) not less than once
2 every 3 years.”.

3 **SEC. 235. PILOT PROGRAM TO IMPROVE THE SECURITY OF**
4 **EMPTY CONTAINERS.**

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

12 (b) REPORT.—Not later than 90 days after the com-
13 pletion of the pilot program under paragraph (1), the Sec-
14 retary shall prepare and submit to the appropriate con-
15 gressional committees a report that contains—

16 (1) the results of the pilot program; and

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

19 **SEC. 236. INFORMATION SHARING RELATING TO SUPPLY**
20 **CHAIN SECURITY COOPERATION.**

21 (a) PURPOSES.—The purposes of this section are—

1 (1) to establish continuing liaison and to pro-
2 vide for supply chain security cooperation between
3 Department and the private sector; and

4 (2) to provide for regular and timely inter-
5 change of information between the private sector
6 and the Department concerning developments and
7 security risks in the supply chain environment.

8 (b) SYSTEM.—The Secretary shall develop a system
9 to collect from and share appropriate risk information re-
10 lated to the supply chain with the private sector entities
11 determined appropriate by the Secretary.

12 (c) CONSULTATION.—In developing the system under
13 subsection (b), the Secretary shall consult with the Com-
14 mercial Operations Advisory Committee and a broad range
15 of public and private sector entities likely to utilize the
16 system, including importers, exporters, carriers, customs
17 brokers, and freight forwarders, among other parties.

18 (d) INDEPENDENTLY OBTAINED INFORMATION.—
19 Nothing in this section shall be construed to limit or other-
20 wise affect the ability of a Federal, State, or local govern-
21 ment entity, under applicable law, to obtain supply chain

1 security information, including any information lawfully
2 and properly disclosed generally or broadly to the public
3 and to use such information in any manner permitted by
4 law.

5 (e) AUTHORITY TO ISSUE WARNINGS.—The Sec-
6 retary may provide advisories, alerts, and warnings to rel-
7 evant companies, targeted sectors, other governmental en-
8 tities, or the general public regarding potential risks to
9 the supply chain as appropriate. In issuing a warning, the
10 Secretary shall take appropriate actions to protect from
11 disclosure—

12 (1) the source of any voluntarily submitted sup-
13 ply chain security information that forms the basis
14 for the warning; and

15 (2) information that is proprietary, business
16 sensitive, relates specifically to the submitting per-
17 son or entity, or is otherwise not appropriately in
18 the public domain.

1 “(B) report to the Assistant Secretary for
2 Policy.

3 “(2) RESPONSIBILITIES.—The Director shall—

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

7 “(B) coordinate all policies relating to
8 cargo security among the agencies and offices
9 within the Department relating to cargo secu-
10 rity; and

11 “(C) coordinate the cargo security policies
12 of the Department with the policies of other ex-
13 ecutive agencies.”.

14 (b) DESIGNATION OF LIAISON OFFICE OF DEPART-
15 MENT OF STATE.—The Secretary of State shall designate
16 a liaison office within the Department of State to assist
17 the Secretary, as appropriate, in negotiating cargo secu-
18 rity-related international agreements.

19 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to affect—

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

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

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

“Sec. 431. Office of Cargo Security Policy”.

11 **SEC. 302. REAUTHORIZATION OF HOMELAND SECURITY**
12 **SCIENCE AND TECHNOLOGY ADVISORY COM-**
13 **MITTEE.**

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

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall be effective as if enacted on the date

1 of the enactment of the Homeland Security Act of 2002
2 (6 U.S.C. 101 et seq.).

3 (c) ADVISORY COMMITTEE.—The Under Secretary
4 for Science and Technology shall utilize the Homeland Se-
5 curity Science and Technology Advisory Committee, as ap-
6 propriate, to provide outside expertise in advancing cargo
7 security technology.

8 **SEC. 303. RESEARCH, DEVELOPMENT, TEST, AND EVALUA-**
9 **TION EFFORTS IN FURTHERANCE OF MARI-**
10 **TIME AND CARGO SECURITY.**

11 (a) IN GENERAL.—The Secretary shall—

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

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

18 (3) evaluate such technologies.

19 (b) COORDINATION.—The Secretary, in coordination
20 with the Under Secretary for Science and Technology, the
21 Assistant Secretary for Policy, the Commandant of the

1 Coast Guard, the Director for Domestic Nuclear Detec-
2 tion, the Chief Financial Officer, and the heads of other
3 appropriate offices or entities of the Department, shall en-
4 sure that—

5 (1) research, development, testing, and evalua-
6 tion efforts funded by the Department in further-
7 ance of maritime and cargo security are coordinated
8 within the Department and with other appropriate
9 Federal agencies to avoid duplication of efforts; and

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

13 **TITLE IV—AGENCY RESOURCES**
14 **AND OVERSIGHT**

15 **SEC. 401. TRADE AND CUSTOMS REVENUE FUNCTIONS OF**
16 **THE DEPARTMENT.**

17 (a) TRADE AND CUSTOMS REVENUE FUNCTIONS.—

18 (1) DESIGNATION OF APPROPRIATE OFFI-
19 CIAL.—The Secretary shall designate an appropriate
20 senior official in the office of the Secretary who
21 shall—

1 (A) ensure that the trade and customs revenue functions of the Department are coordinated within the Department and with other
2
3 Federal departments and agencies, and that the
4 impact on legitimate trade is taken into account
5 in any action impacting the functions; and
6

7 (B) monitor and report to Congress on the
8 Department's mandate to ensure that the trade
9 and customs revenue functions of the Department are not diminished, including how spending, operations, and personnel related to these
10 functions have kept pace with the level of trade
11 entering the United States.
12

13 (2) DIRECTOR OF TRADE POLICY.—There shall
14 be a Director of Trade Policy (in this subsection referred to as the “Director”), who shall be subject to
15 the direction and control of the official designated
16 pursuant to paragraph (1). The Director shall—
17

18 (A) advise the official designated pursuant
19 to paragraph (1) regarding all aspects of De-
20

1 partment policies relating to the trade and cus-
2 toms revenue functions of the Department;

3 (B) coordinate the development of Depart-
4 ment-wide policies regarding trade and customs
5 revenue functions and trade facilitation; and

6 (C) coordinate the trade and customs rev-
7 enue-related policies of the Department with
8 the policies of other Federal departments and
9 agencies.

10 (b) STUDY; REPORT.—

11 (1) IN GENERAL.—The Comptroller General of
12 the United States shall conduct a study evaluating
13 the extent to which the Department of Homeland
14 Security is meeting its obligations under section
15 412(b) of the Homeland Security Act of 2002 (6
16 U.S.C. 212(b)) with respect to the maintenance of
17 customs revenue functions.

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

20 (A) the extent to which the customs rev-
21 enue functions carried out by the former United

1 States Customs Service have been consolidated
2 with other functions of the Department (includ-
3 ing the assignment of noncustoms revenue func-
4 tions to personnel responsible for customs rev-
5 enue collection), discontinued, or diminished fol-
6 lowing the transfer of the United States Cus-
7 toms Service to the Department;

8 (B) the extent to which staffing levels or
9 resources attributable to customs revenue func-
10 tions have decreased since the transfer of the
11 United States Customs Service to the Depart-
12 ment; and

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

17 (3) REPORT.—Not later than 180 days after
18 the date of the enactment of this Act, the Comp-
19 troller General shall submit to the appropriate con-
20 gressional committees a report on the results of the
21 study conducted under subsection (a).

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

9 (5) DEFINITION.—In this section, the term
10 “customs revenue functions” means the functions
11 described in section 412(b)(2) of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. 212(b)(2)).

13 (c) CONSULTATION ON TRADE AND CUSTOMS REV-
14 ENUE FUNCTIONS.—

15 (1) BUSINESS COMMUNITY CONSULTATIONS.—
16 The Secretary shall consult with representatives of
17 the business community involved in international
18 trade, including seeking the advice and recommenda-
19 tions of the Commercial Operations Advisory Com-
20 mittee, on Department policies and actions that have

1 a significant impact on international trade and cus-
2 toms revenue functions.

3 (2) CONGRESSIONAL CONSULTATION AND NOTI-
4 FICATION.—

5 (A) IN GENERAL.—Subject to subpara-
6 graph (B), the Secretary shall notify the appro-
7 priate congressional committees not later than
8 30 days prior to the finalization of any Depart-
9 ment policies, initiatives, or actions that will
10 have a major impact on trade and customs rev-
11 enue functions. Such notifications shall include
12 a description of the proposed policies, initiatives
13 or actions and any comments or recommenda-
14 tions provided by the Commercial Operations
15 Advisory Committee and other relevant groups
16 regarding the proposed policies, initiatives or
17 actions.

18 (B) EXCEPTION.—If the Secretary deter-
19 mines that it is important to the national secu-
20 rity interest of the United States to finalize any
21 Department policies, initiatives, or actions prior

1 to the consultation described in subparagraph
2 (A), the Secretary shall—

3 (i) notify and provide any rec-
4 ommendations of the Commercial Oper-
5 ations Advisory Committee received to the
6 appropriate congressional committees not
7 later than 45 days after the date on which
8 the policies, initiatives, or actions are final-
9 ized; and

10 (ii) to the extent appropriate, modify
11 the policies, initiatives, or actions based
12 upon the consultations with the appro-
13 priate congressional committees.

14 (d) NOTIFICATION OF REORGANIZATION OF CUS-
15 TOMS REVENUE FUNCTIONS.—

16 (1) IN GENERAL.—Not less than 45 days prior
17 to any change in the organization of any of the cus-
18 toms revenue functions of the Department, the Sec-
19 retary shall notify the Committee on Appropriations,
20 the Committee on Finance, and the Committee on
21 Homeland Security and Governmental Affairs of the

1 Senate, and the Committee on Appropriations, the
2 Committee on Homeland Security, and the Com-
3 mittee on Ways and Means of the House of Rep-
4 resentatives of the specific assets, functions, or per-
5 sonnel to be transferred as part of such reorganiza-
6 tion, and the reason for such transfer. The notifica-
7 tion shall also include—

8 (A) an explanation of how trade enforce-
9 ment functions will be impacted by the reorga-
10 nization;

11 (B) an explanation of how the reorganiza-
12 tion meets the requirements of section 412(b)
13 of the Homeland Security Act of 2002 (6
14 U.S.C. 212(b)) that the Department not dimin-
15 ish the customs revenue and trade facilitation
16 functions formerly performed by the United
17 States Customs Service; and

18 (C) any comments or recommendations
19 provided by the Commercial Operations Advi-
20 sory Committee regarding such reorganization.

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

7 (3) REPORT.—Not later than 1 year after any
8 reorganization referred to in paragraph (1) takes
9 place, the Secretary, in consultation with the Com-
10 mercial Operations Advisory Committee, shall sub-
11 mit a report to the Committee on Finance of the
12 Senate and the Committee on Ways and Means of
13 the House of Representatives. Such report shall in-
14 clude an assessment of the impact of, and any sug-
15 gested modifications to, such reorganization.

16 **SEC. 402. OFFICE OF INTERNATIONAL TRADE; OVERSIGHT.**

17 Section 2 of the Act of March 3, 1927 (44 Stat.
18 1381, chapter 348; 19 U.S.C. 2072), is amended by add-
19 ing at the end the following:

20 “(d) OFFICE OF INTERNATIONAL TRADE.—

1 “(1) ESTABLISHMENT.—There is established
2 within the United States Customs and Border Pro-
3 tection an Office of International Trade that shall be
4 headed by an Assistant Commissioner.

5 “(2) TRANSFER OF ASSETS, FUNCTIONS, AND
6 PERSONNEL; ELIMINATION OF OFFICES.—

7 “(A) OFFICE OF STRATEGIC TRADE.—

8 “(i) IN GENERAL.—Not later than 90
9 days after the date of the enactment of the
10 SAFE Port Act, the Commissioner shall
11 transfer the assets, functions, and per-
12 sonnel of the Office of Strategic Trade to
13 the Office of International Trade estab-
14 lished pursuant to paragraph (1) and the
15 Office of Strategic Trade shall be abol-
16 ished.

17 “(ii) LIMITATION ON FUNDS.—No
18 funds appropriated to the United States
19 Customs and Border Protection may be
20 used to transfer the assets, functions, or
21 personnel of the Office of Strategic Trade,

1 to an office other than the office estab-
2 lished pursuant to paragraph (1) of this
3 subsection.

4 “(B) OFFICE OF REGULATIONS AND RUL-
5 INGS.—

6 “(i) IN GENERAL.—Not later than 90
7 days after the date of the enactment of the
8 SAFE Port Act, the Commissioner shall
9 transfer the assets, functions, and per-
10 sonnel of the Office of Regulations and
11 Rulings to the Office of International
12 Trade established pursuant to paragraph
13 (1) and the Office of Regulations and Rul-
14 ings shall be abolished.

15 “(ii) LIMITATION ON FUNDS.—No
16 funds appropriated to the United States
17 Customs and Border Protection may be
18 used to transfer the assets, functions, or
19 personnel of the Office of Regulations and
20 Rulings, to an office other than the office

1 established pursuant to paragraph (1) of
2 this subsection.

3 “(C) OTHER TRANSFERS.—The Commis-
4 sioner is authorized to transfer any other as-
5 sets, functions, or personnel within the United
6 States Customs and Border Protection to the
7 Office of International Trade established pursu-
8 ant to paragraph (1). Not less than 45 days
9 prior to each such transfer, the Commissioner
10 shall notify the Committee on Appropriations,
11 the Committee on Finance, and the Committee
12 on Homeland Security and Governmental Af-
13 fairs of the Senate and the Committee on Ap-
14 propriations, the Committee on Homeland Se-
15 curity, and the Committee on Ways and Means
16 of the House of Representatives of the specific
17 assets, functions, or personnel to be trans-
18 ferred, and the reason for such transfer. Such
19 notification shall also include—

1 “(i) an explanation of how trade en-
2 forcement functions will be impacted by
3 the reorganization;

4 “(ii) an explanation of how the reor-
5 ganization meets the requirements of sec-
6 tion 412(b) of the Homeland Security Act
7 of 2002 (6 U.S.C. 212(b)) that the De-
8 partment of Homeland Security not dimin-
9 ish the customs revenue and trade facilita-
10 tion functions formerly performed by the
11 United States Customs Service; and

12 “(iii) any comments or recommenda-
13 tions provided by the Commercial Oper-
14 ations Advisory Committee regarding such
15 reorganization.

16 “(D) REPORT.—Not later than 1 year
17 after any reorganization pursuant to subpara-
18 graph (C) takes place, the Commissioner, in
19 consultation with the Commercial Operations
20 Advisory Committee, shall report to the Com-
21 mittee on Finance of the Senate and the Com-

1 mittee on Ways and Means of the House of
2 Representatives. Such report shall include an
3 assessment of the impact of, and any suggested
4 modifications to, such reorganization.

5 “(E) LIMITATION ON AUTHORITY.—Not-
6 withstanding any other provision of law, the
7 Commissioner shall not transfer any assets,
8 functions, or personnel from United States
9 ports of entry, associated with the enforcement
10 of laws relating to trade in textiles and apparel,
11 to the Office of International Trade established
12 pursuant to paragraph (1), until the following
13 conditions are met:

14 “(i) The Commissioner submits the
15 initial Resource Allocation Model required
16 by section 301(h) of the Customs and Pro-
17 cedural Reform and Simplification Act of
18 1978 (19 U.S.C. 2075) and includes in
19 such Resource Allocation Model a section
20 addressing the allocation of assets, func-
21 tions, and personnel associated with the

1 enforcement of laws relating to trade in
2 textiles and apparel.

3 “(ii) The Commissioner consults with
4 the Committee on Finance of the Senate
5 and the Committee on Ways and Means of
6 the House of Representatives regarding
7 any subsequent transfer of assets, func-
8 tions, or personnel associated with the en-
9 forcement of laws relating to trade in tex-
10 tiles and apparel, not less than 45 days
11 prior to such transfer.

12 “(F) LIMITATION ON APPROPRIATIONS.—
13 No funds appropriated to the United States
14 Customs and Border Protection may be used to
15 transfer the assets, functions, or personnel as-
16 sociated with the enforcement of laws relating
17 to trade in textiles and apparel, before the
18 Commissioner consults with the congressional
19 committees pursuant to subparagraph (E)(ii).

20 “(e) INTERNATIONAL TRADE COMMITTEE.—

1 “(1) ESTABLISHMENT.—The Commissioner
2 shall establish an International Trade Committee, to
3 be chaired by the Commissioner, and to include the
4 Deputy Commissioner, the Assistant Commissioner
5 in the Office of Field Operations, the Assistant
6 Commissioner in the Office of Finance, the Assistant
7 Commissioner in the Office of International Affairs,
8 the Assistant Commissioner in the Office of Inter-
9 national Trade, the Director of the Office of Trade
10 Relations, and any other official determined by the
11 Commissioner to be important to the work of the
12 Committee.

13 “(2) RESPONSIBILITIES.—The International
14 Trade Committee shall—

15 “(A) be responsible for advising the Com-
16 missioner with respect to the commercial cus-
17 toms and trade facilitation functions of the
18 United States Customs and Border Protection;

19 “(B) assist the Commissioner in coordi-
20 nating with the Secretary regarding commercial
21 customs and trade facilitation functions; and

1 “(C) oversee the operation of all programs
2 and systems that are involved in the assessment
3 and collection of duties, bonds, and other
4 charges or penalties associated with the entry of
5 cargo into the United States, or the export of
6 cargo from the United States, including the ad-
7 ministration of duty drawback and the collec-
8 tion of antidumping and countervailing duties.

9 “(3) ANNUAL REPORT.—Not later than 30 days
10 after the end of each fiscal year, the International
11 Trade Committee shall submit a report to the Com-
12 mittee on Finance of the Senate and the Committee
13 on Ways and Means of the House of Representa-
14 tives. The report shall—

15 “(A) detail the activities of the Inter-
16 national Trade Committee during the preceding
17 fiscal year; and

18 “(B) identify the priorities of the Inter-
19 national Trade Committee for the fiscal year in
20 which the report is filed.

21 “(f) DEFINITION.—In this section:

1 “(1) COMMISSIONER.—The term ‘Commis-
2 sioner’ means the Commissioner responsible for the
3 United States Customs and Border Protection in the
4 Department of Homeland Security.

5 “(2) COMMERCIAL OPERATIONS ADVISORY COM-
6 MITTEE.—The term ‘Commercial Operations Advi-
7 sory Committee’ means the Advisory Committee es-
8 tablished pursuant to section 9503(c) of the Omni-
9 bus Budget Reconciliation Act of 1987 (19 U.S.C.
10 2071 note) or any successor committee.”.

11 **SEC. 403. RESOURCES.**

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

15 “(h) RESOURCE ALLOCATION MODEL.—

16 “(1) RESOURCE ALLOCATION MODEL.—Not
17 later than June 30, 2007, and every 2 years there-
18 after, the Commissioner shall prepare and submit to
19 the Committee on Finance of the Senate and the
20 Committee on Ways and Means of the House of
21 Representatives a Resource Allocation Model to de-

1 terminate the optimal staffing levels required to carry
2 out the commercial operations of United States Cus-
3 toms and Border Protection, including commercial
4 inspection and release of cargo and the revenue
5 functions described in section 412(b)(2) of the
6 Homeland Security Act of 2002 (6 U.S.C.
7 212(b)(2)). The Model shall comply with the require-
8 ments of section 412(b)(1) of such Act and shall
9 take into account previous staffing models, historic
10 and projected trade volumes, and trends. The Re-
11 source Allocation Model shall apply both risk-based
12 and random sampling approaches for determining
13 adequate staffing needs for priority trade functions,
14 including—

15 “(A) performing revenue functions;

16 “(B) enforcing antidumping and counter-
17 vailing duty laws;

18 “(C) protecting intellectual property rights;

19 “(D) enforcing provisions of law relating to
20 trade in textiles and apparel;

21 “(E) conducting agricultural inspections;

1 “(F) enforcing fines, penalties, and forfeit-
2 ures; and

3 “(G) facilitating trade.

4 “(2) PERSONNEL.—

5 “(A) IN GENERAL.—Not later than Sep-
6 tember 30, 2007, the Commissioner shall en-
7 sure that the requirements of section 412(b) of
8 the Homeland Security Act of 2002 (6 U.S.C.
9 212(b)) are fully satisfied and shall report to
10 the Committee on Finance of the Senate and
11 the Committee on Ways and Means of the
12 House of Representatives regarding the imple-
13 mentation of this subparagraph.

14 “(B) CUSTOMS AND BORDER PROTECTION
15 OFFICERS.—The initial Resource Allocation
16 Model required pursuant to paragraph (1) shall
17 provide for the hiring of a minimum of 200 ad-
18 ditional Customs and Border Protection Offi-
19 cers per year for each of the fiscal years 2008
20 through 2012. The Commissioner shall hire
21 such additional Officers subject to the appro-

1 patriation of funds to pay for the salaries and ex-
2 penses of such Officers. In assigning the 1,000
3 additional Officers authorized by this subpara-
4 graph, the Commissioner shall—

5 “(i) consider the volume of trade and
6 the incidence of nonvoluntarily disclosed
7 customs and trade law violations in addi-
8 tion to security priorities among United
9 States ports of entry; and

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

15 “(C) ASSIGNMENT.—In assigning such Of-
16 ficers pursuant to subparagraph (B), the Com-
17 missioner shall consult with the port directors
18 of each service port and the other ports of entry
19 serviced by such service port. The Commis-
20 sioner shall not assign an Officer to a port of
21 entry pursuant to subparagraph (B)(ii) if the

1 port director of the service port that services
2 such port of entry certifies to the Commissioner
3 that an additional Officer is not needed at such
4 port of entry.

5 “(D) REPORT.—Not later than 60 days
6 after the beginning of each of the fiscal years
7 2008 through 2012, the Commissioner shall
8 submit a report to the Committee on Finance
9 of the Senate, the Committee on Homeland Se-
10 curity and Governmental Affairs of the Senate,
11 the Committee on Homeland Security of the
12 House of Representatives, and the Committee
13 on Ways and Means of the House of Represent-
14 atives, that describes how the additional Offi-
15 cers authorized under subparagraph (B) will be
16 allocated among the ports of entry in the
17 United States in accordance with subparagraph
18 (C).

19 “(3) AUTHORIZATION OF APPROPRIATIONS.—In
20 addition to any monies hereafter appropriated to
21 United States Customs and Border Protection in the

1 Department of Homeland Security, there are author-
2 ized to be appropriated for the purpose of meeting
3 the requirements of paragraph (2)(B), to remain
4 available until expended—

5 “(A) \$36,000,000 for fiscal year 2008;

6 “(B) \$75,000,000 for fiscal year 2009;

7 “(C) \$118,000,000 for fiscal year 2010;

8 “(D) \$165,000,000 for fiscal year 2011;

9 and

10 “(E) \$217,000,000 for fiscal year 2012.

11 “(4) REPORT.—Not later than 30 days after
12 the end of each fiscal year, the Commissioner shall
13 report to the Committee on Finance of the Senate
14 and the Committee on Ways and Means of the
15 House of Representatives on the resources directed
16 to commercial and trade facilitation functions within
17 the Office of Field Operations for the preceding fis-
18 cal year. Such information shall be reported for each
19 category of personnel within the Office of Field Op-
20 erations.

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

13 “(6) DEFINITION.—In this subsection, the term
14 ‘Commissioner’ means the Commissioner responsible
15 for United States Customs and Border Protection in
16 the Department of Homeland Security.”.

17 **SEC. 404. NEGOTIATIONS.**

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

20 “(h) CUSTOMS PROCEDURES AND COMMITMENTS.—

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security, the United States Trade Representative,
3 and other appropriate Federal officials shall work
4 through appropriate international organizations in-
5 cluding the World Customs Organization (WCO),
6 the World Trade Organization (WTO), the Inter-
7 national Maritime Organization, and the Asia-Pa-
8 cific Economic Cooperation, to align, to the extent
9 practicable, customs procedures, standards, require-
10 ments, and commitments in order to facilitate the
11 efficient flow of international trade.

12 “(2) UNITED STATES TRADE REPRESENTA-
13 TIVE.—

14 “(A) IN GENERAL.—The United States
15 Trade Representative shall seek commitments
16 in negotiations in the WTO regarding the arti-
17 cles of GATT 1994 that are described in sub-
18 paragraph (B) that make progress in achiev-
19 ing—

20 “(i) harmonization of import and ex-
21 port data collected by WTO members for

1 customs purposes, to the extent prac-
2 ticable;

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

6 “(iii) transparent standards for the
7 efficient release of cargo by WTO mem-
8 bers, to the extent practicable; and

9 “(iv) the protection of confidential
10 commercial data.

11 “(B) ARTICLES DESCRIBED.—The articles
12 of the GATT 1994 described in this subpara-
13 graph are the following:

14 “(i) Article V (relating to transit).

15 “(ii) Article VIII (relating to fees and
16 formalities associated with importation and
17 exportation).

18 “(iii) Article X (relating to publication
19 and administration of trade regulations).

1 “(C) GATT 1994.—The term ‘GATT 1994’
2 means the General Agreement on Tariff and
3 Trade annexed to the WTO Agreement.

4 “(3) CUSTOMS.—The Secretary of Homeland
5 Security, acting through the Commissioner and in
6 consultation with the United States Trade Rep-
7 resentative, shall work with the WCO to facilitate
8 the efficient flow of international trade, taking into
9 account existing international agreements and the
10 negotiating objectives of the WTO. The Commis-
11 sioner shall work to—

12 “(A) harmonize, to the extent practicable,
13 import data collected by WCO members for cus-
14 toms purposes;

15 “(B) automate and harmonize, to the ex-
16 tent practicable, the collection and storage of
17 commercial data by WCO members;

18 “(C) develop, to the extent practicable,
19 transparent standards for the release of cargo
20 by WCO members;

1 “(D) develop and harmonize, to the extent
2 practicable, standards, technologies, and proto-
3 cols for physical or nonintrusive examinations
4 that will facilitate the efficient flow of inter-
5 national trade; and

6 “(E) ensure the protection of confidential
7 commercial data.

8 “(4) DEFINITION.—In this subsection, the term
9 ‘Commissioner’ means the Commissioner responsible
10 for the United States Customs and Border Protec-
11 tion in the Department of Homeland Security.”.

12 **SEC. 405. INTERNATIONAL TRADE DATA SYSTEM.**

13 Section 411 of the Tariff Act of 1930 (19 U.S.C.
14 1411) is amended by adding at the end the following:

15 “(d) INTERNATIONAL TRADE DATA SYSTEM.—

16 “(1) ESTABLISHMENT.—

17 “(A) IN GENERAL.—The Secretary of the
18 Treasury (in this subsection, referred to as the
19 ‘Secretary’) shall oversee the establishment of
20 an electronic trade data interchange system to
21 be known as the ‘International Trade Data Sys-

1 tem’ (ITDS). The ITDS shall be implemented
2 not later than the date that the Automated
3 Commercial Environment (commonly referred
4 to as ‘ACE’) is fully implemented.

5 “(B) PURPOSE.—The purpose of the ITDS
6 is to eliminate redundant information require-
7 ments, to efficiently regulate the flow of com-
8 merce, and to effectively enforce laws and regu-
9 lations relating to international trade, by estab-
10 lishing a single portal system, operated by the
11 United States Customs and Border Protection,
12 for the collection and distribution of standard
13 electronic import and export data required by
14 all participating Federal agencies.

15 “(C) PARTICIPATION.—

16 “(i) IN GENERAL.—All Federal agen-
17 cies that require documentation for clear-
18 ing or licensing the importation and expor-
19 tation of cargo shall participate in the
20 ITDS.

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

7 “(D) CONSULTATION.—The Secretary
8 shall consult with and assist the United States
9 Customs and Border Protection and other
10 agencies in the transition from paper to elec-
11 tronic format for the submission, issuance, and
12 storage of documents relating to data required
13 to enter cargo into the United States. In so
14 doing, the Secretary shall also consult with pri-
15 vate sector stakeholders, including the Commer-
16 cial Operations Advisory Committee, in devel-
17 oping uniform data submission requirements,
18 procedures, and schedules, for the ITDS.

19 “(E) COORDINATION.—The Secretary shall
20 be responsible for coordinating the operation of
21 the ITDS among the participating agencies and

1 the office within the United States Customs
2 and Border Protection that is responsible for
3 maintaining the ITDS.

4 “(2) DATA ELEMENTS.—

5 “(A) IN GENERAL.—The Interagency
6 Steering Committee (established under para-
7 graph (3)) shall, in consultation with the agen-
8 cies participating in the ITDS, define the
9 standard set of data elements to be collected,
10 stored, and shared in the ITDS, consistent with
11 laws applicable to the collection and protection
12 of import and export information. The Inter-
13 agency Steering Committee shall periodically re-
14 view the data elements in order to update the
15 standard set of data elements, as necessary.

16 “(B) COMMITMENTS AND OBLIGATIONS.—
17 The Interagency Steering Committee shall en-
18 sure that the ITDS data requirements are com-
19 patible with the commitments and obligations of
20 the United States as a member of the World
21 Customs Organization (WCO) and the World

1 Trade Organization (WTO) for the entry and
2 movement of cargo.

3 “(3) INTERAGENCY STEERING COMMITTEE.—
4 There is established an Interagency Steering Com-
5 mittee (in this section, referred to as the ‘Com-
6 mittee’). The members of the Committee shall in-
7 clude the Secretary (who shall serve as the chair-
8 person of the Committee), the Director of the Office
9 of Management and Budget, and the head of each
10 agency participating in the ITDS. The Committee
11 shall assist the Secretary in overseeing the imple-
12 mentation of, and participation in, the ITDS.

13 “(4) REPORT.—The President shall submit a
14 report before the end of each fiscal year to the Com-
15 mittee on Finance of the Senate and the Committee
16 on Ways and Means of the House of Representa-
17 tives. Each report shall include information on—

18 “(A) the status of the ITDS implementa-
19 tion;

20 “(B) the extent of participation in the
21 ITDS by Federal agencies;

1 “(C) the remaining barriers to any agen-
2 cy’s participation;

3 “(D) the consistency of the ITDS with ap-
4 plicable standards established by the World
5 Customs Organization and the World Trade Or-
6 ganization;

7 “(E) recommendations for technological
8 and other improvements to the ITDS; and

9 “(F) the status of the development, imple-
10 mentation, and management of the Automated
11 Commercial Environment within the United
12 States Customs and Border Protection.

13 “(5) SENSE OF CONGRESS.—It is the sense of
14 Congress that agency participation in the ITDS is
15 an important priority of the Federal Government
16 and that the Secretary shall coordinate the operation
17 of the ITDS closely among the participating agen-
18 cies and the office within the United States Customs
19 and Border Protection that is responsible for main-
20 taining the ITDS.

1 “(6) CONSTRUCTION.—Nothing in this section
2 shall be construed as amending or modifying sub-
3 section (g) of section 301 of title 13, United States
4 Code.

5 “(7) DEFINITION.—The term ‘Commercial Op-
6 erations Advisory Committee’ means the Advisory
7 Committee established pursuant to section 9503(c)
8 of the Omnibus Budget Reconciliation Act of 1987
9 (19 U.S.C. 2071 note) or any successor committee.”.

10 **SEC. 406. IN-BOND CARGO.**

11 Title IV of the Tariff Act of 1930 is amended by in-
12 serting after section 553 the following:

13 **“SEC. 553A. REPORT ON IN-BOND CARGO.**

14 “(a) REPORT.—Not later than June 30, 2007, the
15 Commissioner shall submit a report to the Committee on
16 Commerce, Science, and Transportation of the Senate, the
17 Committee on Finance of the Senate, the Committee on
18 Homeland Security and Governmental Affairs of the Sen-
19 ate, the Committee on Homeland Security of the House
20 of Representatives, the Committee on Transportation and
21 Infrastructure of the House of Representatives, and the

1 Committee on Ways and Means of the House of Rep-
2 resentatives that includes—

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

5 “(2) an assessment of the personnel required to
6 ensure 100 percent reconciliation of in-bond entries
7 between the port of arrival and the port of destina-
8 tion or exportation;

9 “(3) an assessment of the status of investiga-
10 tions of overdue in-bond shipments and an evalua-
11 tion of the resources required to ensure adequate in-
12 vestigation of overdue in-bond shipments;

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

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

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

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

3 “(8) an assessment of the feasibility of reducing
4 the transit time for in-bond shipments, including an
5 assessment of the impact of such a change on do-
6 mestic and international trade.

7 “(b) DEFINITION.—In this section, the term ‘Com-
8 missioner’ means the Commissioner responsible for the
9 United States Customs and Border Protection in the De-
10 partment of Homeland Security.”.

11 **SEC. 407. SENSE OF THE SENATE.**

12 It is the sense of the Senate that nothing in sections
13 111 through 114, 121, and 201 through 236, or the
14 amendments made by such sections, shall be construed to
15 affect the jurisdiction of any Standing Committee of the
16 Senate.

1 **TITLE V—DOMESTIC NUCLEAR**
2 **DETECTION OFFICE**

3 **SEC. 501. ESTABLISHMENT OF DOMESTIC NUCLEAR DETEC-**
4 **TION OFFICE.**

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

8 **“TITLE XVIII—DOMESTIC**
9 **NUCLEAR DETECTION OFFICE**

10 **“SEC. 1801. DOMESTIC NUCLEAR DETECTION OFFICE.**

11 “(a) ESTABLISHMENT.—There shall be established in
12 the Department a Domestic Nuclear Detection Office (re-
13 ferred to in this title as the ‘Office’). The Secretary may
14 request that the Secretary of Defense, the Secretary of
15 Energy, the Secretary of State, the Attorney General, the
16 Nuclear Regulatory Commission, and the directors of
17 other Federal agencies, including elements of the Intel-
18 ligence Community, provide for the reimbursable detail of
19 personnel with relevant expertise to the Office.

1 “(b) DIRECTOR.—The Office shall be headed by a Di-
2 rector for Domestic Nuclear Detection, who shall be ap-
3 pointed by the President.

4 **“SEC. 1802. MISSION OF OFFICE.**

5 “(a) MISSION.—The Office shall be responsible for
6 coordinating Federal efforts to detect and protect against
7 the unauthorized importation, possession, storage, trans-
8 portation, development, or use of a nuclear explosive de-
9 vice, fissile material, or radiological material in the United
10 States, and to protect against attack using such devices
11 or materials against the people, territory, or interests of
12 the United States and, to this end, shall—

13 “(1) serve as the primary entity of the United
14 States Government to further develop, acquire, and
15 support the deployment of an enhanced domestic
16 system to detect and report on attempts to import,
17 possess, store, transport, develop, or use an unau-
18 thorized nuclear explosive device, fissile material, or
19 radiological material in the United States, and im-
20 prove that system over time;

1 “(2) enhance and coordinate the nuclear detec-
2 tion efforts of Federal, State, local, and tribal gov-
3 ernments and the private sector to ensure a man-
4 aged, coordinated response;

5 “(3) establish, with the approval of the Sec-
6 retary and in coordination with the Attorney Gen-
7 eral, the Secretary of Defense, and the Secretary of
8 Energy, additional protocols and procedures for use
9 within the United States to ensure that the detection
10 of unauthorized nuclear explosive devices, fissile ma-
11 terial, or radiological material is promptly reported
12 to the Attorney General, the Secretary, the Sec-
13 retary of Defense, the Secretary of Energy, and
14 other appropriate officials or their respective des-
15 ignees for appropriate action by law enforcement,
16 military, emergency response, or other authorities;

17 “(4) develop, with the approval of the Secretary
18 and in coordination with the Attorney General, the
19 Secretary of State, the Secretary of Defense, and
20 the Secretary of Energy, an enhanced global nuclear

1 detection architecture with implementation under
2 which—

3 “(A) the Office will be responsible for the
4 implementation of the domestic portion of the
5 global architecture;

6 “(B) the Secretary of Defense will retain
7 responsibility for implementation of Department
8 of Defense requirements within and outside the
9 United States; and

10 “(C) the Secretary of State, the Secretary
11 of Defense, and the Secretary of Energy will
12 maintain their respective responsibilities for pol-
13 icy guidance and implementation of the portion
14 of the global architecture outside the United
15 States, which will be implemented consistent
16 with applicable law and relevant international
17 arrangements;

18 “(5) ensure that the expertise necessary to ac-
19 curately interpret detection data is made available in
20 a timely manner for all technology deployed by the

1 Office to implement the global nuclear detection ar-
2 chitecture;

3 “(6) conduct, support, coordinate, and encour-
4 age an aggressive, expedited, evolutionary, and
5 transformational program of research and develop-
6 ment to generate and improve technologies to detect
7 and prevent the illicit entry, transport, assembly, or
8 potential use within the United States of a nuclear
9 explosive device or fissile or radiological material,
10 and coordinate with the Under Secretary for Science
11 and Technology on basic and advanced or trans-
12 formational research and development efforts rel-
13 evant to the mission of both organizations;

14 “(7) carry out a program to test and evaluate
15 technology for detecting a nuclear explosive device
16 and fissile or radiological material, in coordination
17 with the Secretary of Defense and the Secretary of
18 Energy, as appropriate, and establish performance
19 metrics for evaluating the effectiveness of individual
20 detectors and detection systems in detecting such de-
21 vices or material—

1 “(A) under realistic operational and envi-
2 ronmental conditions; and

3 “(B) against realistic adversary tactics and
4 countermeasures;

5 “(8) support and enhance the effective sharing
6 and use of appropriate information generated by the
7 intelligence community, law enforcement agencies,
8 counterterrorism community, other government
9 agencies, and foreign governments, as well as pro-
10 vide appropriate information to such entities;

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

14 “(10) perform other duties as assigned by the
15 Secretary.

16 **“SEC. 1803. HIRING AUTHORITY.**

17 “‘In hiring personnel for the Office, the Secretary
18 shall have the hiring and management authorities pro-
19 vided in section 1101 of the Strom Thurmond National
20 Defense Authorization Act for Fiscal Year 1999 (5 U.S.C.
21 3104 note). The term of appointments for employees

1 under subsection (c)(1) of such section may not exceed
2 5 years before granting any extension under subsection
3 (c)(2) of such section.

4 **“SEC. 1804. TESTING AUTHORITY.**

5 “(a) IN GENERAL.—The Director shall coordinate
6 with the responsible Federal agency or other entity to fa-
7 cilitate the use by the Office, by its contractors, or by
8 other persons or entities, of existing Government labora-
9 tories, centers, ranges, or other testing facilities for the
10 testing of materials, equipment, models, computer soft-
11 ware, and other items as may be related to the missions
12 identified in section 1802. Any such use of Government
13 facilities shall be carried out in accordance with all appli-
14 cable laws, regulations, and contractual provisions, includ-
15 ing those governing security, safety, and environmental
16 protection, including, when applicable, the provisions of
17 section 309. The Office may direct that private sector enti-
18 ties utilizing Government facilities in accordance with this
19 section pay an appropriate fee to the agency that owns
20 or operates those facilities to defray additional costs to
21 the Government resulting from such use.

1 “(b) CONFIDENTIALITY OF TEST RESULTS.—The re-
2 sults of tests performed with services made available shall
3 be confidential and shall not be disclosed outside the Fed-
4 eral Government without the consent of the persons for
5 whom the tests are performed.

6 “(c) FEES.—Fees for services made available under
7 this section shall not exceed the amount necessary to re-
8 coup the direct and indirect costs involved, such as direct
9 costs of utilities, contractor support, and salaries of per-
10 sonnel that are incurred by the United States to provide
11 for the testing.

12 “(d) USE OF FEES.—Fees received for services made
13 available under this section may be credited to the appro-
14 priation from which funds were expended to provide such
15 services.

16 **“SEC. 1805. RELATIONSHIP TO OTHER DEPARTMENT ENTI-**
17 **TIES AND FEDERAL AGENCIES.**

18 “The authority of the Director under this title shall
19 not affect the authorities or responsibilities of any officer
20 of the Department or of any officer of any other depart-
21 ment or agency of the United States with respect to the

1 command, control, or direction of the functions, personnel,
2 funds, assets, and liabilities of any entity within the De-
3 partment or any Federal department or agency.

4 **“SEC. 1806. CONTRACTING AND GRANT MAKING AUTHORI-**
5 **TIES.**

6 “The Secretary, acting through the Director for Do-
7 mestic Nuclear Detection, in carrying out the responsibil-
8 ities under paragraphs (6) and (7) of section 1802(a),
9 shall—

10 “(1) operate extramural and intramural pro-
11 grams and distribute funds through grants, coopera-
12 tive agreements, and other transactions and con-
13 tracts;

14 “(2) ensure that activities under paragraphs (6)
15 and (7) of section 1802(a) include investigations of
16 radiation detection equipment in configurations suit-
17 able for deployment at seaports, which may include
18 underwater or water surface detection equipment
19 and detection equipment that can be mounted on
20 cranes and straddle cars used to move shipping con-
21 tainers; and

1 “(3) have the authority to establish or contract
2 with 1 or more federally funded research and devel-
3 opment centers to provide independent analysis of
4 homeland security issues and carry out other respon-
5 sibilities under this title.”.

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

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

11 “(5) A Director for Domestic Nuclear Detec-
12 tion.”;

13 (2) in section 302 (6 U.S.C. 182)—

14 (A) in paragraph (2), by striking “radio-
15 logical, nuclear”; and

16 (B) in paragraph (5)(A), by striking “radi-
17 ological, nuclear”; and

18 (3) in the table of contents, by adding at the
19 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.”.

1 **SEC. 502. TECHNOLOGY RESEARCH AND DEVELOPMENT IN-**
2 **VESTMENT STRATEGY FOR NUCLEAR AND**
3 **RADIOLOGICAL DETECTION.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of the enactment of this Act, the Secretary, the Sec-
6 retary of Energy, the Secretary of Defense, and the Direc-
7 tor of National Intelligence shall submit to Congress a re-
8 search and development investment strategy for nuclear
9 and radiological detection.

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

12 (1) a long term technology roadmap for nuclear
13 and radiological detection applicable to the mission
14 needs of the Department, the Department of En-
15 ergy, the Department of Defense, and the Office of
16 the Director of National Intelligence;

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

1 (3) documentation of how the Department, the
2 Department of Energy, the Department of Defense,
3 and the Office of the Director of National Intel-
4 ligence will execute this strategy.

5 (c) INITIAL REPORT.—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary shall sub-
7 mit a report to the appropriate congressional committees
8 on—

9 (1) the impact of this title, and the amend-
10 ments made by this title, on the responsibilities
11 under section 302 of the Homeland Security Act of
12 2002 (6 U.S.C. 182); and

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

19 (d) ANNUAL REPORT.—The Director for Domestic
20 Nuclear Detection and the Under Secretary for Science
21 and Technology shall jointly and annually notify Congress

1 that the strategy and technology road map for nuclear and
2 radiological detection developed under subsections (a) and
3 (b) is consistent with the national policy and strategic plan
4 for identifying priorities, goals, objectives, and policies for
5 coordinating the Federal Government’s civilian efforts to
6 identify and develop countermeasures to terrorist threats
7 from weapons of mass destruction that are required under
8 section 302(2) of the Homeland Security Act of 2002 (6
9 U.S.C. 182(2)).

10 **TITLE VI—COMMERCIAL MOBILE**
11 **SERVICE ALERTS**

12 **SEC. 601. SHORT TITLE.**

13 This title may be cited as the “Warning, Alert, and
14 Response Network Act”.

15 **SEC. 602. FEDERAL COMMUNICATIONS COMMISSION DU-**
16 **TIES.**

17 (a) **COMMERCIAL MOBILE SERVICE ALERT REGULA-**
18 **TIONS.**—Within 180 days after the date on which the
19 Commercial Mobile Service Alert Advisory Committee, es-
20 tablished pursuant to section 603(a), transmits rec-
21 ommendations to the Federal Communications Commis-

1 sion, the Commission shall complete a proceeding to adopt
2 relevant technical standards, protocols, procedures, and
3 other technical requirements based on the recommenda-
4 tions of such Advisory Committee necessary to enable
5 commercial mobile service alerting capability for commer-
6 cial mobile service providers that voluntarily elect to trans-
7 mit emergency alerts. The Commission shall consult with
8 the National Institute of Standards and Technology re-
9 garding the adoption of technical standards under this
10 subsection.

11 (b) COMMERCIAL MOBILE SERVICE ELECTION.—

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

18 (A) to allow any licensee providing com-
19 mercial mobile service (as defined in section
20 332(d)(1) of the Communications Act of 1934
21 (47 U.S.C. 332(d)(1))) to transmit emergency

1 alerts to subscribers to, or users of, the com-
2 mercial mobile service provided by such licensee;

3 (B) to require any licensee providing com-
4 mercial mobile service that elects, in whole or in
5 part, under paragraph (2) not to transmit
6 emergency alerts to provide clear and con-
7 spicuous notice at the point of sale of any de-
8 vices with which its commercial mobile service
9 is included, that it will not transmit such alerts
10 via the service it provides for the device; and

11 (C) to require any licensee providing com-
12 mercial mobile service that elects under para-
13 graph (2) not to transmit emergency alerts to
14 notify its existing subscribers of its election.

15 (2) ELECTION.—

16 (A) IN GENERAL.—Within 30 days after
17 the Commission issues its order under para-
18 graph (1), each licensee providing commercial
19 mobile service shall file an election with the
20 Commission with respect to whether or not it
21 intends to transmit emergency alerts.

1 (B) TRANSMISSION STANDARDS; NOTIFICA-
2 TION.—If a licensee providing commercial mo-
3 bile service elects to transmit emergency alerts
4 via its commercial mobile service, the licensee
5 shall—

6 (i) notify the Commission of its elec-
7 tion; and

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

13 (C) NO FEE FOR SERVICE.—A commercial
14 mobile service licensee that elects to transmit
15 emergency alerts may not impose a separate or
16 additional charge for such transmission or ca-
17 pability.

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

20 (i) for a commercial mobile service li-
21 censee that has elected to transmit emer-

1 agency alerts to withdraw its election with-
2 out regulatory penalty or forfeiture upon
3 advance written notification of the with-
4 drawal to its affected subscribers;

5 (ii) for a commercial mobile service li-
6 censee to elect to transmit emergency
7 alerts at a date later than provided in sub-
8 paragraph (A); and

9 (iii) under which a subscriber may
10 terminate a subscription to service pro-
11 vided by a commercial mobile service li-
12 censee that withdraws its election without
13 penalty or early termination fee.

14 (E) CONSUMER CHOICE TECHNOLOGY.—
15 Any commercial mobile service licensee electing
16 to transmit emergency alerts may offer sub-
17 scribers the capability of preventing the sub-
18 scriber's device from receiving such alerts, or
19 classes of such alerts, other than an alert issued
20 by the President. Within 2 years after the Com-
21 mission completes the proceeding under para-

1 graph (1), the Commission shall examine the
2 issue of whether a commercial mobile service
3 provider should continue to be permitted to
4 offer its subscribers such capability. The Com-
5 mission shall submit a report with its rec-
6 ommendations to the Committee on Commerce,
7 Science, and Transportation of the Senate and
8 the Committee on Energy and Commerce of the
9 House of Representatives.

10 (c) DIGITAL TELEVISION TRANSMISSION TOWERS
11 RETRANSMISSION CAPABILITY.—Within 90 days after the
12 date on which the Commission adopts relevant technical
13 standards based on recommendations of the Commercial
14 Mobile Service Alert Advisory Committee, established pur-
15 suant to section 603(a), the Commission shall complete
16 a proceeding to require licensees and permittees of non-
17 commercial educational broadcast stations or public
18 broadcast stations (as those terms are defined in section
19 397(6) of the Communications Act of 1934 (47 U.S.C.
20 397(6))) to install necessary equipment and technologies
21 on, or as part of, any broadcast television digital signal

1 transmitter to enable the distribution of geographically
2 targeted alerts by commercial mobile service providers
3 that have elected to transmit emergency alerts under this
4 section.

5 (d) FCC REGULATION OF COMPLIANCE.—The Fed-
6 eral Communications Commission may enforce compliance
7 with this title but shall have no rulemaking authority
8 under this title, except as provided in subsections (a), (b),
9 (e), and (f).

10 (e) LIMITATION OF LIABILITY.—

11 (1) IN GENERAL.—Any commercial mobile serv-
12 ice provider (including its officers, directors, employ-
13 ees, vendors, and agents) that transmits emergency
14 alerts and meets its obligations under this title shall
15 not be liable to any subscriber to, or user of, such
16 person's service or equipment for—

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

20 (B) the release to a government agency or
21 entity, public safety, fire service, law enforce-

1 advisory committee, to be known as the Commercial Mo-
2 bile Service Alert Advisory Committee (referred to in this
3 section as the “Advisory Committee”).

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

9 (1) STATE AND LOCAL GOVERNMENT REP-
10 REPRESENTATIVES.—Representatives of State and local
11 governments and representatives of emergency re-
12 sponse providers, selected from among individuals
13 nominated by national organizations representing
14 such governments and personnel.

15 (2) TRIBAL GOVERNMENTS.—Representatives
16 from Federally recognized Indian tribes and Na-
17 tional Indian organizations.

18 (3) SUBJECT MATTER EXPERTS.—Individuals
19 who have the requisite technical knowledge and ex-
20 pertise to serve on the Advisory Committee in the

1 fulfillment of its duties, including representatives
2 of—

3 (A) communications service providers;

4 (B) vendors, developers, and manufactur-
5 ers of systems, facilities, equipment, and capa-
6 bilities for the provision of communications
7 services;

8 (C) third-party service bureaus;

9 (D) technical experts from the broad-
10 casting industry;

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

14 (F) national organizations representing in-
15 dividuals with special needs, including individ-
16 uals with disabilities and the elderly; and

17 (G) other individuals with relevant tech-
18 nical expertise.

19 (4) QUALIFIED REPRESENTATIVES OF OTHER
20 STAKEHOLDERS AND INTERESTED PARTIES.—Quali-
21 fied representatives of such other stakeholders and

1 interested and affected parties as the chairman
2 deems appropriate.

3 (c) DEVELOPMENT OF SYSTEM-CRITICAL REC-
4 OMMENDATIONS.—Within 1 year after the date of enact-
5 ment of this Act, the Advisory Committee shall develop
6 and submit to the Federal Communications Commission
7 recommendations—

8 (1) for protocols, technical capabilities, and
9 technical procedures through which electing commer-
10 cial mobile service providers receive, verify, and
11 transmit alerts to subscribers;

12 (2) for the establishment of technical standards
13 for priority transmission of alerts by electing com-
14 mercial mobile service providers to subscribers;

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

19 (4) for the technical capability to transmit
20 emergency alerts by electing commercial mobile pro-

1 viders to subscribers in languages in addition to
2 English, to the extent practicable and feasible;

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

9 (6) for a process under which commercial mo-
10 bile service providers can elect to transmit emer-
11 gency alerts if—

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

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

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

20 (d) MEETINGS.—

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

5 (2) OTHER MEETINGS.—After the initial meet-
6 ing, the Advisory Committee shall meet at the call
7 of the chair.

8 (3) NOTICE; OPEN MEETINGS.—Any meetings
9 held by the Advisory Committee shall be duly no-
10 ticed at least 14 days in advance and shall be open
11 to the public.

12 (e) RULES.—

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

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

1 (3) ADDITIONAL RULES.—The Advisory Com-
2 mittee may adopt other rules as needed.

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

7 (g) CONSULTATION WITH NIST.—The Advisory
8 Committee shall consult with the National Institute of
9 Standards and Technology in its work on developing rec-
10 ommendations under paragraphs (2) and (3) of subsection
11 (e).

12 **SEC. 604. RESEARCH AND DEVELOPMENT.**

13 (a) IN GENERAL.—The Under Secretary of Home-
14 land Security for Science and Technology, in consultation
15 with the director of the National Institute of Standards
16 and Technology and the chairman of the Federal Commu-
17 nications Commission, shall establish a research, develop-
18 ment, testing, and evaluation program based on the rec-
19 ommendations of the Commercial Mobile Service Alert Ad-
20 visory Committee, established pursuant to section 603(a),
21 to support the development of technologies to increase the

1 number of commercial mobile service devices that can re-
2 ceive emergency alerts.

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

5 (1) fund research, development, testing, and
6 evaluation at academic institutions, private sector
7 entities, government laboratories, and other appro-
8 priate entities; and

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

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

14 (B) research on understanding and im-
15 proving public response to warnings.

16 **SEC. 605. GRANT PROGRAM FOR REMOTE COMMUNITY**
17 **ALERT SYSTEMS.**

18 (a) GRANT PROGRAM.—The Under Secretary of
19 Commerce for Oceans and Atmosphere, in consultation
20 with the Secretary of Homeland Security, shall establish
21 a program under which grants may be made to provide

1 for outdoor alerting technologies in remote communities
2 effectively unserved by commercial mobile service (as de-
3 termined by the Federal Communications Commission
4 within 180 days after the date of enactment of this Act)
5 for the purpose of enabling residents of those communities
6 to receive emergency alerts.

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

9 (1) shall establish a notification and application
10 procedure; and

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

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

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

1 **SEC. 606. FUNDING.**

2 (a) IN GENERAL.—In addition to any amounts pro-
3 vided by appropriation Acts, funding for this title shall
4 be provided from the Digital Transition and Public Safety
5 Fund in accordance with section 3010 of the Digital Tele-
6 vision Transition and Public Safety Act of 2005 (47
7 U.S.C. 309 note).

8 (b) COMPENSATION.—The Assistant Secretary of
9 Commerce for Communications and Information shall
10 compensate any such broadcast station licensee or per-
11 mittee for reasonable costs incurred in complying with the
12 requirements imposed pursuant to section 602(c) from
13 funds made available under this section. The Assistant
14 Secretary shall ensure that sufficient funds are made
15 available to effectuate geographically targeted alerts.

16 (c) CREDIT.—The Assistant Secretary of Commerce
17 for Communications and Information, in consultation with
18 the Under Secretary of Homeland Security for Science
19 and Technology and the Under Secretary of Commerce for
20 Oceans and Atmosphere, may borrow from the Treasury
21 beginning on October 1, 2006, such sums as may be nec-

1 essary, but not to exceed \$106,000,000, to implement this
2 title. The Assistant Secretary of Commerce for Commu-
3 nications and Information shall ensure that the Under
4 Secretary of Homeland Security for Science and Tech-
5 nology and the Under Secretary of Commerce for Oceans
6 and Atmosphere are provided adequate funds to carry out
7 their responsibilities under sections 604 and 605 of this
8 title. The Treasury shall be reimbursed, without interest,
9 from amounts in the Digital Television Transition and
10 Public Safety Fund as funds are deposited into the Fund.

11 **SEC. 607. ESSENTIAL SERVICES DISASTER ASSISTANCE.**

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

15 **“SEC. 425. ESSENTIAL SERVICE PROVIDERS.**

16 “(a) DEFINITION.—In this section, the term ‘essen-
17 tial service provider’ means an entity that—

18 “(1) provides—

19 “(A) telecommunications service;

20 “(B) electrical power;

21 “(C) natural gas;

1 “(D) water and sewer services; or

2 “(E) any other essential service, as deter-
3 mined by the President;

4 “(2) is—

5 “(A) a municipal entity;

6 “(B) a nonprofit entity; or

7 “(C) a private, for profit entity; and

8 “(3) is contributing to efforts to respond to an
9 emergency or major disaster.

10 “(b) AUTHORIZATION FOR ACCESSIBILITY.—Unless
11 exceptional circumstances apply, in an emergency or major
12 disaster, the head of a Federal agency, to the greatest ex-
13 tent practicable, shall not—

14 “(1) deny or impede access to the disaster site
15 to an essential service provider whose access is nec-
16 essary to restore and repair an essential service; or

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

19 “(c) IMPLEMENTATION.—In implementing this sec-
20 tion, the head of a Federal agency shall follow all applica-
21 ble Federal laws, regulations, and policies.”.

1 **SEC. 608. COMMUNITY DISASTER LOANS.**

2 Section 417(b) of the Robert T. Stafford Disaster Re-
3 lief and Emergency Assistance Act (42 U.S.C. 5184(b))
4 is amended—

5 (1) by striking “exceed 25 per centum” and in-
6 serting the following: “exceed—

7 “(1) 25 percent”; and

8 (2) by striking the period at the end and insert-
9 ing the following: “; or

10 “(2) if the loss of tax and other revenues of the
11 local government as a result of the major disaster is
12 at least 75 percent of the annual operating budget
13 of that local government for the fiscal year in which
14 the major disaster occurs, 50 percent of the annual
15 operating budget of that local government for the
16 fiscal year in which the major disaster occurs, and
17 shall not exceed \$5,000,000.”.

18 **SEC. 609. PUBLIC FACILITIES.**

19 Section 406(c)(1) of the Robert T. Stafford Disaster
20 Relief and Emergency Assistance Act (42 U.S.C.
21 5172(c)(1)) is amended—

1 (1) in subparagraph (A), by striking “75” and
2 inserting “90”;

3 (2) by striking subparagraph (B); and

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

6 **SEC. 610. EXPEDITED PAYMENTS.**

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

10 “(e) EXPEDITED PAYMENTS.—

11 “(1) GRANT ASSISTANCE.—In making a grant
12 under subsection (a)(2), the President shall provide
13 not less than 50 percent of the President’s initial es-
14 timate of the Federal share of assistance as an ini-
15 tial payment in accordance with paragraph (2).

16 “(2) DATE OF PAYMENT.—Not later than 60
17 days after the date of the estimate described in
18 paragraph (1) and not later than 90 days after the
19 date on which the State or local government or
20 owner or operator of a private nonprofit facility ap-

1 plies for assistance under this section, an initial pay-
2 ment described in paragraph (1) shall be paid.”.

3 **SEC. 611. USE OF LOCAL CONTRACTING.**

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

9 “(3) FORMULATION OF REQUIREMENTS.—The
10 head of a Federal agency, as feasible and prac-
11 ticable, shall formulate appropriate requirements to
12 facilitate compliance with this section.”.

13 **SEC. 612. FEMA PROGRAMS.**

14 Notwithstanding any other provision of Federal law,
15 as of April 1, 2007, the Director of the Federal Emer-
16 gency Management Agency shall be responsible for the ra-
17 diological emergency preparedness program and the chem-
18 ical stockpile emergency preparedness program.

1 **SEC. 613. HOMELAND SECURITY DEFINITION.**

2 Section 2(6) of the Homeland Security Act of 2002
3 (6 U.S.C. 101(6)) is amended by inserting “governmental
4 and nongovernmental” after “local”.

5 **TITLE VII—OTHER MATTERS**

6 **SEC. 701. SECURITY PLAN FOR ESSENTIAL AIR SERVICE**

7 **AND SMALL COMMUNITY AIRPORTS.**

8 (a) IN GENERAL.—Not later than 60 days after the
9 date of the enactment of this Act, the Assistant Secretary
10 for the Transportation Security Administration shall sub-
11 mit to Congress a security plan for—

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

14 (2) airports whose community or consortia of
15 communities receive assistance under the Small
16 Community Air Service Development Program au-
17 thorized under section 41743 of title 49, United
18 States Code, and maintain, resume, or obtain sched-
19 uled passenger air carrier service with assistance
20 from that program in the United States.

1 (b) ELEMENTS OF PLAN.—The security plans re-
2 quired under subsection (a) shall include the following:

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

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

7 (3) A timeline for implementation of rec-
8 ommended security measures or procedures at such
9 airports.

10 (4) Cost analysis for implementation of rec-
11 ommended security measures or procedures at such
12 airports.

13 **SEC. 702. DISCLOSURES REGARDING HOMELAND SECURITY**

14 **GRANTS.**

15 (a) DEFINITIONS.—In this section:

16 (1) HOMELAND SECURITY GRANT.—The term
17 “homeland security grant” means any grant made
18 or administered by the Department, including—

19 (A) the State Homeland Security Grant
20 Program;

1 (B) the Urban Area Security Initiative
2 Grant Program;

3 (C) the Law Enforcement Terrorism Pre-
4 vention Program;

5 (D) the Citizen Corps; and

6 (E) the Metropolitan Medical Response
7 System.

8 (2) LOCAL GOVERNMENT.—The term “local
9 government” has the meaning given the term in sec-
10 tion 2 of the Homeland Security Act of 2002 (6
11 U.S.C. 101).

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

1 **SEC. 703. TRUCKING SECURITY.**

2 (a) LEGAL STATUS VERIFICATION FOR LICENSED
3 UNITED STATES COMMERCIAL DRIVERS.—Not later than
4 18 months after the date of the enactment of this Act,
5 the Secretary of Transportation, in cooperation with the
6 Secretary, shall issue regulations to implement the rec-
7 ommendations contained in the memorandum of the In-
8 spector General of the Department of Transportation
9 issued on June 4, 2004 (Control No. 2004–054).

10 (b) COMMERCIAL DRIVER’S LICENSE ANTIFRAUD
11 PROGRAMS.—Not later than 18 months after the date of
12 the enactment of this Act, the Secretary of Transpor-
13 tation, in cooperation with the Secretary, shall issue a reg-
14 ulation to implement the recommendations contained in
15 the Report on Federal Motor Carrier Safety Administra-
16 tion Oversight of the Commercial Driver’s License Pro-
17 gram (MH–2006–037).

18 (c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE
19 TRAFFIC.—

20 (1) GUIDELINES.—Not later than 18 months
21 after the date of the enactment of this Act, the Sec-

1 retary, in consultation with the Secretary of Trans-
2 portation, shall draft guidelines for Federal, State,
3 and local law enforcement officials, including motor
4 carrier safety enforcement personnel, on how to
5 identify noncompliance with Federal laws uniquely
6 applicable to commercial motor vehicles and com-
7 mercial motor vehicle operators engaged in cross-
8 border traffic and communicate such noncompliance
9 to the appropriate Federal authorities. Such guide-
10 lines shall be coordinated with the training and out-
11 reach activities of the Federal Motor Carrier Safety
12 Administration under section 4139 of SAFETEA-
13 LU (Public Law 109–59).

14 (2) VERIFICATION.—Not later than 18 months
15 after the date of the enactment of this Act, the Ad-
16 ministrator of the Federal Motor Carrier Safety Ad-
17 ministration shall modify the final rule regarding the
18 enforcement of operating authority (Docket No.
19 FMCSA–2002–13015) to establish a system or proc-
20 ess by which a carrier’s operating authority can be
21 verified during a roadside inspection.

1 **SEC. 704. AIR AND MARINE OPERATIONS OF THE NORTH-**
2 **ERN BORDER AIR WING.**

3 In addition to any other amounts authorized to be
4 appropriated for Air and Marine Operations of United
5 States Customs and Border Protection for fiscal year
6 2008, there are authorized to be appropriated such sums
7 as may be necessary for operation expenses and aviation
8 assets, for primary and secondary sites, of the Northern
9 Border Air Wing Branch in Great Falls, Montana.

10 **SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND**
11 **GAS DEVELOPMENT.**

12 (a) IN GENERAL.—Notwithstanding section 12105(c)
13 of title 46, United States Code, a foreign-flag vessel may
14 be chartered by, or on behalf of, a lessee to be employed
15 for the setting, relocation, or recovery of anchors or other
16 mooring equipment of a mobile offshore drilling unit that
17 is located over the Outer Continental Shelf (as defined in
18 section 2(a) of the Outer Continental Shelf Lands Act (43
19 U.S.C. 1331(a)) for operations in support of exploration,
20 or flow-testing and stimulation of wells, for offshore min-

1 eral or energy resources in the Beaufort Sea or the
2 Chukchi Sea adjacent to Alaska—

3 (1) until December 31, 2009, if the Secretary
4 of Transportation determines after publishing notice
5 in the Federal Register, that insufficient vessels doc-
6 umented under section 12105(c) of title 46, United
7 States Code, are reasonably available and suitable
8 for these support operations and all such reasonably
9 available and suitable vessels are employed in sup-
10 port of such operations; and

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

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

1 (B) after publishing notice in the Federal
2 Register, that insufficient vessels documented
3 under section 12105(e) of title 46, United
4 States Code, are reasonably available and suit-
5 able for these support operations and all such
6 reasonably available and suitable vessels are
7 employed in support of such operations.

8 (b) LESSEE DEFINED.—In this section, the term
9 “lessee” means the holder of a lease (as defined in section
10 1331(e) of title 43, United States Code).

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

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

16 Section 347(c) of the Maritime Transportation Secu-
17 rity Act of 2002 (Public Law 107–295; 116 Stat. 2109)
18 is amended by striking “within 30 months from the date
19 of conveyance” and inserting “by December 31, 2009”.

1 **SEC. 707. METHAMPHETAMINE AND METHAMPHETAMINE**
2 **PRECURSOR CHEMICALS.**

3 (a) COMPLIANCE WITH PERFORMANCE PLAN RE-
4 QUIREMENTS.—As part of the annual performance plan
5 required in the budget submission of the United States
6 Customs and Border Protection under section 1115 of
7 title 31, United States Code, the Commissioner shall es-
8 tablish performance indicators relating to the seizure of
9 methamphetamine and methamphetamine precursor
10 chemicals in order to evaluate the performance goals of
11 the United States Customs and Border Protection with
12 respect to the interdiction of illegal drugs entering the
13 United States.

14 (b) STUDY AND REPORT RELATING TO METH-
15 AMPHETAMINE AND METHAMPHETAMINE PRECURSOR
16 CHEMICALS.—

17 (1) ANALYSIS.—The Commissioner shall, on an
18 ongoing basis, analyze the movement of meth-
19 amphetamine and methamphetamine precursor
20 chemicals into the United States. In conducting the
21 analysis, the Commissioner shall—

1 (A) consider the entry of methamphet-
2 amine and methamphetamine precursor chemi-
3 cals through ports of entry, between ports of
4 entry, through international mails, and through
5 international courier services;

6 (B) examine the export procedures of each
7 foreign country where the shipments of meth-
8 amphetamine and methamphetamine precursor
9 chemicals originate and determine if changes in
10 the country's customs over time provisions
11 would alleviate the export of methamphetamine
12 and methamphetamine precursor chemicals; and

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

15 (2) REPORT.—Not later than September 30,
16 2007, and each 2-year period thereafter, the Com-
17 missioner, in the consultation with the Attorney
18 General, United States Immigration and Customs
19 Enforcement, the United States Drug Enforcement
20 Administration, and the United States Department
21 of State, shall submit a report to the Committee on

1 Finance of the Senate, the Committee on Foreign
2 Relations of the Senate, the Committee on the Judi-
3 ciary of the Senate, the Committee on Ways and
4 Means of the House of Representatives, the Com-
5 mittee on International Relations of the House of
6 Representatives, and the Committee on the Judici-
7 ary of the House of Representatives, that includes—

8 (A) a comprehensive summary of the anal-
9 ysis described in paragraph (1); and

10 (B) a description of how the United States
11 Customs and Border Protection utilized the
12 analysis described in paragraph (1) to target
13 shipments presenting a high risk for smuggling
14 or circumvention of the Combat Methamphet-
15 amine Epidemic Act of 2005 (Public Law 109–
16 177).

17 (3) AVAILABILITY OF ANALYSIS.—The Commis-
18 sioner shall ensure that the analysis described in
19 paragraph (1) is made available in a timely manner
20 to the Secretary of State to facilitate the Secretary
21 in fulfilling the Secretary’s reporting requirements in

1 section 722 of the Combat Methamphetamine Epi-
2 demic Act of 2005.

3 (c) DEFINITION.—In this section, the term “meth-
4 amphetamine precursor chemicals” means the chemicals
5 ephedrine, pseudoephedrine, or phenylpropanolamine, in-
6 cluding each of the salts, optical isomers, and salts of opti-
7 cal isomers of such chemicals.

8 **SEC. 708. AIRCRAFT CHARTER CUSTOMER AND LESSEE**
9 **PRESCREENING PROGRAM.**

10 (a) IMPLEMENTATION STATUS.—Not later than 270
11 days after the implementation of the Department’s air-
12 craft charter customer and lessee prescreening process re-
13 quired under section 44903(j)(2) of title 49, United States
14 Code, the Comptroller General of the United States
15 shall—

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

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

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

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

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

7 **SEC. 709. PROTECTION OF HEALTH AND SAFETY DURING**
8 **DISASTERS.**

9 (a) DEFINITIONS.—In this section:

10 (1) CERTIFIED MONITORING PROGRAM.—The
11 term “certified monitoring program” means a med-
12 ical monitoring program—

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

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

19 (2) DISASTER AREA.—The term “disaster area”
20 means an area in which the President has declared
21 a major disaster (as that term is defined in section

1 102 of the Robert T. Stafford Disaster Relief and
2 Emergency Assistance Act (42 U.S.C. 5122)), dur-
3 ing the period of such declaration.

4 (3) HIGH EXPOSURE LEVEL.—The term “high
5 exposure level” means a level of exposure to a sub-
6 stance of concern that is for such a duration, or of
7 such a magnitude, that adverse effects on human
8 health can be reasonably expected to occur, as deter-
9 mined by the President, acting through the Sec-
10 retary of Health and Human Services, in accordance
11 with human monitoring or environmental or other
12 appropriate indicators.

13 (4) INDIVIDUAL.—The term “individual” in-
14 cludes—

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

20 (i) a police officer;

21 (ii) a firefighter;

1 (iii) an emergency medical technician;

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

4 (v) any other relief or rescue worker
5 or volunteer that the President, acting
6 through the Secretary of Health and
7 Human Services, determines to be appro-
8 priate;

9 (B) a worker who responds to a disaster,
10 either natural or manmade, involving any mode
11 of transportation in the United States or dis-
12 rupting the transportation system of the United
13 States, by assisting in the cleanup or restora-
14 tion of critical infrastructure in and around a
15 disaster area;

16 (C) a person whose place of residence is in
17 a disaster area, caused by either a natural or
18 manmade disaster involving any mode of trans-
19 portation in the United States or disrupting the
20 transportation system of the United States;

1 (D) a person who is employed in or attends
2 school, child care, or adult day care in a build-
3 ing located in a disaster area, caused by either
4 a natural or manmade disaster involving any
5 mode of transportation in the United States or
6 disrupting the transportation system of the
7 United States, of the United States; and

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

11 (5) PARTICIPATING RESPONDER.—The term
12 “participating responder” means an individual de-
13 scribed in paragraph (4)(A).

14 (6) PROGRAM.—The term “program” means a
15 program described in subsection (b) that is carried
16 out for a disaster area.

17 (7) SUBSTANCE OF CONCERN.—The term “sub-
18 stance of concern” means a chemical or other sub-
19 stance that is associated with potential acute or
20 chronic human health effects, the risk of exposure to
21 which could potentially be increased as the result of

1 a disaster, as determined by the President, acting
2 through the Secretary of Health and Human Serv-
3 ices, and in coordination with the Agency for Toxic
4 Substances and Disease Registry, the Environmental
5 Protection Agency, the Centers for Disease Control
6 and Prevention, the National Institutes of Health,
7 the Federal Emergency Management Agency, the
8 Occupational Health and Safety Administration, and
9 other agencies.

10 (b) PROGRAM.—

11 (1) IN GENERAL.—If the President, acting
12 through the Secretary of Health and Human Serv-
13 ices, determines that 1 or more substances of con-
14 cern are being, or have been, released in an area de-
15 clared to be a disaster area and disrupts the trans-
16 portation system of the United States, the Presi-
17 dent, acting through the Secretary of Health and
18 Human Services, may carry out a program for the
19 coordination, protection, assessment, monitoring,
20 and study of the health and safety of individuals
21 with high exposure levels to ensure that—

1 (A) the individuals are adequately in-
2 formed about and protected against potential
3 health impacts of any substance of concern in
4 a timely manner;

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

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

10 (ii) any mental health impacts;

11 (C) the individuals receive health care re-
12 ferrals as needed and appropriate; and

13 (D) information from any such monitoring
14 and studies is used to prevent or protect
15 against similar health impacts from future dis-
16 asters.

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

19 (A) collecting and analyzing environmental
20 exposure data;

1 (B) developing and disseminating informa-
2 tion and educational materials;

3 (C) performing baseline and followup clin-
4 ical health and mental health examinations and
5 taking biological samples;

6 (D) establishing and maintaining an expo-
7 sure registry;

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

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

14 (3) TIMING.—To the maximum extent prac-
15 ticable, activities under any program carried out
16 under paragraph (1) (including baseline health ex-
17 aminations) shall be commenced in a timely manner
18 that will ensure the highest level of public health
19 protection and effective monitoring.

20 (4) PARTICIPATION IN REGISTRIES AND STUD-
21 IES.—

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

4 (B) PROTECTION OF PRIVACY.—The Presi-
5 dent, acting through the Secretary of Health
6 and Human Services, shall take appropriate
7 measures to protect the privacy of any partici-
8 pant in a registry or study described in sub-
9 paragraph (A).

10 (C) PRIORITY.—

11 (i) IN GENERAL.—Except as provided
12 in clause (ii), the President, acting through
13 the Secretary of Health and Human Serv-
14 ices, shall give priority in any registry or
15 study described in subparagraph (A) to the
16 protection, monitoring and study of the
17 health and safety of individuals with the
18 highest level of exposure to a substance of
19 concern.

20 (ii) MODIFICATIONS.—Notwith-
21 standing clause (i), the President, acting

1 through the Secretary of Health and
2 Human Services, may modify the priority
3 of a registry or study described in subpara-
4 graph (A), if the President, acting through
5 the Secretary of Health and Human Serv-
6 ices, determines such modification to be
7 appropriate.

8 (5) COOPERATIVE AGREEMENTS.—

9 (A) IN GENERAL.—The President, acting
10 through the Secretary of Health and Human
11 Services, may carry out a program under para-
12 graph (1) through a cooperative agreement with
13 a medical institution, including a local health
14 department, or a consortium of medical institu-
15 tions.

16 (B) SELECTION CRITERIA.—To the max-
17 imum extent practicable, the President, acting
18 through the Secretary of Health and Human
19 Services, shall select, to carry out a program
20 under paragraph (1), a medical institution or a
21 consortium of medical institutions that—

- 1 (i) is located near—
 - 2 (I) the disaster area with respect
 - 3 to which the program is carried out;
 - 4 and
 - 5 (II) any other area in which
 - 6 there reside groups of individuals that
 - 7 worked or volunteered in response to
 - 8 the disaster; and
- 9 (ii) has appropriate experience in the
- 10 areas of environmental or occupational
- 11 health, toxicology, and safety, including ex-
- 12 perience in—
 - 13 (I) developing clinical protocols
 - 14 and conducting clinical health exami-
 - 15 nations, including mental health as-
 - 16 sessments;
 - 17 (II) conducting long-term health
 - 18 monitoring and epidemiological stud-
 - 19 ies;
 - 20 (III) conducting long-term men-
 - 21 tal health studies; and

1 (IV) establishing and maintain-
2 ing medical surveillance programs and
3 environmental exposure or disease
4 registries.

5 (6) INVOLVEMENT.—

6 (A) IN GENERAL.—In carrying out a pro-
7 gram under paragraph (1), the President, act-
8 ing through the Secretary of Health and
9 Human Services, shall involve interested and af-
10 fected parties, as appropriate, including rep-
11 resentatives of—

12 (i) Federal, State, and local govern-
13 ment agencies;

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

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

19 (iv) health care providers;

20 (v) faith based organizations; and

21 (vi) other organizations and persons.

1 (B) COMMITTEES.—Involvement under
2 subparagraph (A) may be provided through the
3 establishment of an advisory or oversight com-
4 mittee or board.

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

12 (8) EXISTING PROGRAMS.—In carrying out a
13 program under paragraph (1), the President, acting
14 through the Secretary of Health and Human Serv-
15 ices, may—

16 (A) include the baseline clinical health ex-
17 amination of a participating responder under a
18 certified monitoring programs; and

19 (B) substitute the baseline clinical health
20 examination of a participating responder under
21 a certified monitoring program for a baseline

1 clinical health examination under paragraph
2 (1).

3 (c) REPORTS.—Not later than 1 year after the estab-
4 lishment of a program under subsection (b)(1), and every
5 5 years thereafter, the President, acting through the Sec-
6 retary of Health and Human Services, or the medical in-
7 stitution or consortium of such institutions having entered
8 into a cooperative agreement under subsection (b)(5), may
9 submit a report to the Secretary of Homeland Security,
10 the Secretary of Labor, the Administrator of the Environ-
11 mental Protection Agency, and appropriate committees of
12 Congress describing the programs and studies carried out
13 under the program.

14 (d) NATIONAL ACADEMY OF SCIENCES REPORT ON
15 DISASTER AREA HEALTH AND ENVIRONMENTAL PROTEC-
16 TION AND MONITORING.—

17 (1) IN GENERAL.—The Secretary of Health and
18 Human Services, the Secretary of Homeland Secu-
19 rity, and the Administrator of the Environmental
20 Protection Agency shall jointly enter into a contract
21 with the National Academy of Sciences to conduct a

1 study and prepare a report on disaster area health
2 and environmental protection and monitoring.

3 (2) PARTICIPATION OF EXPERTS.—The report
4 under paragraph (1) shall be prepared with the par-
5 ticipation of individuals who have expertise in—

6 (A) environmental health, safety, and med-
7 icine;

8 (B) occupational health, safety, and medi-
9 cine;

10 (C) clinical medicine, including pediatrics;

11 (D) environmental toxicology;

12 (E) epidemiology;

13 (F) mental health;

14 (G) medical monitoring and surveillance;

15 (H) environmental monitoring and surveil-
16 lance;

17 (I) environmental and industrial hygiene;

18 (J) emergency planning and preparedness;

19 (K) public outreach and education;

20 (L) State and local health departments;

1 (M) State and local environmental protec-
2 tion departments;

3 (N) functions of workers that respond to
4 disasters, including first responders;

5 (O) public health; and

6 (P) family services, such as counseling and
7 other disaster-related services provided to fami-
8 lies.

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

17 (A) the establishment of protocols for mon-
18 itoring and responding to chemical or substance
19 releases in a disaster area to protect public
20 health and safety, including—

- 1 (i) chemicals or other substances for
2 which samples should be collected in the
3 event of a disaster, including a terrorist at-
4 tack;
- 5 (ii) chemical- or substance-specific
6 methods of sample collection, including
7 sampling methodologies and locations;
- 8 (iii) chemical- or substance-specific
9 methods of sample analysis;
- 10 (iv) health-based threshold levels to be
11 used and response actions to be taken in
12 the event that thresholds are exceeded for
13 individual chemicals or other substances;
- 14 (v) procedures for providing moni-
15 toring results to—
- 16 (I) appropriate Federal, State,
17 and local government agencies;
- 18 (II) appropriate response per-
19 sonnel; and
- 20 (III) the public;

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

3 (I) collecting and analyzing sam-
4 ples;

5 (II) reporting results; and

6 (III) taking appropriate response
7 actions; and

8 (vii) capabilities and capacity within
9 the Federal Government to conduct appro-
10 priate environmental monitoring and re-
11 sponse in the event of a disaster, including
12 a terrorist attack; and

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

17 (4) AUTHORIZATION OF APPROPRIATIONS.—

18 There are authorized to be appropriated such sums
19 as are necessary to carry out this subsection.

1 **TITLE VIII—UNLAWFUL INTER-**
2 **NET GAMBLING ENFORCE-**
3 **MENT**

4 **SEC. 801. SHORT TITLE.**

5 This title may be cited as the “Unlawful Internet
6 Gambling Enforcement Act of 2006”.

7 **SEC. 802. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**
8 **INSTRUMENT FOR UNLAWFUL INTERNET**
9 **GAMBLING.**

10 (a) IN GENERAL.—Chapter 53 of title 31, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 **“SUBCHAPTER IV—PROHIBITION ON FUNDING**
14 **OF UNLAWFUL INTERNET GAMBLING**

15 **“§ 5361. Congressional findings and purpose**

16 **“(a) FINDINGS.—Congress finds the following:**

17 **“(1) Internet gambling is primarily funded**
18 **through personal use of payment system instru-**
19 **ments, credit cards, and wire transfers.**

20 **“(2) The National Gambling Impact Study**
21 **Commission in 1999 recommended the passage of**

1 legislation to prohibit wire transfers to Internet
2 gambling sites or the banks which represent such
3 sites.

4 “(3) Internet gambling is a growing cause of
5 debt collection problems for insured depository insti-
6 tutions and the consumer credit industry.

7 “(4) New mechanisms for enforcing gambling
8 laws on the Internet are necessary because tradi-
9 tional law enforcement mechanisms are often inad-
10 equate for enforcing gambling prohibitions or regula-
11 tions on the Internet, especially where such gam-
12 bling crosses State or national borders.

13 “(b) RULE OF CONSTRUCTION.—No provision of this
14 subchapter shall be construed as altering, limiting, or ex-
15 tending any Federal or State law or Tribal-State compact
16 prohibiting, permitting, or regulating gambling within the
17 United States.

18 **“§ 5362. Definitions**

19 “In this subchapter:

20 “(1) BET OR WAGER.—The term ‘bet or
21 wager’—

1 “(A) means the staking or risking by any
2 person of something of value upon the outcome
3 of a contest of others, a sporting event, or a
4 game subject to chance, upon an agreement or
5 understanding that the person or another per-
6 son will receive something of value in the event
7 of a certain outcome;

8 “(B) includes the purchase of a chance or
9 opportunity to win a lottery or other prize
10 (which opportunity to win is predominantly sub-
11 ject to chance);

12 “(C) includes any scheme of a type de-
13 scribed in section 3702 of title 28;

14 “(D) includes any instructions or informa-
15 tion pertaining to the establishment or move-
16 ment of funds by the bettor or customer in, to,
17 or from an account with the business of betting
18 or wagering; and

19 “(E) does not include—

20 “(i) any activity governed by the secu-
21 rities laws (as that term is defined in sec-

1 tion 3(a)(47) of the Securities Exchange
2 Act of 1934 for the purchase or sale of se-
3 curities (as that term is defined in section
4 3(a)(10) of that Act);

5 “(ii) any transaction conducted on or
6 subject to the rules of a registered entity
7 or exempt board of trade under the Com-
8 modity Exchange Act;

9 “(iii) any over-the-counter derivative
10 instrument;

11 “(iv) any other transaction that—

12 “(I) is excluded or exempt from
13 regulation under the Commodity Ex-
14 change Act; or

15 “(II) is exempt from State gam-
16 ing or bucket shop laws under section
17 12(e) of the Commodity Exchange Act
18 or section 28(a) of the Securities Ex-
19 change Act of 1934;

20 “(v) any contract of indemnity or
21 guarantee;

1 “(vi) any contract for insurance;
2 “(vii) any deposit or other transaction
3 with an insured depository institution;
4 “(viii) participation in any game or
5 contest in which participants do not stake
6 or risk anything of value other than—
7 “(I) personal efforts of the par-
8 ticipants in playing the game or con-
9 test or obtaining access to the Inter-
10 net; or
11 “(II) points or credits that the
12 sponsor of the game or contest pro-
13 vides to participants free of charge
14 and that can be used or redeemed
15 only for participation in games or con-
16 tests offered by the sponsor; or
17 “(ix) participation in any fantasy or
18 simulation sports game or educational
19 game or contest in which (if the game or
20 contest involves a team or teams) no fan-
21 tasy or simulation sports team is based on

1 the current membership of an actual team
2 that is a member of an amateur or profes-
3 sional sports organization (as those terms
4 are defined in section 3701 of title 28) and
5 that meets the following conditions:

6 “(I) All prizes and awards of-
7 fered to winning participants are es-
8 tablished and made known to the par-
9 ticipants in advance of the game or
10 contest and their value is not deter-
11 mined by the number of participants
12 or the amount of any fees paid by
13 those participants.

14 “(II) All winning outcomes re-
15 flect the relative knowledge and skill
16 of the participants and are determined
17 predominantly by accumulated statis-
18 tical results of the performance of in-
19 dividuals (athletes in the case of
20 sports events) in multiple real-world
21 sporting or other events.

1 “(III) No winning outcome is
2 based—

3 “(aa) on the score, point-
4 spread, or any performance or
5 performances of any single real-
6 world team or any combination of
7 such teams; or

8 “(bb) solely on any single
9 performance of an individual ath-
10 lete in any single real-world
11 sporting or other event.

12 “(2) BUSINESS OF BETTING OR WAGERING.—
13 The term ‘business of betting or wagering’ does not
14 include the activities of a financial transaction pro-
15 vider, or any interactive computer service or tele-
16 communications service.

17 “(3) DESIGNATED PAYMENT SYSTEM.—The
18 term ‘designated payment system’ means any system
19 utilized by a financial transaction provider that the
20 Secretary and the Board of Governors of the Fed-
21 eral Reserve System, in consultation with the Attor-

1 ney General, jointly determine, by regulation or
2 order, could be utilized in connection with, or to fa-
3 cilitate, any restricted transaction.

4 “(4) FINANCIAL TRANSACTION PROVIDER.—
5 The term ‘financial transaction provider’ means a
6 creditor, credit card issuer, financial institution, op-
7 erator of a terminal at which an electronic fund
8 transfer may be initiated, money transmitting busi-
9 ness, or international, national, regional, or local
10 payment network utilized to effect a credit trans-
11 action, electronic fund transfer, stored value product
12 transaction, or money transmitting service, or a par-
13 ticipant in such network, or other participant in a
14 designated payment system.

15 “(5) INTERNET.—The term ‘Internet’ means
16 the international computer network of interoperable
17 packet switched data networks.

18 “(6) INTERACTIVE COMPUTER SERVICE.—The
19 term ‘interactive computer service’ has the meaning
20 given the term in section 230(f) of the Communica-
21 tions Act of 1934 (47 U.S.C. 230(f)).

1 “(7) RESTRICTED TRANSACTION.—The term
2 ‘restricted transaction’ means any transaction or
3 transmittal involving any credit, funds, instrument,
4 or proceeds described in any paragraph of section
5 5363 which the recipient is prohibited from accept-
6 ing under section 5363.

7 “(8) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of the Treasury.

9 “(9) STATE.—The term ‘State’ means any
10 State of the United States, the District of Columbia,
11 or any commonwealth, territory, or other possession
12 of the United States.

13 “(10) UNLAWFUL INTERNET GAMBLING.—

14 “(A) IN GENERAL.—The term ‘unlawful
15 Internet gambling’ means to place, receive, or
16 otherwise knowingly transmit a bet or wager by
17 any means which involves the use, at least in
18 part, of the Internet where such bet or wager
19 is unlawful under any applicable Federal or
20 State law in the State or Tribal lands in which

1 “(i) the bet or wager is initiated and
2 received or otherwise made exclusively—

3 “(I) within the Indian lands of a
4 single Indian tribe (as such terms are
5 defined under the Indian Gaming
6 Regulatory Act; or

7 “(II) between the Indian lands of
8 2 or more Indian tribes to the extent
9 that intertribal gaming is authorized
10 by the Indian Gaming Regulatory Act;

11 “(ii) the bet or wager and the method
12 by which the bet or wager is initiated and
13 received or otherwise made is expressly au-
14 thorized by and complies with the require-
15 ments of—

16 “(I) the applicable tribal ordi-
17 nance or resolution approved by the
18 Chairman of the National Indian
19 Gaming Commission; and

1 “(II) with respect to class III
2 gaming, the applicable Tribal-State
3 Compact;

4 “(iii) the applicable tribal ordinance
5 or resolution or Tribal-State compact in-
6 cludes—

7 “(I) age and location verification
8 requirements reasonably designed to
9 block access to minors and persons lo-
10 cated out of the applicable Tribal
11 lands; and

12 “(II) appropriate data security
13 standards to prevent unauthorized ac-
14 cess by any person whose age and
15 current location has not been verified
16 in accordance with the applicable trib-
17 al ordinance or resolution or Tribal-
18 State Compact; and

19 “(iv) the bet or wager does not violate
20 any provision of—

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

3 “(II) chapter 178 of title 28
4 (commonly known as the ‘Professional
5 and Amateur Sports Protection Act’);

6 “(III) the Gambling Devices
7 Transportation Act (15 U.S.C. 1171
8 et seq.); or

9 “(IV) the Indian Gaming Regu-
10 latory Act (25 U.S.C. 2701 et seq.).

11 “(D) INTERSTATE HORSERACING.—

12 “(i) IN GENERAL.—The term ‘unlaw-
13 ful Internet gambling’ shall not include
14 any activity that is allowed under the
15 Interstate Horseracing Act of 1978 (15
16 U.S.C. 3001 et seq.).

17 “(ii) RULE OF CONSTRUCTION RE-
18 GARDING PREEMPTION.—Nothing in this
19 subchapter may be construed to preempt
20 any State law prohibiting gambling.

1 “(iii) SENSE OF CONGRESS.—It is the
2 sense of Congress that this subchapter
3 shall not change which activities related to
4 horse racing may or may not be allowed
5 under Federal law. This subparagraph is
6 intended to address concerns that this sub-
7 chapter could have the effect of changing
8 the existing relationship between the Inter-
9 state Horseracing Act and other Federal
10 statutes in effect on the date of the enact-
11 ment of this subchapter. This subchapter
12 is not intended to change that relationship.
13 This subchapter is not intended to resolve
14 any existing disagreements over how to in-
15 terpret the relationship between the Inter-
16 state Horseracing Act and other Federal
17 statutes.

18 “(E) INTERMEDIATE ROUTING.—The in-
19 termediate routing of electronic data shall not
20 determine the location or locations in which a

1 bet or wager is initiated, received, or otherwise
2 made.

3 “(11) OTHER TERMS.—

4 “(A) CREDIT; CREDITOR; CREDIT CARD;
5 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
6 itor’, ‘credit card’, and ‘card issuer’ have the
7 meanings given the terms in section 103 of the
8 Truth in Lending Act (15 U.S.C. 1602).

9 “(B) ELECTRONIC FUND TRANSFER.—The
10 term ‘electronic fund transfer’—

11 “(i) has the meaning given the term
12 in section 903 of the Electronic Fund
13 Transfer Act (15 U.S.C. 1693a), except
14 that the term includes transfers that would
15 otherwise be excluded under section
16 903(6)(E) of that Act; and

17 “(ii) includes any fund transfer cov-
18 ered by Article 4A of the Uniform Com-
19 mercial Code, as in effect in any State.

20 “(C) FINANCIAL INSTITUTION.—The term
21 ‘financial institution’ has the meaning given the

1 term in section 903 of the Electronic Fund
2 Transfer Act, except that such term does not
3 include a casino, sports book, or other business
4 at or through which bets or wagers may be
5 placed or received.

6 “(D) INSURED DEPOSITORY INSTITU-
7 TION.—The term ‘insured depository institu-
8 tion’—

9 “(i) has the meaning given the term
10 in section 3(c) of the Federal Deposit In-
11 surance Act (12 U.S.C. 1813(c)); and

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

15 “(E) MONEY TRANSMITTING BUSINESS
16 AND MONEY TRANSMITTING SERVICE.—The
17 terms ‘money transmitting business’ and
18 ‘money transmitting service’ have the meanings
19 given the terms in section 5330(d) (determined
20 without regard to any regulations prescribed by
21 the Secretary thereunder).

1 **“§ 5363. Prohibition on acceptance of any financial**
2 **instrument for unlawful Internet gam-**
3 **bling**

4 “No person engaged in the business of betting or wa-
5 gering may knowingly accept, in connection with the par-
6 ticipation of another person in unlawful Internet gam-
7 bling—

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

11 “(2) an electronic fund transfer, or funds trans-
12 mitted by or through a money transmitting business,
13 or the proceeds of an electronic fund transfer or
14 money transmitting service, from or on behalf of
15 such other person;

16 “(3) any check, draft, or similar instrument
17 which is drawn by or on behalf of such other person
18 and is drawn on or payable at or through any finan-
19 cial institution; or

20 “(4) the proceeds of any other form of financial
21 transaction, as the Secretary and the Board of Gov-

1 errors of the Federal Reserve System may jointly
2 prescribe by regulation, which involves a financial in-
3 stitution as a payor or financial intermediary on be-
4 half of or for the benefit of such other person.

5 **“§ 5364. Policies and procedures to identify and pre-**
6 **vent restricted transactions**

7 “(a) REGULATIONS.—Before the end of the 270-day
8 period beginning on the date of the enactment of this sub-
9 chapter, the Secretary and the Board of Governors of the
10 Federal Reserve System, in consultation with the Attorney
11 General, shall prescribe regulations (which the Secretary
12 and the Board jointly determine to be appropriate) requir-
13 ing each designated payment system, and all participants
14 therein, to identify and block or otherwise prevent or pro-
15 hibit restricted transactions through the establishment of
16 policies and procedures reasonably designed to identify
17 and block or otherwise prevent or prohibit the acceptance
18 of restricted transactions in any of the following ways:

19 “(1) The establishment of policies and proce-
20 dures that—

1 “(A) allow the payment system and any
2 person involved in the payment system to iden-
3 tify restricted transactions by means of codes in
4 authorization messages or by other means; and

5 “(B) block restricted transactions identi-
6 fied as a result of the policies and procedures
7 developed pursuant to subparagraph (A).

8 “(2) The establishment of policies and proce-
9 dures that prevent or prohibit the acceptance of the
10 products or services of the payment system in con-
11 nection with a restricted transaction.

12 “(b) REQUIREMENTS FOR POLICIES AND PROCE-
13 DURES.—In prescribing regulations under subsection (a),
14 the Secretary and the Board of Governors of the Federal
15 Reserve System shall—

16 “(1) identify types of policies and procedures,
17 including nonexclusive examples, which would be
18 deemed, as applicable, to be reasonably designed to
19 identify and block or otherwise prevent or prohibit
20 the acceptance of the products or services with re-
21 spect to each type of restricted transaction;

1 “(2) to the extent practical, permit any partici-
2 pant in a payment system to choose among alter-
3 native means of identifying and blocking, or other-
4 wise preventing or prohibiting the acceptance of the
5 products or services of the payment system or par-
6 ticipant in connection with, restricted transactions;

7 “(3) exempt certain restricted transactions or
8 designated payment systems from any requirement
9 imposed under such regulations, if the Secretary and
10 the Board jointly find that it is not reasonably prac-
11 tical to identify and block, or otherwise prevent or
12 prohibit the acceptance of, such transactions; and

13 “(4) ensure that transactions in connection with
14 any activity excluded from the definition of unlawful
15 internet gambling in subparagraphs (B), (C), or
16 (D)(i) of section 5362(10) are not blocked or other-
17 wise prevented or prohibited by the prescribed regu-
18 lations.

19 “(c) COMPLIANCE WITH PAYMENT SYSTEM POLI-
20 CIES AND PROCEDURES.—A financial transaction provider

1 shall be considered to be in compliance with the regula-
2 tions prescribed under subsection (a) if—

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

6 “(A) identify and block restricted trans-
7 actions; or

8 “(B) otherwise prevent or prohibit the ac-
9 ceptance of the products or services of the pay-
10 ment system, member, or participant in connec-
11 tion with restricted transactions; and

12 “(2) such policies and procedures of the des-
13 ignated payment system comply with the require-
14 ments of regulations prescribed under subsection
15 (a).

16 “(d) NO LIABILITY FOR BLOCKING OR REFUSING TO
17 HONOR RESTRICTED TRANSACTIONS.—A person that
18 identifies and blocks a transaction, prevents or prohibits
19 the acceptance of its products or services in connection
20 with a transaction, or otherwise refuses to honor a trans-
21 action—

1 “(1) that is a restricted transaction;

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

4 “(3) as a designated payment system or a mem-
5 ber of a designated payment system in reliance on
6 the policies and procedures of the payment system,
7 in an effort to comply with regulations prescribed
8 under subsection (a),

9 shall not be liable to any party for such action.

10 “(e) REGULATORY ENFORCEMENT.—The require-
11 ments under this section shall be enforced exclusively by—

12 “(1) the Federal functional regulators, with re-
13 spect to the designated payment systems and finan-
14 cial transaction providers subject to the respective
15 jurisdiction of such regulators under section 505(a)
16 of the Gramm-Leach-Bliley Act and section 5g of
17 the Commodities Exchange Act; and

18 “(2) the Federal Trade Commission, with re-
19 spect to designated payment systems and financial
20 transaction providers not otherwise subject to the ju-
21 risdiction of any Federal functional regulators (in-

1 including the Commission) as described in paragraph
2 (1).

3 **“§ 5365. Civil remedies**

4 “(a) JURISDICTION.—In addition to any other rem-
5 edy under current law, the district courts of the United
6 States shall have original and exclusive jurisdiction to pre-
7 vent and restrain restricted transactions by issuing appro-
8 priate orders in accordance with this section, regardless
9 of whether a prosecution has been initiated under this sub-
10 chapter.

11 “(b) PROCEEDINGS.—

12 “(1) INSTITUTION BY FEDERAL GOVERN-
13 MENT.—

14 “(A) IN GENERAL.—The United States,
15 acting through the Attorney General, may insti-
16 tute proceedings under this section to prevent
17 or restrain a restricted transaction.

18 “(B) RELIEF.—Upon application of the
19 United States under this paragraph, the district
20 court may enter a temporary restraining order,
21 a preliminary injunction, or an injunction

1 against any person to prevent or restrain a re-
2 stricted transaction, in accordance with rule 65
3 of the Federal Rules of Civil Procedure.

4 “(2) INSTITUTION BY STATE ATTORNEY GEN-
5 ERAL.—

6 “(A) IN GENERAL.—The attorney general
7 (or other appropriate State official) of a State
8 in which a restricted transaction allegedly has
9 been or will be initiated, received, or otherwise
10 made may institute proceedings under this sec-
11 tion to prevent or restrain the violation or
12 threatened violation.

13 “(B) RELIEF.—Upon application of the at-
14 torney general (or other appropriate State offi-
15 cial) of an affected State under this paragraph,
16 the district court may enter a temporary re-
17 straining order, a preliminary injunction, or an
18 injunction against any person to prevent or re-
19 strain a restricted transaction, in accordance
20 with rule 65 of the Federal Rules of Civil Pro-
21 cedure.

1 “(3) INDIAN LANDS.—

2 “(A) IN GENERAL.—Notwithstanding
3 paragraphs (1) and (2), for a restricted trans-
4 action that allegedly has been or will be initi-
5 ated, received, or otherwise made on Indian
6 lands (as that term is defined in section 4 of
7 the Indian Gaming Regulatory Act)—

8 “(i) the United States shall have the
9 enforcement authority provided under
10 paragraph (1); and

11 “(ii) the enforcement authorities spec-
12 ified in an applicable Tribal-State compact
13 negotiated under section 11 of the Indian
14 Gaming Regulatory Act (25 U.S.C. 2710)
15 shall be carried out in accordance with
16 that compact.

17 “(B) RULE OF CONSTRUCTION.—No provi-
18 sion of this section shall be construed as alter-
19 ing, superseding, or otherwise affecting the ap-
20 plication of the Indian Gaming Regulatory Act.

1 “(c) LIMITATION RELATING TO INTERACTIVE COM-
2 PUTER SERVICES.—

3 “(1) IN GENERAL.—Relief granted under this
4 section against an interactive computer service
5 shall—

6 “(A) be limited to the removal of, or dis-
7 abling of access to, an online site violating sec-
8 tion 5363, or a hypertext link to an online site
9 violating such section, that resides on a com-
10 puter server that such service controls or oper-
11 ates, except that the limitation in this subpara-
12 graph shall not apply if the service is subject to
13 liability under this section under section 5367;

14 “(B) be available only after notice to the
15 interactive computer service and an opportunity
16 for the service to appear are provided;

17 “(C) not impose any obligation on an
18 interactive computer service to monitor its serv-
19 ice or to affirmatively seek facts indicating ac-
20 tivity violating this subchapter;

1 “(D) specify the interactive computer serv-
2 ice to which it applies; and

3 “(E) specifically identify the location of the
4 online site or hypertext link to be removed or
5 access to which is to be disabled.

6 “(2) COORDINATION WITH OTHER LAW.—An
7 interactive computer service that does not violate
8 this subchapter shall not be liable under section
9 1084(d) of title 18, except that the limitation in this
10 paragraph shall not apply if an interactive computer
11 service has actual knowledge and control of bets and
12 wagers and—

13 “(A) operates, manages, supervises, or di-
14 rects an Internet website at which unlawful bets
15 or wagers may be placed, received, or otherwise
16 made or at which unlawful bets or wagers are
17 offered to be placed, received, or otherwise
18 made; or

19 “(B) owns or controls, or is owned or con-
20 trolled by, any person who operates, manages,
21 supervises, or directs an Internet website at

1 which unlawful bets or wagers may be placed,
2 received, or otherwise made, or at which unlaw-
3 ful bets or wagers are offered to be placed, re-
4 ceived, or otherwise made.

5 “(d) LIMITATION ON INJUNCTIONS AGAINST REGU-
6 LATED PERSONS.—Notwithstanding any other provision
7 of this section, and subject to section 5367, no provision
8 of this subchapter shall be construed as authorizing the
9 Attorney General of the United States, or the attorney
10 general (or other appropriate State official) of any State
11 to institute proceedings to prevent or restrain a restricted
12 transaction against any financial transaction provider, to
13 the extent that the person is acting as a financial trans-
14 action provider.

15 **“§ 5366. Criminal penalties**

16 “(a) IN GENERAL.—Any person who violates section
17 5363 shall be fined under title 18, imprisoned for not more
18 than 5 years, or both.

19 “(b) PERMANENT INJUNCTION.—Upon conviction of
20 a person under this section, the court may enter a perma-
21 nent injunction enjoining such person from placing, receiv-

1 ing, or otherwise making bets or wagers or sending, receiv-
2 ing, or inviting information assisting in the placing of bets
3 or wagers.

4 **“§ 5367. Circumventions prohibited**

5 “Notwithstanding section 5362(2), a financial trans-
6 action provider, or any interactive computer service or
7 telecommunications service, may be liable under this sub-
8 chapter if such person has actual knowledge and control
9 of bets and wagers, and—

10 “(1) operates, manages, supervises, or directs
11 an Internet website at which unlawful bets or wagers
12 may be placed, received, or otherwise made, or at
13 which unlawful bets or wagers are offered to be
14 placed, received, or otherwise made; or

15 “(2) owns or controls, or is owned or controlled
16 by, any person who operates, manages, supervises,
17 or directs an Internet website at which unlawful bets
18 or wagers may be placed, received, or otherwise
19 made, or at which unlawful bets or wagers are of-
20 fered to be placed, received, or otherwise made.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 The table of sections for chapter 53 of title 31, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

“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”.

5 **SEC. 803. INTERNET GAMBLING IN OR THROUGH FOREIGN**
6 **JURISDICTIONS.**

7 (a) IN GENERAL.—In deliberations between the
8 United States Government and any foreign country on
9 money laundering, corruption, and crime issues, the
10 United States Government should—

11 (1) encourage cooperation by foreign govern-
12 ments and relevant international fora in identifying
13 whether Internet gambling operations are being used
14 for money laundering, corruption, or other crimes;

15 (2) advance policies that promote the coopera-
16 tion of foreign governments, through information

1 sharing or other measures, in the enforcement of
2 this Act; and

3 (3) encourage the Financial Action Task Force
4 on Money Laundering, in its annual report on
5 money laundering typologies, to study the extent to
6 which Internet gambling operations are being used
7 for money laundering purposes.

8 (b) REPORT REQUIRED.—The Secretary of the
9 Treasury shall submit an annual report to the Congress
10 on any deliberations between the United States and other
11 countries on issues relating to Internet gambling.

And the Senate agree to the same.