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Joint Explanatory Statement of the Committee of Conference
Compliance with House Resolution 1000

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4954), the “Security and Accountability for Every Port Act” or “SAFE Port Act,” to improve maritime and cargo security through enhanced layered defenses, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in Conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

Section 1. Short Title.

Section 1 of the House bill states that the Act may be cited as the “Security and Accountability for Every Port Act” or “SAFE Port Act.”

Section 1 of the Senate amendment states that the Act may be cited as the “Port Security Improvement Act of 2006.”

The Conference Report adopts the House provision so that the Act may be referred to as the “Security and Accountability for Every Port Act” or “SAFE Port Act.”

Section 2. Definitions.

House Section 3 defines several terms that are used in this bill and are relevant to maritime and cargo security. “Appropriate Congressional Committees,” “Department,” “International Supply Chain,” and “Secretary” are defined.

Senate Section 2 is used to define the following relevant terms: “Appropriate Congressional Committees,” “Commercial Seaport Personnel,” “Commissioner,” “Container,” “Container Security Device,” “Department,” “Examination,” “Inspection,” “International Supply Chain,” “Radiation Detection Equipment,” “Scan,” “Screening,” “Search,” “Secretary,” “Transportation Disruption,” and “Transportation Security Incident.”

The Conference Report adopts the Senate provision with modifications to the definition of commercial seaport personnel.

TITLE I - SECURITY OF UNITED STATES SEAPORTS.

Subtitle A - General Provisions.

Section 101. Area Maritime Transportation Security Plan to Include Salvage Response Plan.

Senate Section 101 amends the Maritime Transportation Security Act of 2002, (P.L. 107-295), to include a salvage response plan to identify equipment capable of restoring operational trade capacity and to ensure that waterways are cleared after a maritime transportation security incident.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision.

Section 102. Requirements Relating to Maritime Facility Security Plans.

Section 103 of the House bill amends the Maritime Transportation Security Act of 2002 (P.L. 107-295), by setting requirements for Facility Security Officers, including the requirement of citizenship for an individual having full authority to implement security actions at United States seaports. This section also authorizes the Secretary of the department in which the Coast Guard is operating to waive the citizenship requirement based on a complete background check of the individual and a review of all terrorist watch lists.

Senate section 102 is a comparable provision.

The Conference Report adopts the Senate provision.

The Conferees agreed to clarify that facility security plans required under the Maritime Transportation Security Act of 2002 (P.L. 107-295) must include provisions establishing and controlling access to secure areas of a vessel or facility by “persons” engaged in the surface transportation of intermodal containers in or out of a port facility. The Conferees intend for “persons” to include drayage companies.

Section 103. Unannounced Inspections of Maritime Facilities.

House Section 104 amends the Maritime Transportation Security Act of 2002 (P.L. 107-295) to authorize the Secretary of the department in which the Coast Guard is operating to verify the effectiveness of Area Maritime Security Plans by conducting at least two inspections of a facility per year, one of which shall be conducted without prior notice to the facility.

Senate Section 103 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 104. Transportation Security Card.

House Section 105 provides a timeline for implementation of the Transportation Worker Identification Credential (TWIC) Program and requires the interim name-based screening of individuals.

Senate Section 104 is a comparable provision, which requires the Secretary of the department in which the Coast Guard is operating to ensure that individuals who have undergone the Hazardous Materials Endorsement (HME) or Merchant Mariner Document (MMD) background check are not required to pay additional fees related to a similar background check for a TWIC card. Additionally, the Senate provision provides for concurrent processing of an applicant for TWIC and MMD, a pilot program for vessel and facility card readers, and other clarifying edits.

The Conference Report adopts the Senate provision, as modified.

Section 105. Study to Identify Redundant Background Records Checks.

Section 105 is based upon Senate Section 1113, which requires a study by the Comptroller General to identify redundancies in connection with Federal background checks.

The House bill does not include a comparable provision.

The Conference Report adopts the Senate provision, as modified to limit the scope of redundant background checks to those conducted by the Department of Homeland Security.

Section 106. Prohibition of Issuance of Transportation Security Cards to Persons Convicted of Certain Felonies.

Section 105 of the Senate bill amends 46 U.S.C. 70105 to insert a list of permanent and interim disqualifying crimes for individuals applying for a Transportation Worker Identification Credential.

The House bill does not include a comparable provision.

The Conference Report adopts the Senate provision, as amended, which requires the Secretary of the department in which the Coast Guard is operating to permanently disqualify an individual applying for a transportation worker identification credential that have been found guilty, or not guilty by reason of insanity, of treason, espionage, sedition, or a crime listed in 18 U.S.C. 113B, or conspiracy to commit one of those crimes.

Section 107. Long-Range Vessel Tracking.

House Section 108 establishes a deadline of April 1, 2007, for the Secretary of the department in which the Coast Guard is operating to develop and implement a long-range automated vessel tracking system for all vessels in United States territorial waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. This section also authorizes the Secretary of Homeland Security to issue regulations to establish a voluntary long-range automated vessel tracking system for certain vessels.

Senate Section 106 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 108. Establishment of Interagency Operational Centers for Port Security.

House Section 109, "Maritime Command Centers," directs the Secretary of the department in which the Coast Guard is operating to consult with Federal, State, and local officials to establish an integrated network of virtual and physical maritime security command centers at appropriate United States seaports and maritime regions. These centers serve to enhance information sharing, facilitate operational coordination, and facilitate incident management and response. The provision further designates the Coast Guard Captain of the Port as the initial incident commander in the event of a transportation disruption.

Senate Section 107, "Establishment of Interagency Operational Centers for Port Security," is similar to House Section 109 and directs the Secretary of the Department in which the Coast Guard is operating to establish additional Interagency Operational Centers at all high priority ports

within three years. These centers would serve to enhance information sharing, facilitate operational coordination, and facilitate incident management and response.

The Conference Report adopts the Senate provision, as modified to include the House language, which designates the Coast Guard Captain of the Port as the initial incident commander in the event of a transportation security incident in the maritime domain.

The Conferees would like to clarify that in determining what constitutes a "high-priority" port, the Secretary shall consider the following: the quantity of cargo that passes through the port annually, the port's proximity to military or other national security assets, and the economic impact to the United States resulting from a catastrophic loss of that port.

Section 109. Notice of Arrival for Foreign Vessels on the Outer Continental Shelf.

Section 108 of the Senate bill directs the Secretary of the department in which the Coast Guard is operating to update and finalize its rulemaking on Notice of Arrival for foreign vessels on the Outer Continental Shelf not later than 180 days after the date of the enactment of this Act.

The House bill does not include a comparable provision.

The Conference Report adopts the Senate provision.

Section 110. Enhanced Crewmember Identification.

Section 107 of the House bill sets a deadline of May 15, 2007 for the Secretary of the department in which the Coast Guard is operating, in consultation with the Attorney General of the United States and the Secretary of State, to require crewmembers on vessels calling at United States ports to carry and present on demand any identification that the Secretary deems necessary. This section also sets a deadline of May 15, 2007 for the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, to establish the proper forms and process to be used for identification and verification of crewmembers.

The Senate bill contains no comparable provision.

The Conference Report adopts the House provision, with a compromise to strike May 15, 2007, and extend the deadline to one year after the date of enactment.

Subtitle B-Port Security Grants; Training and Exercise Programs.

Section 111. Risk Assessment Tool.

Section 111 was developed out of the Senate passed Section 111, "Port Security Grants," to require each Area Maritime Security Committee, under the direction of the Commandant of the Coast Guard, to develop a Port Wide Risk Management Plan that includes security goals and objectives, a management selection process, and active monitoring to measure effectiveness. This section also requires the Secretary to make available a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard, to develop the Port Wide Risk Management Plan.

The House bill contains no comparable section.

The Conference substitute adopts the Senate provision.

Section 111 of the Conference agreement is based on Senate Section 111(b), and requires the Coast Guard to make available a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard, to Area Maritime Security Committees for the purposes of updating Area Maritime Security Plans and in applying for grants under the port security grant program authorized pursuant to 46 U.S.C. 70107.

Section 112. Port Security Grants.

Section 111 of the House bill amends the Homeland Security Act of 2002 (P.L. 107-296) to authorize the Secretary to establish a port security grant program to allocate Federal financial assistance to United State seaports on the basis of risk and need. Grant funds under this section may be used for activities to implement Area Maritime Security Plans, remedy port security vulnerabilities, conduct exercises or training for the prevention and detection of, preparedness for, response to, or recovery from terrorist attacks, protect critical infrastructure against potential attack, and establish or enhance mechanisms for sharing terrorism threat information. Section 111 also authorizes \$400 million for each of the Fiscal Years 2007 through 2012.

Senate Section 111 amends 46 U.S.C. 70107 to require the Secretary of the Department in which the Coast Guard is operating to allocate grants based on risk, allow for letters of intent to be issued for multiple-year projects, and amends the authorized level of funding to \$400 million for each of Fiscal Years 2007 through 2011. Further, the Senate bill modifies 46 U.S.C. 70107(i) to specifically authorize the research and development of container scanning technology on straddle cars and cranes at \$70 million for each of Fiscal Years 2008 through 2009.

The Conference Report adopts the Senate provision, as modified to strike the specific container scanning technology authorization, allow for the additional eligible costs of conducting training and exercises, and the cost of establishing mechanisms for sharing terrorism threat information. The Conference Report requires grants under this section to be awarded on the basis of risk.

The Conferees note that “energy” was specifically included in language to take into consideration current and future ports with critical energy infrastructure, such as Port Fourchon and the Louisiana Offshore Oil Platform (LOOP).

Section 113. Port Security Training Program.

House Section 112 amends the Homeland Security Act of 2002 (P.L. 107-296) to allow for the establishment of a training program to enhance the capabilities of United States commercial seaports to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism, natural disasters, and other emergencies. The section also addresses requirements for the Program and the Secretary’s role in supporting the development, promulgation, and regular updating of national voluntary consensus standards for port security training.

Senate Section 112 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 114. Port Security Exercise Program.

House Section 113 authorizes the Secretary, acting through the Under Secretary for Preparedness, and in coordination with the Commandant of the Coast Guard, to establish an exercise program to test and evaluate the capabilities of Federal, State, local and other relevant stakeholders to coordinate appropriate response and recovery from threats at commercial seaports.

Senate Section 113 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 115. Facility Exercise Requirements.

The Senate bill contains no comparable provision.

The House bill contains no comparable provision.

Section 115 of the Conference Report directs the Secretary of the department in which the Coast Guard is operating to require each high risk facility to conduct live or full scale exercises not less than once every two years in accordance with the facility security plan.

Subtitle C-Port Operations.

Section 121. Domestic Radiation Detection and Imaging.

House Section 402 requires the Secretary to deploy nuclear and radiological detection systems at the 22 busiest United States seaports not later than September 30, 2007, and to utilize advanced technology tested in a pilot program also established in this section. Within 90 days, the Secretary must submit a strategy on the deployment of nuclear and radiological detection systems at all remaining maritime ports of entry including a risk-based deployment schedule, description of equipment to be used, standard operating procedures for examining containers, and evaluation of the health effects of using radiation equipment. Lastly, the provision requires the Director of the Domestic Nuclear Detection Office (DNDO) to coordinate with other appropriate Federal agencies to deploy nuclear and radiological detection systems at foreign ports.

Senate Section 121 is comparable to House Section 402, and requires the Secretary of Homeland Security to develop a strategy for deployment of radiation detection capabilities and ensures that by December 31, 2007, all containers entering the United States, through the busiest 22 seaports, are scanned for radiation. Section 121 also requires the Department of Homeland Security to submit a separate report on the feasibility of, and plan for, the development of equipment to detect other weapons of mass destruction including chemical and biological threats at all United States ports of entry. The section also requires the Department of Homeland Security to establish an Intermodal Rail Radiation Detection Test Center to identify and test concepts specific to the challenges posed by on-dock intermodal rail.

The Conference Report adopts House Section 402, with modification. The Conferees agree that “shielded nuclear and radiological threat material” be inserted into subsection (e) as it relates to weapons of mass destruction threats.

The Conferees note the progress made by the Department of Homeland Security in developing next generation portal monitors with spectroscopic capabilities and have removed the requirement for a House pilot project, accordingly. Instead, the appropriate use of such technology is encouraged. This does not represent a requirement to scan all containers at the seaports using such technology. In primary screening, such technology can reduce nuisance alarms, which is of great importance at very high volume ports. In secondary screening, such technology can speed effective alarm resolution. It is the targeted use of this technology that the House and Senate support. The Conferees also note that nothing in this section shall be interpreted to limit the Secretary’s authority under 19 U.S.C. 1318 concerning the entry of containers into United States ports under certain circumstances.

Section 122. Inspection of Car Ferries Entering From Abroad.

Senate Section 123 requires the Department of Homeland Security, in coordination with Department of State, to develop a plan for the inspection of passengers and vehicles prior to loading onto ferries bound for a United States port.

There is no comparable provision in the House bill.

The Conference Report adopts the Senate provision.

Section 123. Random Searches of Containers.

Senate Section 124 requires the Department of Homeland Security to develop and implement a plan, within one year after enactment, for random physical inspection of shipping containers. The random searches prescribed in this section do not preclude additional container searches.

There is no comparable provision in the House bill.

The Conference Report adopts the Senate provision.

Section 124. Work Stoppages and Employee-Employer Disputes.

House Section 101 amends the definition of a transportation security incident, defined in 46 U.S.C. 70101(6), to clarify that a “transportation security incident” does not include labor strikes or other related events.

Senate Section 125 also amends the definition of a transportation security incident to note that the term economic disruption does not include a work stoppage or nonviolent employee-related action, not related to terrorism, and resulting from an employee-employer dispute.

The Conference Report adopts the Senate provision, with an agreement to strike the word “nonviolent” from the definition of the term.

Section 125. Threat Assessment Screening of Port Truck Drivers.

Senate Section 126 requires the Department of Homeland Security to implement a threat assessment screening for all truck drivers accessing ports that is the same screening required for facility employees and longshoremen. The section also requires, subject to the availability of appropriations, this screening to begin within 90 days of enactment.

House section 106 contains a similar requirement that all individuals who have unescorted access to a secure area of a seaport facility be checked against terrorist watch lists to determine if the individual poses a threat.

The Conference Report adopts the Senate provision, modified to strike the phrase “subject to the availability of appropriations.”

Section 126. Border Patrol Unit for United States Virgin Islands.

House Section 123 requires the Secretary of Homeland Security to establish a Border Patrol unit for the United States Virgin Islands not later than 180 days after the date of the enactment of this Act.

There is no comparable provision in the Senate bill.

The Conference Report adopts the House provision, but the Conferees agree to change the word “shall” to “may.” Under this agreement, the Secretary will not be required to establish a Border Patrol unit for the United States Virgin Islands, but he is authorized to do so if it is deemed necessary. The Conference agreement also requires the Secretary of Homeland Security to submit a report to the appropriate congressional committees, within 180 days of enactment, that includes the schedule, if any, for establishing a Border Patrol unit in the United States Virgin Islands. The Conferees included this provision out of recognition of the increasing border security risks in the United States Virgin Islands, including human smuggling and drug trafficking.

Section 127. Report on Arrival and Departure Manifests for Certain Commercial Vessels in the United States Virgin Islands.

House Section 126 requires the Secretary of Homeland Security to submit, to the appropriate congressional committees, a report on the impact of implementing the requirements of the Immigration and Nationality Act (8 U.S.C. 1221) with respect to commercial vessels that are fewer than 300 gross tons and only operate between the territorial waters of the United States Virgin Islands and the territorial waters of the British Virgin Islands.

There is no comparable provision in the Senate bill.

The Conference Report adopts the House provision.

Section 128. Center of Excellence for Maritime Domain Awareness.

House Section 127 requires the Secretary of Homeland Security to establish a university-based Center of Excellence for Maritime Domain Awareness following appropriate merit-review processes and procedures that have been established by the Secretary.

There is no comparable provision in the Senate bill.

The Conference Report adopts the House provision.

TITLE II-SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A-General Provisions.

Section 201. Strategic Plan to Enhance the Security of the International Supply Chain.

House Section 201 amends the Homeland Security Act of 2002 (P.L. 107-296) to require the Secretary of Homeland Security to create a strategy for improving security of containers within the international supply chain. The strategy must describe the roles and responsibilities of Federal, State, and local governments, identify security goals and minimum requirements, provide a process for enhanced intelligence sharing with the private sector, streamline initiatives, and recommend legislative and regulatory changes.

Senate Section 201 requires the Department of Homeland Security to develop, implement and update a strategic plan to improve the security of the international cargo supply chain. This section requires the plan to identify and address gaps; provide improvements and goals; establish protocols for the resumptions of trade including identification of the initial incident commander; consider international standards for container security; and allow for communication with stakeholders.

The Conference Report adopts the Senate provision, with modifications. In Senate Section 201 subparagraph (6), the word “determined” is replaced by “recommended,” as it relates to the Commissioner’s role in providing incentives for additional voluntary measures to enhance cargo security. The Conferees agree to extend the deadline from 180 days to 270 days after the date of the enactment for the Secretary to submit a report to the appropriate congressional committees that contains the strategic plan required under this section. The requirements listed for protocols for the resumption of trade required in subparagraph (10) are moved to Section 202. The Conferees note that the consultation recommendations in Senate Sections 201(c) and 201(e) are not mutually exclusive.

Section 202. Post-Incident Resumption of Trade.

Senate Section 202 requires the initial incident commander and lead department or agency carry out the protocols of the international supply chain strategic plan following a maritime transportation security incident. This section also requires the United States Coast Guard to ensure the safe and secure transit of vessels to United States ports, and recommends preference be given to vessels and cargo involved in the Container Security Initiative (CSI) or Customs-Trade Partnership Against Terrorism (C-TPAT) for the resumption of trade. Section 202 requires the Secretary to ensure that there is appropriate coordination among Federal officials and communication of revised procedures, not inconsistent with security interests, to the private sector to provide for the resumption of trade.

House Section 102 is a comparable provision.

The Conference Report adopts the Senate provision, as modified to clarify that resumption of trade benefits may be provided.

Section 203. Automated Targeting System.

House Section 201 amends the Homeland Security Act of 2002, and inserts a new Section 1802, “Transmission of Additional Data Elements for Improved High Risk Targeting,” and Section 1803, “Plan to Improve the Automated Targeting System.” House Sections 1802 requires the Secretary to issue regulations within one year of enactment to collect additional advanced data, including appropriate elements of entry data prior to loading containers overseas. House Section 1803 requires the Secretary of Homeland Security, within 180 days of enactment, to develop a plan to improve the Automated Targeting System (ATS) in order to enhance capabilities to detect high-risk containers. Section 1803 authorizes \$5 million for each of the fiscal years 2007 through 2012.

Senate Section 203 requires the Department of Homeland Security to request and identify additional data (non-manifest and entry data elements) of container cargo moving through the international supply chain. Data would be analyzed to identify high-risk cargo for inspection. This section includes an authorization of appropriations to fund the Automated Targeting System for Fiscal Years 2008 through 2010 (\$33 million, \$35 million, \$37 million respectively).

The Conference Report adopts the House provision on the Automated Targeting System, as modified, including the Senate’s provision generally authorizing the Automated Targeting System.

Section 204. Container Security Standards and Procedures.

House Section 201 amends the Homeland Security Act of 2002, and inserts a new Section 1804, “Container Standards and Verification Procedures.” This section requires the Secretary of Homeland Security to establish minimum standards and verification procedures for securing containers in transit to the United States. This section also requires all containers bound for United

States ports of entry meet these standards within two years. In addition, Section 1804 requires the Secretary to regularly review and enhance these security standards.

Senate Section 204 requires the Secretary of Homeland Security to promulgate a rule to establish minimum standards and procedures for securing containers in transit to the United States. If the rulemaking deadline is not met, the Secretary is required to provide a letter to the Congress explaining the reason for the Department's failure to meet the deadline. This section also encourages the Department of Homeland Security and other Federal agencies to promote international cargo security standards.

The Conference Report adopts the Senate provision, as modified. An agreement has been reached to extend the deadline from 60 days to 90 days after the date of enactment of this Act for the Secretary to initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to the United States

In developing standards for container security devices, the Conferees direct the Secretary of Homeland Security to ensure that the standards are consistent with standards promulgated by international standards organizations, such as the International Organization for Standardization, the International Maritime Organization, and the World Customs Organization.

Section 205. Container Security Initiative.

House Section 201 amends the Homeland Security Act of 2002, and inserts a new Section 1805, "Container Security Initiative (CSI)." This section authorizes the CSI Program and requires the Secretary of Homeland Security is required to conduct a thorough security assessment at each port prior to designating them as CSI ports, including an assessment of the level of risk for compromise by terrorists as well as a Coast Guard foreign port assessment. The section also requires the Secretary of Homeland Security to notify Congress prior to announcing a CSI port. In addition, the section requires the Secretary of Homeland Security to set standards for inspecting containers abroad and using inspection technology. Section 1805 also requires the Secretary of Homeland Security to evaluate options for providing foreign assistance to facilitate implementation of cargo security measures at foreign ports and may loan inspection technology for use at a CSI port. The section also requires the Secretary of Homeland Security to report annually on March 1 on the status of the CSI program and an assessment of the necessary personnel deployed overseas through the program. Finally, Section 1805 authorizes \$196 million for each of the fiscal years 2007 through 2012.

Senate Section 205 authorizes the Container Security Initiative (CSI) program to identify, examine, or search maritime containers before cargo bound for the United States is loaded in a foreign port. This section authorizes the Secretary of Homeland Security to designate foreign ports as part of the CSI program based upon criteria including risk, trade volume and value of cargo, United States Coast Guard assessments, and the commitment of the host nation to comply with data sharing requirements. This section also requires the Secretary of Homeland Security to establish standards for the use of nonintrusive imaging and radiation detection equipment at CSI ports. In addition, the Secretary of Homeland Security is required to develop a plan to ensure adequate staffing at CSI ports. Section 205 also requires the Secretary of Homeland Security to submit a report to Congress on the effectiveness of, and need for, improvements to CSI. This section authorizes appropriations for fiscal years 2008 through 2010 (\$144 million, \$146 million, \$153 million respectively).

The Conference Report adopts the Senate provision, with several modifications. The Senate recedes to the House request to strike "an importer in" in Senate Section 205 subsection (1). The Senate also recedes to the striking of the words "and value" in subsection (2) as it relates to cargo

being imported into the United States. In addition, the Senate recedes to the House in requiring the Secretary of Homeland Security consult with appropriate Federal departments and agencies and private sector stakeholders to ensure that no international trade obligations are violated under this section.

It is important to note that authorities granted to the Secretary of Homeland Security in this section will not affect the authorities or responsibilities of any other Federal agency with respect to overseas deployment of radiation detection equipment. The Conferees encourage the Secretary of Homeland Security to coordinate the CSI program with the Department of Energy's Megaports program.

Subtitle B-Customs-Trade Partnership Against Terrorism

Section 211. Establishment.

House Section 201 amends the Homeland Security Act of 2002 and inserts a new Section 1811, which authorizes the Secretary of Homeland Security to establish a voluntary program (the Customs-Trade Partnership Against Terrorism) to strengthen international supply chain and border security, facilitate the movement of secure cargo, and provide benefits to eligible participants.

Senate Section 211 is a comparable provision.

The Conference Report adopts the House provision, but does not amend the Homeland Security Act of 2002.

Section 212. Eligible Entities.

House Section 201 amends the Homeland Security Act of 2002 and inserts a new Section 1812, which allows importers, customs brokers, forwarders, air-sea-and land-carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system to apply for membership in this program.

Senate Section 212 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 213. Minimum Requirements.

House Section 201 amends the Homeland Security Act of 2002 and inserts a new Section 1813, which establishes minimum security and other requirements that applicants must meet to be eligible to participate in the Customs-Trade Partnership Against Terrorism (C-TPAT).

Senate Section 213 is a comparable provision.

The Conference Report adopts the Senate provision.

The Conferees note that the requirement in Section 213(1) that a company demonstrate a history of moving cargo in the international supply chain should not prevent start-up companies or other newly-created business entities from participating in C-TPAT if they are able to demonstrate adequate compliance with relevant security requirements.

Section 214. Tier 1 Participants in C-TPAT.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1814, that allows for limited benefits for Customs-Trade Partnership Against Terrorism (C-TPAT) participants.

Senate Section 214 allows for limited benefits for Customs-Trade Partnership Against Terrorism (C-TPAT) participants. These benefits may include a reduction of the Automated Targeting System risk score for those C-TPAT participants that meet the minimum guidelines established. This section also requires, to the extent practicable, the Secretary to complete the Tier 1 certification process within 90 days of receipt of a candidate's application.

The Conference Report adopts the Senate provision.

Senate Section 214 included a provision, which the Conferees accept, clarifying that the benefits to Tier 1 C-TPAT benefits may include a reduction in scores assigned pursuant to the Automated Targeting System (ATS) of not greater than 20 percent of the high risk threshold established by the Secretary. This provision ensures that a C-TPAT participant's container or cargo will not be classified as low-risk under the ATS simply because the participant is certified for Tier 1 of C-TPAT.

Section 215. Tier 2 Participants in C-TPAT.

Senate Section 215 allows for additional benefits in the form of reduced cargo examinations and priority processing to those participants who meet a higher level of Customs-Trade Partnership Against Terrorism (C-TPAT) security requirements. Section 215 also requires the Secretary of Homeland Security to validate the security measures and supply chain practices of C-TPAT participants, including on-site assessments, within one year of certification.

House Section 1815 is a comparable provision.

The Conference Report adopts the Senate provision.

Section 216. Tier 3 Participants in C-TPAT.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1816, which establishes a third tier of the Customs-Trade Partnership Against Terrorism (C-TPAT) program, offering increased benefits to participants that demonstrate a sustained commitment to security based on certain criteria. Benefits may include, among others, expedited release of cargo, further reduced examinations, and reduced bonding requirements.

Senate Section 216 is similar to the House provision. Section 216 authorizes the submission of additional information, and notification of specific alerts.

The Conference Report adopts the Senate provision, as modified to remove the notification of specific alerts and post-incident procedures provisions.

Section 217. Consequences for Lack of Compliance.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1817, which allows the Secretary of Homeland Security to deny benefits, in whole or in part, including suspension or elimination for at least five years, of any participant that fails to meet Customs-Trade Partnership Against Terrorism (C-TPAT) requirements, or knowingly provides false or misleading information.

Senate Section 217 is similar to the House provision. Section 217 establishes an appeals process for C-TPAT participants suspended or eliminated for lack of compliance.

The Conference Report adopts the Senate provision, as modified to require the Commissioner of United States Customs and Border Protection to establish procedural protections to safeguard against improper revocation of benefits. These procedures shall not be interpreted to impede the Secretary of Homeland Security's ability to take action to protect the national security of the United States.

Section 218. Third Party Validations.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1818, which requires the Secretary of Homeland Security to establish a pilot program to utilize third party entities to conduct validations of Customs-Trade Partnership Against Terrorism (C-TPAT) participants. The pilot program, and any extension of the use of third party validators, shall apply for Safety Act certification under Section 864 of the Homeland Security Act of 2002 (P.L. 107-296), to enter into contractual agreements directly with the C-TPAT members, and shall meet all standards for validating C-TPAT participants. This section also requires the Secretary of Homeland Security to report to Congress 30 days after the conclusion of the year-long pilot program.

There is no comparable Senate provision in the bill.

Section 218 of the Conference agreement is similar to House Section 1818 and requires the Secretary of Homeland Security, acting through the Commissioner of United States Customs and Border Protection of the Department of Homeland Security, to establish a plan to implement a one year voluntary pilot program to test and assess the feasibility, costs, and benefits of utilizing third party entities to conduct validations of C-TPAT participants. The Conference Report also requires the Secretary of Homeland Security to provide a report to the appropriate congressional committees regarding the plan within 120 days of enactment. The agreement provides for the certification of third party entities and requires the Secretary of Homeland Security to monitor and inspect the operations of the entities conducting validations to ensure that they are meeting the minimum procedures and requirements for the validation of C-TPAT participants. If the Secretary of Homeland Security determines that a validator is not meeting the minimum procedures and requirements, the Secretary of Homeland Security is required to revoke the validator's certificate and review any validations conducted by the entity. The agreement also requires the Secretary of Homeland Security to submit a report to the appropriate congressional committees detailing the results of the pilot program.

Section 219. Revalidation.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1819. This section requires revalidation of Customs-Trade Partnership Against Terrorism (C-TPAT) participants not less frequently than once during a three-year period.

Senate Section 218 establishes a process for revalidating C-TPAT participants in tiers 2 and 3 and requires an annual plan for revalidation, detailing performance measures and necessary personnel requirements. The Senate language requires revalidation of C-TPAT participants not less frequently than once during a five-year period.

The Conference Report adopts the Senate provision, as modified to require revalidation not less frequently than once during a four-year period.

Section 220. Noncontainerized Cargo.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1820, which requires the Secretary of Homeland Security to consider including importers of non-containerized cargo as participants in the Customs-Trade Partnership Against Terrorism (C-TPAT), provided program requirements are met.

Senate Section 219 is a comparable provision.

The Conference Report adopts the Senate provision

Section 221. C-TPAT Program Management.

Senate Section 220 requires the Secretary of Homeland Security to establish sufficient internal quality controls and record management of the Customs-Trade Partnership Against Terrorism (C-TPAT) program including development of a strategic plan to identify goals; annual plans to match resources with workload; a standardized work program to monitor progress; a record management system; and a data protection program.

There is no comparable language in the House bill.

The Conference Report adopts the Senate provision, with an agreement to merge this section with Senate-passed 221, "Resource Management Staffing," and Senate-passed Section 224, "Report to Congress."

The Conferees do not intend for section 221(c), which deals with confidential information safeguards, to create a new exemption to information otherwise required to be disclosed under the Freedom of Information Act (5 U.S.C. 552).

Section 222. Additional Personnel.

Senate Section 222 requires the Secretary of Homeland Security to increase, by at least 50 positions annually for fiscal years 2007 through 2009, the number of personnel to validate and revalidate Customs-Trade Partnership Against Terrorism (C-TPAT) participants.

There is no comparable provision in the House bill.

The Conference Report adopts the Senate provision, as modified to authorize the hiring of 50 validation personnel for each of fiscal years 2008 and 2009.

Section 223. Authorization of Appropriations.

Senate Section 223 authorizes appropriations to United States Customs and Border Protection in the Department of Homeland Security to carry out the Customs-Trade Partnership Against Terrorism (C-TPAT) provisions of Sections 211 through 221. The section authorizes \$65 million for fiscal year 2008; \$72 million for fiscal year 2009; and \$75.6 million for fiscal year 2010. In addition to any monies appropriated to Customs and Border Protection, this section authorizes funds to be appropriated funds for the purpose of meeting the staffing requirement provided in Section 222. This section authorizes \$8.5 million for fiscal year 2007; \$17.6 million for fiscal year 2008; \$27.3 million for fiscal year 2009; \$28.3 million for fiscal year 2010; \$29.2 million for fiscal year 2011.

House Section 1821 is a comparable provision. House Section 1821 authorizes \$75 million for each Fiscal Year 2007 through 2012 for this subtitle.

The Conference Report adopts the Senate provision, as modified to reflect the changes in Conference Report Section 222. As a result, this section authorizes \$8.5 million for Fiscal Year 2008 and \$17.6 million for Fiscal Year 2009 for the staffing requirement in Section 222.

Subtitle C-Miscellaneous Provisions.

Section 231. Pilot Integrated Scanning System.

House Section 208, "Integrated Container Inspection System Pilot Project," is similar in content and purpose to Senate Section 231, "Pilot Integrated Scanning System."

Senate Section 231 authorizes the development of a pilot program in three foreign seaports, each with unique features and varying levels of trade volume to test integrated scanning systems using nonintrusive inspection and radiation detection equipment. This section requires full-scale pilot program implementation within one year of enactment. An evaluation report is required to be submitted to Congress 90 days after full implementation of the pilot as full implementation is required as soon as practicable and possible.

The Conference Report adopts the Senate provision, with a modification to subsection (b) "Coordination" to reflect similar intent in the provision for the Container Security Initiative(CSI). The Conference Report also modifies the reporting requirement from 90 to 180 days. The Conference Report also removes the implementation requirement in Senate Section 231. The Conferees note that nothing in this Subtitle should be read as to promote or support any particular company's technology.

Section 232. Screening and Scanning of Cargo Containers.

House Section 202 requires an evaluation of detection systems available to scan containers at foreign seaports. If the Secretary determines the technology meets specific performance criteria, including the ability to automatically identify high-risk cargo such as a shielded nuclear device, the Secretary must seek the cooperation of foreign governments to scan all cargo possible. An annual report on the status of implementation and foreign cooperation is required.

Senate Section 232 requires the Secretary of Homeland Security to ensure that 100 percent of cargo containers entering the United States through a seaport undergo screening to identify high-risk containers. This section also requires the Secretary of Homeland Security to ensure that 100 percent of the aforementioned high-risk containers be scanned for radiation before such containers arrive in the United States seaport facility. In addition, this directs the Secretary of Homeland Security to ensure all containers entering the United States are scanned when effective screening equipment becomes available and other criteria are met. The section requires the equipment to include both nonintrusive imaging and radiation detection features, as well as a means to positively identify each container so that recorded data can be tagged appropriately.

The Conference Report adopts the Senate provision, as modified. This section describes the minimum performance requirements that must be met by a scanning system before wide scale deployment. Of particular significance is the requirement for an automated alarm when dangerous material is found in a container, including a shielded nuclear device. The Conference Report also require the Secretary of Homeland Security to provide periodic reports to Congress on the status of full scale deployment. The Conferees note that full scale implementation should only occur after the successful completion of the three port pilot projects.

Section 233. International Cooperation and Coordination.

Senate Section 232 allows the Secretary of Homeland Security to provide assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports designated by the Container Security Initiative (CSI). This section also requires the Secretary of Homeland Security to identify assistance programs to encourage implementation of port security antiterrorism measures in foreign nations and United States territories, including the United States Virgin Islands, with particular emphasis on ports in the Caribbean Basin. In addition, this section requires Government Accountability Office to submit a report on the security of Caribbean ports within 180 days.

There is no comparable provision in the House bill.

The Conference Report adopts the Senate provision.

Section 234. Foreign Port Assessments.

House Section 204 requires the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, to reassess security measures at foreign ports every three years.

Senate Section 234 requires the Commandant of the Coast Guard to dedicate resources to complete inspections of foreign ports through which trade moves destined for the United States and to reinspect such ports every two years.

The Conference Report adopts the House provision.

Section 235. Pilot Program to Improve the Security of Empty Containers.

House Section 205 requires the Department of Homeland Security to conduct a one-year pilot program to assess the risk posed by, and improve the security of, empty containers at United States seaports. This section requires the Secretary of Homeland Security to prepare and submit a report to the appropriate congressional committees, not later than 90 days after the completion of the pilot program, the results of the program and a determination of whether to expand this program.

The Senate bill does not contain a comparable provision.

The Conference Report adopts the House provision, with an agreement to replace the word “evaluate” in subsection (a) with the words “assess the risk posed by.”

Section 236. Information Sharing Relating to Supply Chain Security Cooperation.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1806, which establishes continuing liaison and provides for supply chain security cooperation between the Department of Homeland Security and the private sector. The section also provides for information sharing between the private sector and the Department of Homeland Security as it relates to developments and security risks in the supply chain environment.

The Senate does not contain a comparable provision.

The Conference adopts the House provision.

The Conferees do not intend this section to be interpreted to impede or supersede existing programs such as the International Trade Data System (ITDS) or the Automated Commercial Environment (ACE).

TITLE III-ADMINISTRATION

Section 301. Office Of Cargo Security Policy.

House Section 603 establishes a Director of Cargo Security Policy within the Directorate for Policy, Planning, and International Affairs of the Department of Homeland Security (established in House Section 601). The section requires the Director of the Office of Cargo Security Policy to advise the Assistant Secretary for Policy regarding all aspects of Department programs related to cargo security, coordinate Department-wide policies regarding cargo security, and coordinate the cargo security policies of the Department with other Federal departments and agencies.

Senate Section 301 establishes the Office of Cargo Security Policy in the Department of Homeland Security, headed by a Director, to coordinate all Department of Homeland Security policies relating to cargo security and consult with other Federal agencies in the establishment of standards and regulations and to promote best practices. This section also requires the Secretary of State to designate a liaison office with the Department of State to assist, as appropriate, in negotiating cargo security-related international agreements.

The Conference Report adopts the Senate provision.

The Conferees note that the creation of this new office does not affect the Coast Guard's direct control over its missions, assets, and personnel and the Coast Guard is not required to seek the approval, permission, or clearance of this office in performing any Coast Guard mission.

Section 302. Reauthorization of Homeland Security Science and Technology Advisory Committee.

Senate Section 302 reauthorizes the Homeland Security Science and Technology Advisory Committee and requires the Assistant Secretary for Science and Technology of the Department of Homeland Security to utilize the Committee to provide outside expertise in advancing cargo security technology.

There is no comparable section in the House bill.

The Conference Report adopts the Senate provision.

Section 303. Research, Development, Test, and Evaluation Efforts in Furtherance of Maritime and Cargo Security.

Senate Section 303 assures coordination within the Department of Homeland Security and with other public and private sector entities for research and development of maritime and cargo security innovations.

House Section 201 amends the Homeland Security Act of 2002 to insert a new Section 1831, which is comparable to Senate Section 303.

The Conference Report adopts the Senate provision.

TITLE IV-AGENCY RESOURCES AND OVERSIGHT

Section 401. Trade and Customs Revenue Functions of the Department.

House Sections 301 and 302, among other things, establish the Director of Trade Policy in the Department of Homeland Security.

The Senate bill contains no comparable provision.

The Conference Report adopts the House provision, as modified to require the Secretary of Homeland Security to designate a senior official in the Office of the Secretary to ensure that the trade and customs revenue functions of the Department of Homeland Security are coordinated within the Department of Homeland Security and other Federal departments and agencies and to monitor and report to the Congress on the Department's mandate ensuring that trade and customs revenue functions are not diminished. This section also establishes a Director of Trade Policy to advise on all aspects of Department of Homeland Security policies relating to the trade and customs revenue functions. Section 401 requires the Comptroller General of the United States to conduct a study evaluating the Department of Homeland Security's compliance with section 412(b) of the Homeland Security Act of 2002 (P.L. 107-296) and report the findings to the Congress. In addition, this section requires the Secretary to ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (P.L. 107-296) are fully satisfied and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by September 30, 2007. Section 401 further requires the Secretary of Homeland Security to consult with representatives of the business community on Department of Homeland Security policies that have a significant impact on trade. Finally, section 401 requires the Secretary of Homeland Security to notify the appropriate congressional committees not later than 30 days prior to the finalization of any Department of Homeland Security policies, initiatives, or actions that will have a major impact on trade and customs revenue functions, with certain exceptions if the Secretary of Homeland Security determines that it is important to the national security of the United States. The notification must include a description of the proposed policy initiatives or actions and any comments or recommendations provided by the Commercial Operations Advisory Committee (COAC) and other relevant groups.

The Conferees intend the senior official in section 401(a)(1) to be the current Assistant Secretary for Policy under the Department of Homeland Security's current organizational structure, or the Under Secretary for Policy if one is created. The Conferees oppose the designation of the Commissioner of United States Customs and Border Protection, or another officer outside of the Office of the Secretary of Homeland Security, who does not have authority for Department-wide functions or oversight. It is the intent of Conference that the business community consultations and relevant groups referred to in Section 401(c) shall include a wide cross section of the interested parties including representatives of domestic industry sectors, particularly those affected by enforcement actions; customs brokers and other trade facilitators; and small businesses. In addition, the COAC should strive to represent the wide range of commercial interests impacted by the operations of the Department of Homeland Security.

Section 402. Office of International Trade; Oversight.

Senate Section 401 establishes an International Trade Policy Committee and an International Trade Finance Committee. This section requires both the International Trade Policy Committee and the International Trade Finance Committee to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives within 30 days of the end of each fiscal year detailing their activities and identifying their future priorities.

The House bill does not include a comparable provision.

The Conference Report adopts the Senate provision as modified. It establishes the Office of International Trade, headed by an Assistant Commissioner of United States Customs and Border Protection of the Department of Homeland Security. This section requires the transfer of the assets, functions, and personnel of the Office of Strategic Trade and the Office of Regulations and Rulings

to the Office of International Trade within 90 days of the date of enactment. In addition, this section authorizes the Commissioner of United States Customs and Border Protection to transfer any other assets, functions, or personnel to the Office of International Trade, provided that the Commissioner notifies the Congress of a planned transfer 45 days prior to such transfer. However, certain exceptions apply with respect to resources from United States ports of entry associated with the enforcement of textile and apparel laws. This section also requires the Commissioner of United States Customs and Border Protection to establish an International Trade Policy Committee to advise the Commissioner with respect to the commercial customs and trade facilitation functions of United States Customs and Border Protection.

Section 403. Resources.

Senate Section 402 requires United States Customs and Border Protection to complete a resource allocation model by June 30, 2007, and every two years thereafter, to determine optimal staffing for commercial and revenue functions. The section requires submission of these models to the Congress. Section 402 authorizes appropriations to increase the number of United States Customs and Border Protection personnel to perform commercial operations and customs revenue functions, based on the resource allocation models required by this section. The section also authorizes the hiring of an additional 1000 Customs and Border Protection Officers (CBPOs).

The House bill does not contain a comparable provision, although House Section 121 provides for 200 additional CBPOs for each of the Fiscal Years 2007 through 2012.

The Conference Report adopts Senate Section 402, as modified. The Conferees agree to include language requiring the initial resource allocation model to provide for the hiring of a minimum of 200 CBPOs for each of the Fiscal Years 2008 through 2012. The Conference agreement requires the Commissioner of United States Customs and Border Protection, in assigning the additional personnel, to consider the volume of trade, the incidence of non-voluntarily disclosed customs and trade law violations, and security priorities at the United States ports of entry. The Commissioner of United States Customs and Border Protection shall assign at least 10 additional CBPOs at each service port and the ports of entry serviced by such service port no later than October 2010. However, the Commissioner shall not assign an additional CBPO to a port of entry that does not need such an additional CBPO. The agreement also requires the Commissioner of Customs and Border Protection to consult with the port directors of each service port prior to assigning CBPOs to determine where to assign such additional CBPOs.

The Conferees expect that the Commissioner of United States Customs and Border Protection will use the resources of Section 403 to accelerate the development and promulgation of regulations to implement trade agreements because the pace has been too slow.

Section 404. Negotiations.

The Conference agreement is identical to Senate Section 403, which requires the Department of Homeland Security to work with appropriate Federal officials and international organizations to harmonize customs procedures, standards, requirements, and commitments to facilitate the efficient flow of international trade.

The House bill does not contain a comparable provision.

The Conference substitute adopts the Senate provision.

Section 405. International Trade Data System.

House Section 203 requires the President to establish and implement the International Trade Data System (ITDS), a single, uniform data system for the electronic collection, dissemination, and sharing of import and export information, to increase the efficiency of data submission and the security of such data related to border security, trade, and public health and safety of international cargoes. The section requires the President to consult with private sector stakeholders in developing uniform data submission requirements, procedures, and schedules. Section 203 also requires the President to provide a report to the appropriate congressional committees on the schedule for full implementation of ITDS.

Senate Section 404 requires the Secretary of the Treasury to: oversee the establishment of an electronic trade data interchange system; eliminate redundant information requirements; efficiently regulate the flow of commerce; and enforce regulations relating to international trade. This section also requires all Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo to participate in the International Trade Data System (ITDS). This section allows the Office of Management and Budget (OMB) to waive the participation requirement if it is in the interest of National security. In addition, this section establishes an Interagency Steering Committee to define the standard set of data elements to be collected, stored and shared in the ITDS and requires the Committee to submit a report to the Congress before the end of each fiscal year.

The Conference Report adopts the Senate provision as modified.

Section 406. In-Bond Cargo.

Senate Section 405 requires the Commissioner of United States Customs and Border Protection to submit a report regarding in-bond cargo to the Committees on Commerce, Science, and Transportation; Homeland Security and Government Affairs; and Finance of the Senate and the Committees on Homeland Security; Transportation and Infrastructure; and Ways and Means of the House of Representatives not later than June 30, 2007. The report must include: a plan for closing in-bond entries at the port of arrival; an assessment of whether ports of arrival should require any additional information regarding shipments of in-bond cargo; and an evaluation of criteria for targeting and examining in-bond cargo.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision.

Section 407. Sense of the Senate.

Senate Section 406 expresses the sense of the Senate that nothing in Sections 2, 106, 111 through 113, and 201 through 232 of the bill shall be construed to affect the jurisdiction of any standing committee of the Senate.

The House bill does not include a comparable provision.

The Conference Report adopts the Senate provision.

TITLE V-DOMESTIC NUCLEAR DETECTION OFFICE

Section 501 Establishment of Domestic Nuclear Detection Office.

House Section 401 amends the Homeland Security Act of 2002 (P.L. 107-296) to add a new Sections 2001 through 2015, which establish the Domestic Nuclear Detection Office (DNDO) in the Department of Homeland Security.

The Senate Section 801 also establishes DNDO, and is similar to section 401 of the House bill

The Conference Report adopts the Senate provision, as modified, amending the Homeland Security Act as noted below.

Section 1801. Domestic Nuclear Detection Office.

Section 1801 of the Conference Report establishes the Domestic Nuclear Detection Office (DNDO) in the Department of Homeland Security, to be headed by a Director appointed by the President. This section allows the Secretary of Homeland Security to request that the heads of various Federal agencies provide for the reimbursable detail of personnel with relevant expertise to the DNDO.

Section 1802. Mission of Office.

Section 1802 of the Conference Report defines the mission of the Domestic Nuclear Detection Office (DNDO) and the responsibilities of the Director of DNDO. In fulfilling its mission to coordinate Federal efforts to detect and prevent acts of nuclear or radiological terrorism against the United States, DNDO will be responsible for: developing the global nuclear detection architecture (a blueprint for an international and domestic network of nuclear and radiological detectors), implementing the domestic portion of this architecture, and continually maintaining situational awareness throughout the global architecture; enabling effective information and intelligence sharing with and reporting to appropriate officials including the intelligence community, law enforcement agencies, the emergency response community, and other appropriate authorities; and, developing, coordinating and executing a research and development program focused on achieving dramatically improved nuclear detection capabilities.

The Conference Report adopts the provision in Senate Section 801. The Senate recedes to House language which clarifies DNDO's responsibilities to include technical reachback. This ensures technical experts are available for interpreting detector data. This provision is critical to the success of the implementation of the global nuclear detection architecture. The Senate also recedes to House language requiring DNDO to conduct rigorous testing and evaluation of detectors and detection systems to ensure that desired performance capabilities are known and can be attained under realistic operating conditions prior to large scale acquisition and deployment.

Section 1803. Hiring Authority.

Section 1803 of the Conference Report gives the Secretary of Homeland Security flexible hiring authority designed to attract qualified technical personnel needed in the Domestic Nuclear Detection Office to successfully fulfill its mission.

Section 1804. Testing Authority.

Section 1804 provides the Director of the Domestic Nuclear Detection Office (DNDO) with the authority to use Federal facilities to test equipment and any other items related to the mission of DNDO. This section ensures that test results remain confidential, unless consent is provided. The House and Senate confidentiality provisions are identical. Section 1804 also establishes a fee structure that allows for private sector companies to use Federal facilities to test mission-related

equipment. While the provision for testing services in the House bill is similar to the Senate version, the Conference Report adopts the Senate amendment in order to provide greater clarity on fees incurred by the Government for providing services to the private sector.

Section 1805. Relationship to Other Department Entities and Federal Agencies.

House Section 2001(d) and 2003(c) are similar in content and purpose to Senate Section 1805, but the Senate provision has a more extensive savings clause.

Senate Section 1805 clarifies that the authorities and responsibilities of the Director created in this Act will not affect those of other Department entities, nor those of other Federal Departments or agencies.

The Conference Report adopts the Senate provision.

Section 1806. Contracting and Grant Making Authorities.

The House Section 401 contains conforming language enabling the Director of DNDO to carry out research, development, testing, and evaluation of nuclear and radiological detection technologies through extramural and intramural programs using grants, contracts, cooperative agreements and other transactions. Additionally, the House bill allows the Director to establish or contract with a Federally Funded Research and Development Center to assist in carrying out mission-related responsibilities. These authorities are vested in the Director by amending Title III of the Homeland Security Act of 2002 (P.L. 107-296), and thus these authorities are given by the Secretary to the Director, in conjunction with the Under Secretary for Science and Technology.

Senate section 802 is a comparable provision.

The Conference Report creates authorities for the Director, not through amending Title III of the Homeland Security Act of 2002, but by establishing these authorities, independent of the Under Secretary for Science and Technology, directly within Title XVIII-Domestic Nuclear Detection Office of the Homeland Security Act of 2002, as amended by this Act. Section 1806 of the Conference Report also includes language from a Senate amendment directing DNDO to investigate radiation detection equipment in configurations suitable for deployment at seaports.

Section 502. Technology Research and Development Investment Strategy for Nuclear and Radiological Detection.

Senate Section 802 requires the development of a long-term, interagency road map to guide research and development on nuclear and radiological detection systems. A report on the impact of this title on the Department of Homeland Security's research and development efforts is also required. The Director of DNDO and the Under Secretary for Science and Technology are required to report annually on their efforts to provide a cohesive, integrated research and development strategy.

House Section 401 amended the Homeland Security Act to insert a new Section 2011. The report provision included in this section, in contrast to the requirement above, is an internal DNDO activity requiring the Director to inform Congress of its global detection strategy, status, and schedule.

The Conference Report adopts the Senate provision.

Section 601. Short Title.

Senate Section 601 states that this title may be cited as the “Warning Alert and Response Network Act.”

The House bill contains no comparable provision.

The Conference Report adopts the Senate provision.

Section 602. Federal Communications Commission Duties.

The Senate bill contains no comparable section.

The House bill contains no comparable section.

The Conference Report adopts the Senate provision, as modified. This section sets forth certain duties of the Federal Communications Commission (FCC) in connection with this title necessary to create a process through which commercial mobile service providers (as such term is defined by Section 332(d)(1) of the Communications Act of 1934) can voluntarily elect to transmit emergency alerts. The FCC must complete a proceeding adopting relevant technical standards, protocols, procedures and other technical requirements based on the recommendations of the Commercial Mobile Service Alert Advisory Committee established in this title to enable the transmission of emergency alerts by commercial mobile service providers who elect to transmit such alerts. This section also provides the FCC with authority necessary to implement this title and provides liability protection to commercial mobile service providers, including the vendors for such providers, electing to transmit emergency alerts.

Section 603. Commercial Mobile Service Alert Advisory Committee.

Senate Section 606 establishes a Working Group to provide guidance on the development of the National Alert System.

The House bill contains no comparable section.

The Conference Report adopts the Senate provision, as modified. This section directs the Chairman of the FCC to establish a Commercial Mobile Service Alert Advisory Committee (Advisory Committee) that is required to develop recommendations critical to enable the transmission of emergency alerts by commercial mobile service providers that elect to transmit such alerts. Such recommendations must be submitted by the Advisory Committee to the FCC within one year of enactment, and include protocols, technical capabilities, and technical procedures through which participating providers may receive, verify and transmit alerts to subscribers. This section also requires the Advisory Committee to make recommendations concerning the transmission of alerts in languages other than English, to the extent practicable and feasible. The membership of the Advisory Committee includes representatives of State, local and tribal governments, industry experts and such other stakeholders as the FCC Chairman deems appropriate. This section provides rules for the Advisory Committee, exempts it from the requirements of the Federal Advisory Committee Act, and requires its meetings to be public and announced in advance.

Section 604. Research and Development.

Senate Section 607 requires the Undersecretary of Homeland Security for Science and Technology and the Director of the National Alert Office to establish a research and development program to help facilitate future communication devices to effectively participate in the system.

The House bill contains no comparable section.

The Conference Report adopts the Senate provision, as modified. This provision directs the Department of Homeland Security's Under Secretary for Science and Technology to establish a research, development, testing, and evaluation program to facilitate the transmission of emergency alerts by commercial mobile service providers, including the transmission of geographically targeted alerts.

Section 605. Grant Program for Remote Community Alert Systems.

Senate Section 608 instructs the Administrator of National Oceanic and Atmospheric Administration (NOAA) to establish a grant program to provide for the installation of technologies in remote communities to ensure they are effectively alerted. This grant program sunsets after five years.

The House bill contains no comparable section.

The Conference Report adopts the Senate provision, as modified. This provision directs the Administrator of the National Oceanic and Atmospheric Administration (NOAA), in consultation with the Secretary of Homeland Security, to establish a grant program for outdoor alerting technologies for remote communities that are effectively unserved by commercial mobile service. The grant program sunsets after five years and is capped at \$10 million.

Section 606. Funding.

Senate Section 613 authorizes \$106 million through the Digital Transition and Public Safety Fund in accordance with section 3010 of the Digital Television Transition and Public Safety Act of 2005

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified. This provision establishes the funding mechanisms for this title and provides borrowing authority to accelerate implementation of this title. It emphasizes that priority should be given to the provisioning of backbone capability by public broadcast stations to ensure sufficient funding for such capability.

Section 607. Essential Services Disaster Assistance.

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which prohibits Federal agencies, to the greatest extent practicable, from denying or impeding essential service provider access to a disaster site for the purpose of restoring essential services or impeding the repair or restoration of essential services by such providers, unless exceptional circumstances apply. This provision does not waive any Federal laws, regulations or policies.

Section 608. Community Disaster Loans

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which increases the community disaster loan percentage to 50 percent of local government's annual operating income if local government loses 75 percent of its tax and other revenue due to a major disaster, but retains the \$5 million cap. This would primarily help small local governments with annual budgets of under \$10 million.

Section 609. Public Facilities

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which authorizes a 90 percent reimbursement for relocating a public building that was destroyed by disaster in all cases, regardless of whether there is soil instability.

The Conferees note that this approach may be more efficient than having the Federal Emergency Management Agency pay the extra cost of raising the elevation of a rebuilt public building when flood zones change, as is the case under current law. Current law allows, as an alternative to rebuilding in place a public building destroyed by a major disaster, the option of taking a grant to replace that capability in another location. The Federal contribution 75 percent of the Federal cost share, unless the reason for relocating is soil instability, in which case the Federal contribution is 90 percent of the Federal cost share.

Section 610. Expedited Payments

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which requires the Federal Emergency Management Agency to make a down-payment of at least 50 percent of the Federal estimated cost of the reimbursement to a local government for debris removal within 60 days of developing the estimate, but not later than 90 days after the filing of the claim.

Section 611. Use of Local Contracting

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which instructs Federal agency contracting officers, when practicable and feasible, to break disaster response and recovery work requirements into smaller packages to facilitate participation by local contractors.

The Conferees note that in response to Hurricane Katrina, Federal agencies tended to hire large contractors to perform broad responsibilities over the entire disaster area, which made it difficult for smaller, local firms to compete.

Section 612. Federal Emergency Management Agency Programs

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which requires the Federal Emergency Management Agency to be responsible for the radiological emergency preparedness program and the chemical stockpile emergency preparedness program.

Section 613. Homeland Security Definition

The House bill does not contain a comparable provision.

The Senate bill does not contain a comparable provision.

The Conference Report adopts this provision, which amends the Homeland Security Act of 2002 (107-296) to insert “governmental and non-governmental” after “local.”

TITLE VII- OTHER MATTERS

Section 701. Security Plan for Essential Air Service and Small Community Airports.

Senate Section 1106 requires the Assistant Secretary of Homeland Security for Transportation Security, not later than 60 days after the date of enactment, to submit a security plan to Congress for Essential Air Service airports in the United States. The section requires the plan to include recommendations for improved security measures and passenger and cargo screening procedures, and a timeline and cost analysis for the implementation of the recommended security measures and screening procedures.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified to require a security plan for Essential Air Service Airports in the United States and airports whose community or consortia of communities receive assistance under the Small Community Air Service Development Program and maintain, resume, or obtain scheduled passenger air carrier service with assistance from that program.

Section 702. Disclosures Regarding Homeland Security Grants.

Senate Section 1107 requires each State or local government that receives a grant from the Department of Homeland Security to provide a report to the Secretary of Homeland security listing all expenditures using such funds.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision.

Section 703. Trucking Security.

Senate Section 1109 requires the Secretary of Transportation, in cooperation with the Secretary of Homeland Security, not later than 12 months after the date of enactment, to issue regulations to implement the recommendations of the Department of Transportation Inspector General’s memorandum issued on June 4, 2004. In addition, this section requires the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, to issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver’s License Program. This section also requires

the Secretary of Homeland Security, within 12 months of enactment, to draft guidelines for Federal, State, and local law enforcement officials to improve compliance with Federal immigration and customs laws. In addition, this section requires the Administrator of the Federal Motor Carrier Safety Administration, within 12 months of enactment, to modify the final rule regarding the enforcement of operating authority to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified to require the Secretary of Transportation to work in cooperation with the Secretary of Homeland Security in issuing regulations to implement the recommendations in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program. In addition, the Conference agreement changes the time frame for completion of the various tasks in this section from 12 months to 18 months.

Section 704. Air and Marine Operations of the Northern Border Air Wing.

Senate Section 1112 authorizes \$40 million, in addition to any other amounts authorized for United States Customs and Border Protection, for each of fiscal years 2007 and 2008 for the operating expenses of the Northern Border Air Wing in Great Falls, Montana.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified. This section authorizes such sums as are appropriate in fiscal year 2008, in addition to any other amounts authorized for United States Customs and Border Protection, for the Northern Border Air Wing Branch in Great Falls, Montana.

Section 705. Phase-Out of Vessels Supporting Oil and Gas Development.

Senate Section 1114 allows foreign-flag vessels to be employed for the movement or transportation of anchors in the Beaufort Sea.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision.

Section 706. Coast Guard Property in Portland, Maine.

Senate Section 1115 changes the conveyance date for United States Coast Guard Property in Portland, Maine.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision.

Section 707. Methamphetamine and Methamphetamine Precursor Chemicals.

Senate Section 1116 requires the Commissioner of the United States Customs and Border Protection to conduct a study and submit a report on matters relating to Methamphetamine and Methamphetamine Precursor Chemicals.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified to specify that the Commissioner consult with the Attorney General of the United States in addition to the United States Immigration and Customs Enforcement, the United States Drug Enforcement Administration, and the United States Department of State. The House also requested that the Committee on the Judiciary in the House of Representatives receive a copy of the report and that the word “international” be inserted before the word “mails.”

Section 708. Aircraft Charter Customer and Lessee Prescreening Program.

Senate Section 1117 requires the Comptroller General to assess and report on the status, implementation, and use of the Department of Homeland Security’s aircraft charter customer and lessee pre-screening process. This section requires the report to be submitted to the Committees on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives within 180 days of the date of enactment.

The House bill does not contain a comparable provision.

The Conference Report adopts the Senate provision, as modified to require the Comptroller to submit the report within 270 days of the implementation of the Department of Homeland Security’s aircraft charter customer and lessee prescreening process.

Section 709. Protection of Health and Safety During Disasters

Senate Section 1104 authorizes the Department of Health and Human Services to establish a coordinated protection, assessment, and monitoring program for individuals that suffer from a high exposure level to a substance of concern in disaster areas. The program informs these individuals of the health hazards associated with such releases, and monitors the short and long-term health affects of such a release. It allows for the voluntary registry in any such program. The section requires the National Academy of Sciences to gather a series of subject matter experts and provide a report on disaster area health and environmental monitoring and provide for recommendations to improve monitoring and response activities at the Federal, State, and local level.

The House has no comparable provision.

The Conference Report adopts the Senate language. The Conference clarifies that the intent of this provision is to provide for the protection, assessment, and monitoring of all responders, whether uniformed or volunteer, and those individuals living, working, or attending school within the disaster area involving any mode of transportation that suffer from a high exposure level to a substance of concern in the disaster area.

COMPLIANCE WITH HOUSE RESOLUTION 1000

In compliance with H. Res. 1000, (109th Congress), the following provisions have been included in H.R. 4954:

The bill contains language requiring disclosure under House Resolution 1000 on page 46, lines 16 through page 47, line 10. This section requires the establishment of an intermodal rail radiation detection test center to be located at a port with the majority of its cargo leaving the facility using on-dock, intermodal rail. The language is from an amendment offered by Senator Cantwell.

The bill also contains language requiring disclosure on page 50, lines 1 through 10. This section requires the establishment of a Border Patrol unit in the United State Virgin Islands. The language is from an amendment offered by Delegate Christensen.

The bill also contains language requiring disclosure on page 190, line 16 through page 191, line 3. This section authorizes such sums as may be necessary for the Northern Border Air Wing Branch located in Great Falls, Montana. The language is from an amendment offered by Senator Baucus.

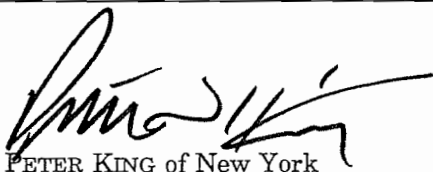
The bill also contains language requiring disclosure on page 193, lines 8 through 12. This section amends the conveyance date for United States Coast Guard Property in Portland, Maine. The language is from an amendment offered by Senator Collins.

H.R. 4954


*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

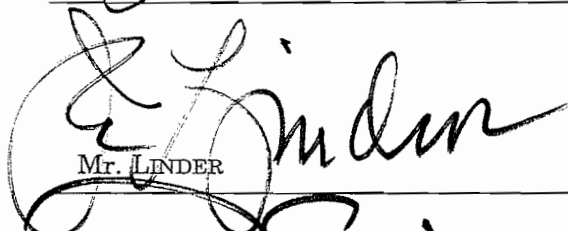
From the Committee on Homeland Security:



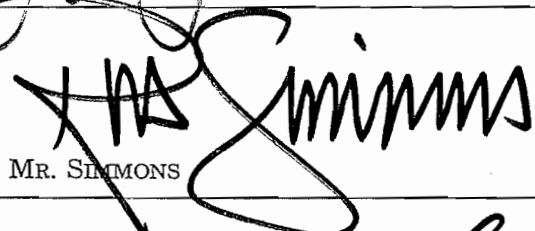
Mr. PETER KING of New York



Mr. DANIEL LUNGREN of California



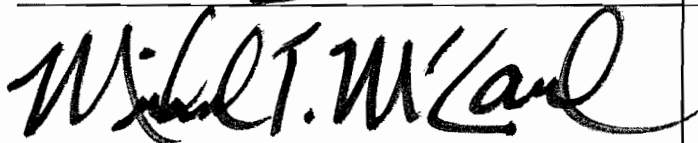
Mr. LINDER



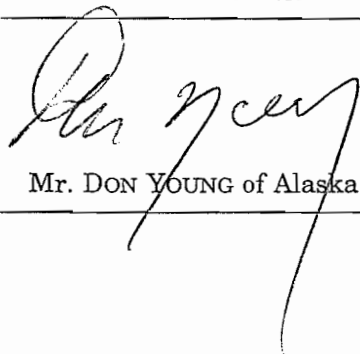
Mr. SIMMONS



Mr. REICHERT

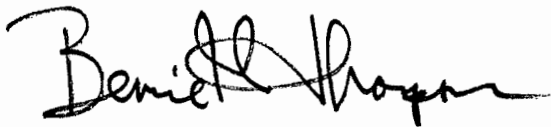





Mr. MICHAEL MCCAUL of Texas





Mr. DON YOUNG of Alaska

H.R. 4954—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
 Mr. BENNIE THOMPSON of Mississippi	
 Ms. LORETTA SANCHEZ of California	
Mr. MARKEY	
 Ms. HARMAN	
 Mr. PASCRELL	

H.R. 4954—Continued

<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
From the Committee on Transportation and Infrastructure:	
 EXCEPT FOR TITLE VIII Mr. LOBIONDO	
 Mr. SHUSTER	
Mr. OBERSTAR	

H.R. 4954—Continued

*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

From the Committee on Science:



Mr. BOEHLERT



Mr. SODREL



Mr. MELANCON

H.R. 4954

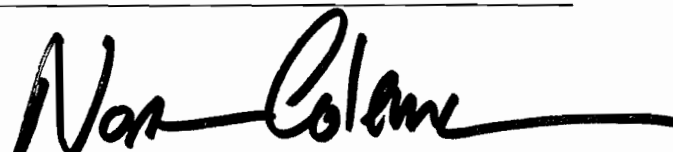
*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

From the Committee on Homeland Security and
Governmental Affairs:



Ms. COLLINS



Mr. COLEMAN


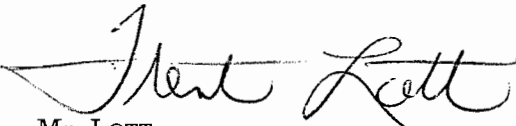
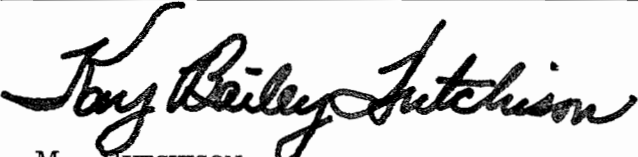


Mr. BENNETT

~~Mr. LEEBERMAN~~

~~Mr. LEVIN~~

H.R. 4954—Continued

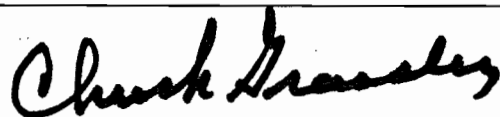
<i>Managers on the part of the HOUSE</i>	<i>Managers on the part of the SENATE</i>
	From the Committee on Commerce, and Science, and Transportation:
	 Mr. STEVENS
	 Mr. LOTT
	 Mrs. HUTCHISON
	Mr. INOUE
	Mr. LAUTENBERG

H.R. 4954—Continued

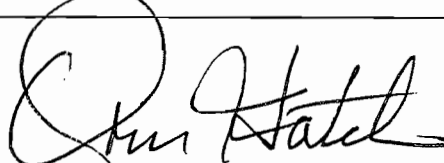
*Managers on the part of the
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*Managers on the part of the
SENATE*

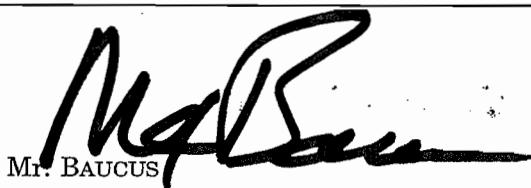
From the Committee on Finance:



Mr. GRASSLEY



Mr. HATCH



Mr. BAUCUS

H.R. 4954—Continued

*Managers on the part of the
HOUSE*

*Managers on the part of the
SENATE*

From the Committee on Banking and Housing,
and Urban Affairs:

Richard Shelby
Mr. SHELBY

~~Mr. SARBANES~~

