

C-TPAT REAUTHORIZATION ACT OF 2017

SEPTEMBER 25, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 3551]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3551) to amend the Security and Accountability for Every Port Act of 2006 to reauthorize the Customs-Trade Partnership Against Terrorism Program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

Purpose and Summary	Page 8
Background and Need for Legislation	8
Hearings	8
Committee Consideration	8
Committee Votes	9
Committee Oversight Findings	9
New Budget Authority, Entitlement Authority, and Tax Expenditures	9
Congressional Budget Office Estimate	9
Statement of General Performance Goals and Objectives	10
Duplicative Federal Programs	11
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	11
Federal Mandates Statement	11
Preemption Clarification	11
Disclosure of Directed Rule Makings	11
Advisory Committee Statement	11
Applicability to Legislative Branch	11
Section-by-Section Analysis of the Legislation	11
Changes in Existing Law Made by the Bill, as Reported	18

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “C-TPAT Reauthorization Act of 2017”.

SEC. 2. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.

(a) IN GENERAL.—Subtitle B of title II of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 961 et seq.) is amended to read as follows:

“Subtitle B—Customs-Trade Partnership Against Terrorism

“SEC. 211. ESTABLISHMENT OF THE CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM PROGRAM.

“(a) IN GENERAL.—There is established within U.S. Customs and Border Protection a voluntary government-private sector partnership program to be known as the Customs-Trade Partnership Against Terrorism (C-TPAT).

“(b) PURPOSE.—The purposes of the C-TPAT program are to—

- “(1) strengthen and improve the overall security of the international supply chain and United States border security;
- “(2) facilitate the movement of secure cargo through the international supply chain;
- “(3) ensure compliance with applicable law; and
- “(4) serve as the Authorized Economic Operator program for the United States.

“(c) DIRECTOR.—There shall be at the head of the C-TPAT program a Director, who shall report to the Executive Assistant Commissioner of the Office of Field Operations (in this subtitle referred to as the ‘Executive Assistant Commissioner’) of U.S. Customs and Border Protection.

“(d) DUTIES.—The Director of the C-TPAT program shall—

- “(1) oversee the activities of the C-TPAT program, including certification of C-TPAT participants;
- “(2) evaluate and make revisions to security criteria pursuant to subsections (c) and (d) of section 213;
- “(3) ensure that participants receive a tangible and measurable benefit for participation; and
- “(4) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

“SEC. 212. ELIGIBLE ENTITIES AND NOTICE OF BENEFITS.

“(a) ELIGIBLE ENTITIES.—Importers, exporters, customs brokers, forwarders, air, sea, and land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply for participation in the C-TPAT program.

“(b) TIERED PARTICIPATION.—

“(1) IN GENERAL.—Applicants may be eligible to participate as Tier 1 or Tier 2 participants.

“(2) IMPORTERS.—Importers may be eligible to participate as Tier 3 participants.

“(3) EXTENSION.—The Executive Assistant Commissioner may, in his or her discretion, extend Tier 3 participation to other entity types, if appropriate.

“(c) NOTICE OF BENEFITS.—

“(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall publish, on the U.S. Customs and Border Protection website and through other appropriate online publication, information about benefits to C-TPAT program participants.

“(2) CHANGES.—The Commissioner of U.S. Customs and Border Protection shall publish, on the U.S. Customs and Border Protection website and through other appropriate online publication, notice of any changes to benefits to C-TPAT program participants not later than 30 days before any such changes take effect.

“SEC. 213. PARTICIPATION ELIGIBILITY.

“(a) IN GENERAL.—The Executive Assistant Commissioner shall review all documentation submitted by an applicant pursuant to subsection (b)(2), conduct a background investigation of such applicant, and vet such applicant.

“(b) GENERAL REQUIREMENTS.—To be eligible for participation in the C-TPAT program, an entity shall, at a minimum—

“(1) have a designated company employee authorized to bind such entity that is a direct company employee and will serve as the primary point of contact responsible for participation of such entity in the C-TPAT program;

“(2) at the time of initial application and annually thereafter, including in advance of any recertification or revalidation, submit an international supply chain security profile, which shall identify how such entity meets the minimum security criteria of the C-TPAT program established by the Commissioner of U.S. Customs and Border Protection and how such entity will maintain and enhance internal policies, procedures, and practices related to international supply chain security; and

“(3) meet any specific requirements for eligible entities, as established by the Commissioner.

“(c) **MINIMUM SECURITY CRITERIA.**—The Commissioner of U.S. Customs and Border Protection shall establish minimum security criteria for participants in the C-TPAT program, review such minimum security criteria not less than once every two years, and update such minimum security criteria as necessary. Such minimum security criteria shall seek to address security vulnerabilities in the international supply chain.

“(d) **ADDITIONAL AND UPDATED CRITERIA.**—The Commissioner of U.S. Customs and Border Protection may establish additional and updated security criteria for individual C-TPAT program participants, categories of C-TPAT program participants, or particular entity types to meet in order to address a security vulnerability in the international supply chain.

“(e) **CONSULTATION.**—When establishing or updating security criteria in accordance with subsection (c), and when establishing additional or updated security criteria in accordance with subsection (d), the Commissioner of U.S. Customs and Border Protection shall consult with C-TPAT program participants and other interested parties, and shall—

“(1) conduct a cost benefit analysis of such proposed new, additional, or updated security criteria in consultation with the Commercial Customs Operations Advisory Committee established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316);

“(2) determine operational feasibility and, where appropriate, conduct a phased implementation of such proposed additional or updated security criteria; and

“(3) provide C-TPAT program participants and other interested parties a 90-day comment period to review and comment on such proposed additional or updated security criteria.

“(f) **WAIVER.**—The Commissioner of U.S. Customs and Border Protection may waive the requirements of subsection (e) if the Commissioner determines there is a significant and imminent risk to the national security of the United States and such a waiver is necessary to protect such national security. Not later than 120 days after the issuance of any such waiver, the Commissioner shall announce on the U.S. Customs and Border Protection website and through other appropriate online publication the Commissioner’s intent to either withdraw such waiver or maintain such waiver while commencing efforts to establish minimum security criteria or establish additional or update existing security criteria in accordance with subsection (c) or (d), respectively.

“SEC. 214. BENEFITS FOR C-TPAT PROGRAM PARTICIPANTS.

“(a) **IN GENERAL.**—The Executive Assistant Commissioner shall extend certain benefits to each C-TPAT program participant. Minimum benefits for each such participant shall include the following:

“(1) Assignment of a U.S. Customs and Border Protection Supply Chain Security Specialist.

“(2) Access to the C-TPAT program’s web-based Portal system and training materials.

“(3) A periodic and unclassified update on regional and other relevant threats to the international supply chain.

“(b) **PUBLIC AVAILABILITY.**—The Executive Assistant Commissioner shall make publicly available on the C-TPAT portal an annual assessment of the tangible benefits being realized by C-TPAT program participants.

“(c) **ANNUAL ASSESSMENT.**—The Executive Assistant Commissioner shall conduct, on an annual basis, an assessment of the benefits conferred to C-TPAT program participants. The Executive Assistant Commissioner shall determine a process to carry out such assessments, to include projected milestones and completion dates for addressing data reliability issues and, as necessary, correcting data weaknesses, so that U.S. Customs and Border Protection can produce accurate and reliable annual assessments that can be compared year-to-year.

“SEC. 215. TIER 1 PARTICIPANTS.

“(a) **CERTIFICATION.**—The Executive Assistant Commissioner shall certify the security measures and international supply chain security practices of all applicants to and participants in the C-TPAT program in accordance with section 213(b)(2) and the guidelines referred to in subsection (c) of this section. Certified participants shall be Tier 1 participants.

“(b) **BENEFITS FOR TIER 1 PARTICIPANTS.**—Upon completion of the certification under subsection (a), a C-TPAT program participant shall be certified as a Tier 1 participant. The Executive Assistant Commissioner shall extend limited benefits to a Tier 1 participant.

“(c) **GUIDELINES.**—Not later than 180 days after the date of the enactment of this subtitle, the Commissioner of U.S. Customs and Border Protection shall update the guidelines and criteria for certifying a C-TPAT program participant’s security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and review of appropriate documentation, as determined by the Commissioner.

“(d) **TIMEFRAME.**—To the extent practicable, the Executive Assistant Commissioner shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in the C-TPAT program.

“SEC. 216. TIER 2 PARTICIPANTS.

“(a) **VALIDATION.**—The Executive Assistant Commissioner shall validate the security measures and international supply chain security practices of a Tier 1 C-TPAT program participant in accordance with the guidelines referred to in subsection (c) to validate such participant as a Tier 2 participant. Such validation shall include on-site assessments at appropriate foreign and domestic locations utilized by such Tier 1 participant in its international supply chain.

“(b) **BENEFITS FOR TIER 2 PARTICIPANTS.**—The Executive Assistant Commissioner, shall extend benefits to each C-TPAT participant that has been validated as a Tier 2 participant under this section. Such benefits may include the following:

“(1) Reduced scores in U.S. Customs and Border Protection’s Automated Targeting System.

“(2) Reduced number of security examinations by U.S. Customs and Border Protection.

“(3) Priority examinations of cargo.

“(4) Access to the Free and Secure Trade (FAST) Lanes at United States ports of entry.

“(5) Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with U.S. Customs and Border Protection.

“(6) In the case of importers, eligibility to participate in the Importer Self-Assessment Program (ISA) or successor compliance program.

“(c) **GUIDELINES.**—Not later than 180 days after the date of the enactment of this subtitle, the Commissioner shall develop a schedule and update the guidelines and criteria for validating a C-TPAT participant’s security measures and supply chain security practices under this section.

“(d) **TIMEFRAME.**—To the extent practicable, the Executive Assistant Commissioner shall complete the Tier 2 validation process for a C-TPAT program participant under this section within one year after certification of such participant as a Tier 1 participant.

“SEC. 217. TIER 3 PARTICIPANTS.

“(a) **IN GENERAL.**—The Commissioner shall establish a third tier of C-TPAT program participation that offers additional benefits to C-TPAT program participants that are importers or other entity types, in accordance with section 212(b), that demonstrate a sustained commitment to maintaining security measures and international supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in the C-TPAT program under section 216.

“(b) **BEST PRACTICES.**—The Executive Assistant Commissioner may designate a Tier 2 C-TPAT program participant as a Tier 3 participant based on a review of best practices in such participant’s international supply chain that reflect a continued approach to enhanced international supply chain security, including—

“(1) compliance with any additional or updated criteria established by the Commissioner of U.S. Customs and Border Protection under section 213(d) that exceed the guidelines established pursuant to section 216 for validating a C-TPAT program participant as a Tier 2 participant; and

“(2) any other factors that the Executive Assistant Commissioner determines appropriate.

“(c) **BENEFITS FOR TIER 3 PARTICIPANTS.**—The Executive Assistant Commissioner, in consultation with the Commercial Customs Operations Advisory Committee es-

established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316) and the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, shall extend benefits to each C-TPAT program participant that has been validated as a Tier 3 participant under this section, which may include the following:

- “(1) Further reduction in the number of examinations by U.S. Customs and Border Protection.
- “(2) Front of the line inspections and examinations.
- “(3) Exemption from Stratified Exams.
- “(4) Shorter wait times at United States ports of entry.
- “(5) Access to the Free and Secure Trade (FAST) Lanes at United States ports of entry.
- “(6) Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with U.S. Customs and Border Protection.
- “(7) In the case of importers, eligibility to participate in the Importer Self-Assessment Program (ISA) or successor compliance program.

“SEC. 218. CONSEQUENCES FOR LACK OF COMPLIANCE.

“(a) **IN GENERAL.**—If at any time the Executive Assistant Commissioner determines that a C-TPAT program participant’s security measures or international supply chain security practices fail to meet applicable requirements under this subtitle, the Executive Assistant Commissioner may deny such participant benefits otherwise made available pursuant to this subtitle, either in whole or in part. The Executive Assistant Commissioner shall develop procedures, in consultation with Commercial Customs Operations Advisory Committee, established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316), that provide appropriate protections to C-TPAT program participants, including advance notice and an opportunity for such participants to provide additional information to U.S. Customs and Border Protection regarding any such alleged failure, before any of such benefits are withheld. Such procedures may not limit the ability of the Executive Assistant Commissioner to take actions to protect the national security of the United States.

“(b) **FALSE OR MISLEADING INFORMATION; LACK OF COMPLIANCE WITH LAW.**—If a C-TPAT program participant knowingly provides false or misleading information to the Commissioner of U.S. Customs and Border Protection, the Executive Assistant Commissioner, or any other officers or officials of the United States Government, or if at any time the Executive Assistant Commissioner determines that a C-TPAT program participant has committed a serious violation of Federal law or customs regulations, or if a C-TPAT program participant has committed a criminal violation relating to the economic activity of such participant, the Executive Assistant Commissioner may suspend or expel such participant from the C-TPAT program for an appropriate period of time. The Executive Assistant Commissioner, after the completion of the process described in subsection (d), may publish in the Federal Register a list of C-TPAT program participants that have been so suspended or expelled from the C-TPAT program pursuant to this subsection.

“(c) **NATIONAL SECURITY.**—If at any time the Executive Assistant Commissioner determines that a C-TPAT program participant poses a significant and imminent risk to the national security of the United States or has committed a serious violation of Federal law or customs regulations, or if a C-TPAT program participant has committed a criminal violation relating to the economic activity of such participant, the Executive Assistant Commissioner may suspend or expel such participant from the C-TPAT program for an appropriate period of time. The Executive Assistant Commissioner, after the completion of the process described in subsection (d), may publish in the Federal Register a list of C-TPAT program participants that have been so suspended or expelled from the C-TPAT program pursuant to this subsection.

“(d) **RIGHT OF APPEAL.**—

“(1) **IN GENERAL.**—The Commissioner of U.S. Customs and Border Protection shall establish a process for a C-TPAT program participant to appeal a decision of the Executive Assistant Commissioner under subsection (a). Such appeal shall be filed with the Commissioner not later than 90 days after the date of such decision, and the Commissioner shall issue a determination not later than 90 days after such appeal is filed.

“(2) **APPEALS OF OTHER DECISIONS.**—The Commissioner of U.S. Customs and Border Protection shall establish a process for a C-TPAT program participant to appeal a decision of the Executive Assistant Commissioner under subsections (b) and (c). Such appeal shall be filed with the Commissioner not later than 30

days after the date of such decision, and the Commissioner shall issue a determination not later than 90 days after such appeal is filed.

“SEC. 219. VALIDATIONS BY OTHER DHS COMPONENTS.

“(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection may recognize regulatory inspections conducted by other components of the Department of Homeland Security of entities as sufficient to constitute validation for C-TPAT program participation in cases in which any such component’s inspection regime is harmonized with validation criteria for the C-TPAT program. Such regulatory inspections shall not limit the ability of U.S. Customs and Border Protection to conduct a C-TPAT program validation.

“(b) REVALIDATION.—Nothing in this section may limit the Commissioner of U.S. Customs and Border Protection’s ability to require a revalidation by U.S. Customs and Border Protection.

“(c) CERTIFICATION.—Nothing in this section may be construed to authorize certifications of C-TPAT applicants to be performed by any party other than U.S. Customs and Border Protection.

“SEC. 220. RECERTIFICATION AND REVALIDATION.

“(a) RECERTIFICATION.—The Commissioner of U.S. Customs and Border Protection shall implement a recertification process for all C-TPAT program participants. Such process shall occur annually, and shall require—

“(1) a review of the security profile and supporting documentation to ensure adherence to the minimum security criteria under section 213; and

“(2) background checks and vetting.

“(b) REVALIDATION.—The Commissioner of U.S. Customs and Border Protection shall implement a revalidation process for all Tier 2 and Tier 3 C-TPAT program participants. Such process shall require—

“(1) a framework based upon objective, risk based criteria for identifying participants for periodic revalidation at least once every four years following the initial validation of such participants;

“(2) on-site assessments at appropriate foreign and domestic locations utilized by such a participant in its international supply chain; and

“(3) an annual plan for revalidation that includes—

“(A) performance measures;

“(B) an assessment of the personnel needed to perform such revalidations; and

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

“(c) REVALIDATION UNDER A MUTUAL RECOGNITION ARRANGEMENT.—

“(1) IN GENERAL.—Upon request from the Commissioner of U.S. Customs and Border Protection, all Tier 2 and Tier 3 C-TPAT program participants shall provide any revalidation report conducted by a foreign government under a Mutual Recognition Arrangement.

“(2) RECOGNITION.—The Commissioner of U.S. Customs and Border Protection may recognize revalidations of entities conducted by foreign governments under a Mutual Recognition Arrangement as sufficient to constitute a revalidation for C-TPAT program participation under subsection (b).

“(3) NO LIMITATION.—Nothing in this subsection may be construed to limit the Commissioner of U.S. Customs and Border Protection’s ability to require a revalidation by U.S. Customs and Border Protection.

“(d) DESIGNATED COMPANY EMPLOYEES.—Only designated company employees of a C-TPAT program participant under section 213(b)(1) are authorized to respond to a revalidation report. Third-party entities are not authorized to respond to a revalidation report.

“SEC. 221. NONCONTAINERIZED CARGO AND THIRD PARTY LOGISTICS PROVIDERS.

“The Commissioner of U.S. Customs and Border Protection shall consider the potential for participation in the C-TPAT program by importers of noncontainerized cargoes and non-asset-based third party logistics providers that otherwise meet the requirements under this subtitle.

“SEC. 222. PROGRAM MANAGEMENT.

“(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall establish sufficient internal quality controls and record management, including recordkeeping (including maintenance of a record management system in accordance with subsection (b)) and monitoring staff hours, to support the management systems of the C-TPAT program. In managing the C-TPAT program, the Commissioner shall ensure that the C-TPAT program includes the following:

“(1) A 5-year plan to identify outcome-based goals and performance measures of the C-TPAT program.

“(2) An annual plan for each fiscal year designed to match available resources to the projected workload.

“(3) A standardized work program to be used by agency personnel to carry out the certifications, validations, recertifications, and revalidations of C-TPAT program participants.

“(4) In accordance with subsection (e), a standardized process for the Executive Assistant Commissioner to receive reports of suspicious activity, including reports regarding potentially compromised cargo or other border or national security concerns.

“(b) DOCUMENTATION OF REVIEWS.—

“(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall maintain a record management system to document determinations on the reviews of each C-TPAT program participant, including certifications, validations, recertifications, and revalidations.

“(2) STANDARDIZED PROCEDURES.—To ensure accuracy and consistency within the record management system required under this subsection, the Commissioner shall develop, disseminate, and require utilization of standardized procedures for agency personnel carrying out certifications, validations, recertifications, and revalidations to report and track information regarding the status of each C-TPAT program participant.

“(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Customs Operations Advisory Committee established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316), the Commissioner of U.S. Customs and Border Protection shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, recertification, and revalidation processes.

“(d) RESOURCE MANAGEMENT STAFFING PLAN.—The Commissioner of U.S. Customs and Border Protection shall—

“(1) develop a staffing plan to recruit and train staff (including a formalized training program) to meet the objectives identified in the 5-year strategic plan under subsection (a)(1); and

“(2) provide cross-training in post incident trade resumption for the C-TPAT Director and other relevant personnel who administer the C-TPAT program.

“(e) ENGAGEMENT.—In carrying out the standardized process required under subsection (a)(4), the Commissioner shall engage with and provide guidance to C-TPAT program participants and other appropriate stakeholders on submitting reports described in such subsection.

“(f) REPORT TO CONGRESS.—In connection with the President’s annual budget submission for the Department of Homeland Security, the Commissioner of U.S. Customs and Border Protection shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, recertify, and revalidate C-TPAT program participants. Each such report shall be due on the same date that the President’s budget is submitted to Congress.”.

(b) SAVING CLAUSE.—

(1) IN GENERAL.—The amendments made by this Act shall take effect and apply beginning on the date that is 30 days after the date of the enactment of this Act with respect to applicants for participation in the C-TPAT program.

(2) EXCEPTION.—Paragraph (1) shall not apply in case of C-TPAT program participants who are such participants as of the date specified in such paragraph. Such participants shall be subject to the amendments made by this Act upon revalidation of such participants to participate in such program. Until such time, such participants shall be subject to the requirements of the C-TPAT program as in existence on the day before the date of the enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of the Security and Accountability for Every Port Act of 2006 is amended by striking the items relating to subtitle B of title II and inserting the following new items:

“Subtitle B—Customs-Trade Partnership Against Terrorism

“Sec. 211. Establishment of the Customs-Trade Partnership Against Terrorism program.

“Sec. 212. Eligible entities and notice of benefits.

“Sec. 213. Participation eligibility.

“Sec. 214. Benefits for C-TPAT program participants.

“Sec. 215. Tier 1 participants.

“Sec. 216. Tier 2 participants.

“Sec. 217. Tier 3 participants.

“Sec. 218. Consequences for lack of compliance.

“Sec. 219. Validations by other DHS components.

“Sec. 220. Recertification and revalidation.

“Sec. 221. Noncontainerized cargo and third party logistics providers.

“Sec. 222. Program management.”.

PURPOSE AND SUMMARY

H.R. 3551 reauthorizes the original Customs Trade Partnership Against Terrorism (C-TPAT) program to reflect current industry practices and threats to the global supply chain. This bill increases security partnerships with private industry by mandating that U.S. Customs and Border Protection (CBP) liaise with industry when implementing new or updated security criteria for participation. Moreover, this legislation codifies tangible and specific benefits to all participants at various stages of the CBP vetting and validation process, such as ensuring shorter wait times and fewer inspections at ports of entry in exchange for increasing security measures.

BACKGROUND AND NEED FOR LEGISLATION

Established under the SAFE Port Act of 2006 (Pub. L. 109-347), C-TPAT is CBP's flagship global supply chain security program.

When a participant joins C-TPAT, they agree to work with CBP to protect the supply chain, identify security gaps, and implement specific security measures and best practices. Applicants must enhance security throughout their supply chain. Applicants undergo vetting by CBP and then a site visit to validate the implementation of security criteria in order to receive benefits, such as shorter wait times and fewer inspections at ports of entry.

This bill reauthorizes the program for the first time in 11 years to ensure that the program is ready to meet the dynamic threats currently facing the global supply chain, and that C-TPAT participants receive tangible benefits for their partnership with CBP working toward a more secure supply chain.

HEARINGS

No hearings were held on H.R. 3551 in the 115th Congress.

COMMITTEE CONSIDERATION

The Committee met on September 7, 2017, to consider H.R. 3551, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MS. MCSALLY (#1); was AGREED TO, as amended, by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MS. BARRAGÁN (#1A); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 9, line 17, strike "Agreements" and insert "Arrangements"

Page 9, line 21, insert ", or successor compliance program" before the period.

Page 12, line 5, strike "Agreements" and insert "Arrangements".

Page 12, line 14, strike "any of the" and insert "applicable".

Page 13, line 2, strike "revoked" and insert "withheld".

Page 15, line 16, insert ", where such component's inspection regime is harmonized with validation criteria for the C-TPAT program" before the period.

Page 19, beginning line 8, insert the following: "(4) A standardized process for the Executive Assistant Commissioner to receive reports of suspicious activity, including reports regarding potentially compromised cargo or other border or national security concerns. In carrying out this process, the Commissioner shall engage

with and provide guidance to C-TPAT program participants and other appropriate stakeholders on submitting such reports.”.

Page 19, line 13, insert the following after the period: “To ensure accuracy and consistency within such record management system, the Commissioner shall develop, disseminate, and require utilization of standardized procedures for agency personnel carrying out certifications, validations, recertifications, and revalidations to report and track information regarding the status of each C-TPAT program participant.”.

An en bloc amendment to the Amendment in the Nature of a Substitute offered by MR. CORREA (#1B); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 3, line 22, strike “or” and insert “and”.

Page 4, line 3, strike “or” and insert “and”.

Page 5, line 13, strike “each year” and insert “every two years”.

Page 6, line 13, insert “, where appropriate,” after “and”.

Page 6, line 25, insert before the period the following: “, but not later than 120 days after the issuance of any such waiver, the Commissioner shall announce on the U.S. Customs and Border Protection website and through other appropriate online publication the Commissioner’s intent to either withdraw such waiver or maintain such waiver while commencing efforts to establish minimum security criteria or establish additional or update existing security criteria in accordance with subsection (c) or (d), respectively”.

Page 7, beginning line 5, strike “all such participants” and insert “each such participant”.

Page 7, beginning line 8, strike “to each participant”.

Page 7, line 13, insert “regional and other relevant” before “threats”.

Page 7, beginning line 18, insert the fa new subsection entitled “(c) Annual Assessment.”

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3559.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3551, the C-TPAT Reauthorization Act of 2017, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 2017.

Hon. MICHAEL MCCAUL,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3551, the C-TPAT Reauthorization Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3551—C-TPAT Reauthorization Act of 2017

Customs and Border Protection (CBP) in the Department of Homeland Security administers the Customs-Trade Partnership Against Terrorism (C-TPAT), a voluntary program that encourages entities involved in international trade to cooperate with CBP to strengthen international supply chains, improve border security, and facilitate the movement of secure cargo through the supply chain. H.R. 3551 would make several changes to the C-TPAT program, mostly related to the benefits provided to program participants such as importers and customs brokers. The authorization of appropriations for the program expired in 2010. For fiscal year 2017, the Congress provided about \$39 million to operate the program.

Based on an analysis of information from CBP, CBO estimates that implementing the bill would not significantly affect the cost to continue C-TPAT operations in future years at the 2017 level.

Enacting H.R. 3551 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3551 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3551 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 3551 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goals and objectives of H.R. 3551 are to reauthorize and update the current C-TPAT program to meet the dynamic threats of the global supply chain by codifying the current processes of the matured program, while providing industry tangible benefits for participation.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 3551 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3551 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3551 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “C-TPAT Reauthorization Act of 2017”.

Sec. 2. Customs-Trade Partnership Against Terrorism.

This section amends Subtitle B of title II of the Security and Accountability for Every Port Act of 2006 to include the following:

Sec. 211. Establishment of the Customs-Trade Partnership Against Terrorism Program.

This section establishes C-TPAT to strengthen and improve the overall security of the international supply chain and United States border security while expediting the flow of secure cargo through the international supply chain.

Additionally, this section establishes the formal duties of the Director and makes C-TPAT the Authorized Economic Operator (AEO) for the United States. The Director shall report to the Executive Assistant Commissioner (EAC) of the Office of Field Operations and oversee the activities of the C-TPAT program. The Director is also responsible for establishing the minimum-security criteria necessary for participation and ensure that participants receive tangible benefits for participation in the program.

The Committee believes that the C-TPAT program should have a formal Director who is given appropriate authority to effectively manage the program, establish and implement necessary security criteria, conduct oversight of participants, and ensure that participants are receiving tangible benefits. The Committee strongly believes that C-TPAT must be a true security partnership between private industry and CBP. Additionally, it is critical that C-TPAT be designated as the AEO for the United States to give CBP the ability to grow their trusted trader program with both a security and customs compliance element, similar to other international programs.

Sec. 212. Eligible Entities and Notice of Benefits.

This section lists the entities that are eligible for C-TPAT participation. Those entities are importers, exporters, customs brokers, forwarders, air, sea, and land carriers, and contract logistics providers.

Additionally, this section establishes the tiered system of benefits into which C-TPAT participants fall based on their adherence to security requirements, and directs the Commissioner of CBP to publish the benefits available to C-TPAT participants on the CBP website as well as notice any changes to benefits not later than 30 days after they take effect.

The Committee believes that C-TPAT is a highly effective and widely recognized cargo security program that greatly increases both the security and efficiency of the international supply chain. As such, as many entities as possible should be eligible for participation in C-TPAT so long as they can make valuable contributions to the security of the international supply chain.

In exchange for implementing security criteria, the Committee believes that participants must receive a measurable reduction in wait times, inspections, or other benefits and that CBP be as transparent as possible about any changes to benefits.

Sec. 213. Participation Eligibility.

In order to participate in C-TPAT, each eligible entity must have a designated company employee who will serve as the liaison between CBP and the entity and act as the primary cargo security officer. Each entity must also submit an international supply chain security profile at the time of the initial application to C-TPAT, and annually thereafter, to be vetted by CBP.

This section also directs the Commissioner to establish minimum security criteria that each C-TPAT participant will have to implement to receive benefits. The criteria must be reviewed at least once every 2 years by CBP, and prior to establishing, updating, or adding minimum-security criteria, CBP must:

- Conduct a cost-benefit analysis with the Commercial Customs Operations Advisory Committee;
- Determine operational feasibility and conduct a phased implementation; and
- Provide C-TPAT participants a 90-day comment period.

The Committee is concerned that under prior law, third-party security consultants could sign a certification, validation, recertification, or revalidation report from CBP and manage a company's participation in the program. The Committee believes that a participant must be held solely accountable for implementing their security criteria and managing their participation in the C-TPAT program. In order to accomplish this, the Committee believes that it is critical that each participant have a designated employee that is not a third-party consultant or contractor, to bind the company in any agreement with CBP and hold the participant directly accountable for the management of their C-TPAT participation. Such employee need not be an officer of a participating company, only an employee empowered to act on the company's behalf for the purposes of the CTPAT program.

Additionally, the Committee believes that when implementing new, additional, or updated security criteria, CBP must do so judiciously and have an open dialog with private industry given the potential economic cost for participants when implementing various security measures mandated by CBP.

The Committee believes that the waiver provided in section 213 is limited both temporally and in scope, and may only be used under extraordinary circumstances that constitute, "a significant and imminent risk to national security of the United States." Further, the Committee included the requirement that, not later than 120 days after the issuance of such a waiver, the Commissioner must inform stakeholders on whether conditions have changed and the waiver is no longer necessary or maintain the waiver and begin the process of engaging with stakeholders about revisions to security criteria. This notification requirement seeks to maintain CBP's flexibility to address urgent threats while preserving the integrity of the consultation process that is at the heart of this public-private program.

Sec. 214. Benefits for C-TPAT Program Participants.

This section directs the Commissioner to extend a minimum set of tangible benefits to those who choose to participate in C-TPAT by providing all participants access to a CBP Supply Chain Security Specialist, access to the C-TPAT web based portal, and a periodic update on threats to the global supply chain.

The Committee believes that certain benefits must confer to all C-TPAT participants regardless of tier status in order to effectively manage the program and foster the security partnership between private industry and CBP.

Moreover, because the Committee believes that private entities that voluntarily participate in this program, in particular those

that opt to exceed minimum security requirements, should realize tangible benefits, the Committee also believes that CBP must develop a process to maintain reliable data about the benefits conferred to participants. Early in 2017, the Government Accountability Office found that CBP's data was not sufficiently consistent or reliable to track and measure participant benefits. For this reason, this section requires CBP to address data reliability issues and assess on an annual basis the benefits conferred to C-TPAT participants.

Sec. 215. Tier 1 Participants.

This section establishes the first of three tiers of benefits for C-TPAT participants. Tier 1 participants are those who have completed the application process for C-TPAT and have passed the CBP vetting process and background checks, but have not had a site visit from CBP. This is known as "certification." Tier 1 participants receive limited benefits since CBP has not had the opportunity to conduct a thorough site visit. The Commissioner is directed to complete the vetting process and background checks within 90 days of receiving an application to participate in C-TPAT.

The Committee believes that those participants who have not yet had a site visit from CBP should be given limited benefits until a site visit validation is conducted. Further, the Committee believes that CBP must move expeditiously to complete such site visits so that participants can be eligible for more substantial benefits outlined in the subsequent provisions.

Sec. 216. Tier 2 Participants.

This section establishes the process for becoming a Tier 2 participant and the associated benefits. A participant becomes Tier 2 after completing the Tier 1 "certification" process of being vetted and after successfully passing a site visit conducted by CBP on all domestic and international locations utilized by the participant. This site visit process is known as "validation."

Tier 2 benefits include:

- Reduced scores in CBP's Automated Targeting System;
- Reduced number of examinations of cargo;
- Priority examinations of cargo;
- Access to the Free and Secure Trade (FAST) lanes at United States ports of entry;
- Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with CBP; and
- Eligibility to participate in the Importer Self-Assessment Program (ISA) or future compliance programs.

The Commissioner is directed to complete the Tier 2 site visit known as "validation" no later than 1 year after the initial "certification" as a Tier 1 participant.

The Committee believes that participants who have had a site visit validation from CBP have been thoroughly vetted by CBP and should be eligible for tangible and measurable benefits that have a positive impact on their ability to move cargo more expeditiously through the international supply chain.

Sec. 217. Tier 3 Participants.

This section establishes the highest tier of C-TPAT participation for entities who have demonstrated a consistent, and innovative approach to upholding the highest levels of security in their international supply chain. Benefits for Tier 3 participants include:

- Further reduction in the number of examinations by CBP;
- Front of the line secondary inspections and examinations;
- Exemption from Stratified Exams;
- Shorter wait times at United States ports of entry;
- Access to the Free and Secure Trade (FAST) Lanes at United States ports of entry;
- Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with CBP;
- Eligibility for other U.S. Government pilot programs, such as the Food and Drug Administration's Secure Supply Chain program; and
- Eligibility to participate in the Importer Self-Assessment Program (ISA), or future compliance program.

The Committee believes that the most generous set of benefits, outlined in this section, should be reserved for those participants who have demonstrated a sustained commitment to the security of their supply chain and seek innovative ways to continually improve their security posture.

Sec. 218. Consequences For Lack of Compliance.

This section allows the EAC to deny benefits to a participant for failing to uphold the integrity of the security of their international supply chain or meet the minimum-security criteria. Prior to denying benefits, the EAC must develop procedures in consultation with the Commercial Customs Advisory Committee that provide appropriate protections to participants, give advance notice to the participant, and allow the participant to submit additional or mitigating information to CBP.

Additionally, if a participant knowingly submits false or misleading information to CBP or fails to comply with the law, the EAC may expel or suspend the participant from C-TPAT for as long as deemed necessary. The EAC may also suspend or expel a participant from C-TPAT if the EAC determines that the participant poses an imminent threat to the national security of the United States.

Participants have the right to appeal the decision of the EAC to the Commissioner not later than 90 days after a decision and the Commissioner must issue a determination on the appeal no later than 90 days after the appeal is filed.

The Committee believes that C-TPAT participation is a privilege and that if a participant fails to comply with an agreement pursuant to this Act, that CBP retains the right to withhold benefits or expel a participant until they meet the standards of the program. Additionally, expulsion from the program should generally be reserved for participants who knowingly attempt to mislead or provide false information to CBP in order to gain, or continue to enjoy, C-TPAT benefits. However, the withholding of benefits or expulsion from the program carry real economic consequences for participants, therefore, participants must also be afforded adequate due

process. This includes the ability to repeal the decision of the EAC in a timely manner and provide mitigating or information to CBP in the course of the proceedings.

The Committee recognizes that C-TPAT is a voluntary program and appreciates those partners willing to be certified and validated in order to help secure the global supply chain. However, the Committee strongly believes that expulsion from the program should only take place for “serious violations,” or other criminal activity. The publication of the names of companies that are suspended or expelled from the program in the Federal Register, as is CBP’s current practice, may have economic and reputational ramifications. The Committee strongly believes that CBP should not publish suspended participants until the 90-day process outlined in subsection (d) has been completed. As such, the Committee encourages CBP to be judicious in its use of the authority provided in this section.

Sec. 219. Validations By Other DHS Components.

This section allows other components of DHS to complete the validation site visits but gives CBP the authority to conduct its own validation site visit if deemed necessary. Other components of DHS are not permitted to conduct the certification vetting and background checks associated with an initial application to C-TPAT.

The Committee believes that other DHS components who conduct inspections based on a similar security regimes to C-TPAT should be leveraged to decrease the workload of CBP validation site visits if another component is already conducting a site visit inspection for a similar regulatory program. For example, the Committee believes that the Maritime Transportation Security Act (MTSA) facility inspection conducted by the United States Coast Guard could be sufficient to constitute a validation for C-TPAT participation as both a C-TPAT validation by CBP and a MTSA inspection conducted by the Coast Guard assess the security measures implemented by a facility.

Although the Committee intends this provision as a means to reduce duplicative inspections of the same facility, the Committee strongly believes that CBP retains the responsibility for conducting the initial background checks and vetting associated with C-TPAT certification. Moreover, CBP can and should continue to validate program participants, if for any reason, another inspection regime with the Department is not harmonized with the requirements of the C-TPAT program.

Sec. 220. Recertification and Revalidation.

This section establishes procedures for the recertification and revalidation of C-TPAT participants. Participants must be recertified annually by having their security profile reviewed by CBP and undergoing recurring background checks and vetting.

Participants must be revalidated every 4 years. Revalidation must include an onsite assessment at appropriate foreign and domestic locations in a participant’s international supply chain. These site visits should be prioritized by risk based factors such as volume of trade, origin, route, and commodity. The Commissioner must develop an annual plan for revalidation that includes an assessment of the number of CBP personnel needed to complete the re-

validations, performance measures, and the number of participants that will be revalidated during the following year.

Revalidations conducted by a foreign government under a Mutual Recognition Arrangement may satisfy the requirement for a CBP revalidation every 4 years.

The Committee believes that regular follow-up site visits are critical to ensuring that participants are implementing security measures correctly and that CBP must establish a viable plan to complete revalidations for thousands of participants with supply chain locations around the globe. Additionally, the Committee believes that CBP can reduce this workload by leveraging site visits conducted by foreign governments who are already partnering with the United States under comparable supply chain security programs.

Sec. 221. Noncontainerized Cargo and Third Party Logistics Providers.

This section directs the Commissioner to consider the participation of importers of noncontainerized cargo and non-asset-based third party logistic providers in C-TPAT.

The Committee believes that C-TPAT participation should be available to as many supply chain entities as possible, provided they can contribute to the security of the international supply chain and meet the requirements of the program. As such, the Committee intends for CBP to consider the participation of non-containerized cargo and non-asset based, third-party logistics providers as eligible entities if they demonstrate that they can make valuable contributions to the security of the international supply chain and comply with the requirements of this Act. The Committee expects such consideration will result in the addition of participants in these categories.

Sec. 222. Program Management.

This section directs the Commissioner to establish sufficient internal quality controls and records management for the C-TPAT program. The program must include:

- A 5-year plan to identify outcome-based goals and performance measures of the C-TPAT program;
- An annual plan for each Fiscal Year designed to match available resources to the projected workload;
- A standardized work program to be used by agency personnel to carry out the certifications, validations, recertifications, and revalidations of C-TPAT program participants;
- Additionally, the Commissioner must develop a staffing plan to recruit and train staff to meet the needs of the 5-year plan and provide cross-training in post-incident trade resumption for the C-TPAT director and other staff who administer the C-TPAT program;
- The Commissioner must report to the appropriate congressional Committees on the progress made to certify, validate, recertify, and revalidate participants. This report is due the same date the President submits the budget to Congress; and
- A standardized process for the EAC to receive reports of suspicious activity, to include reports of potentially com-

promised cargo or other national security concerns, as well as the requisite outreach and guidance to program participants and stakeholder on how to submit these types of reports.

The Committee believes that the management of the C-TPAT program is incredibly complex given the variety of international supply chain locations, entity types, and sheer number of participants. Given the national security ramifications of program mismanagement, CBP must have a viable plan to sustain the C-TPAT program and ensure its employees are well trained and that the security standards of the program are being upheld by participants in accordance with this Act. The Committee believes that the broad latitude given to CBP to manage the program must be accompanied by an appropriate level of congressional oversight.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT OF 2006

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

Sec. 101. Area Maritime Transportation Security Plan to include salvage response plan.

Sec. 102. Requirements relating to maritime facility security plans.

Sec. 103. Unannounced inspections of maritime facilities.

Sec. 104. Transportation security card.

Sec. 105. Study to identify redundant background records checks.

Sec. 106. Prohibition of issuance of transportation security cards to persons convicted of certain felonies.

Sec. 107. Long-range vessel tracking.

Sec. 108. Establishment of interagency operational centers for port security.

Sec. 109. Notice of arrival for foreign vessels on the Outer Continental Shelf.

Sec. 110. Enhanced crewmember identification.

Subtitle B—Port Security Grants; Training and Exercise Programs

Sec. 111. Risk assessment tool.

Sec. 112. Port security grants.

Sec. 113. Port Security Training Program.

Sec. 114. Port Security Exercise Program.

Sec. 115. Facility exercise requirements.

Subtitle C—Port Operations

Sec. 121. Domestic radiation detection and imaging.

Sec. 122. Inspection of car ferries entering from abroad.

Sec. 123. Random searches of containers.

- Sec. 124. Work stoppages and employee-employer disputes.
- Sec. 125. Threat assessment screening of port truck drivers.
- Sec. 126. Border Patrol unit for United States Virgin Islands.
- Sec. 127. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.
- Sec. 128. Center of Excellence for Maritime Domain Awareness.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A—General Provisions

- Sec. 201. Strategic plan to enhance the security of the international supply chain.
- Sec. 202. Post-incident resumption of trade.
- Sec. 203. Automated Targeting System.
- Sec. 204. Container security standards and procedures.
- Sec. 205. Container Security Initiative.

【Subtitle B—Customs-Trade Partnership Against Terrorism

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

Subtitle B—Customs-Trade Partnership Against Terrorism

- Sec. 211. Establishment of the Customs-Trade Partnership Against Terrorism program.*
- Sec. 212. Eligible entities and notice of benefits.*
- Sec. 213. Participation eligibility.*
- Sec. 214. Benefits for C-TPAT program participants.*
- Sec. 215. Tier 1 participants.*
- Sec. 216. Tier 2 participants.*
- Sec. 217. Tier 3 participants.*
- Sec. 218. Consequences for lack of compliance.*
- Sec. 219. Validations by other DHS components.*
- Sec. 220. Recertification and revalidation.*
- Sec. 221. Noncontainerized cargo and third party logistics providers.*
- Sec. 222. Program management.*

Subtitle C—Miscellaneous Provisions

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

TITLE III—ADMINISTRATION

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

TITLE IV—AGENCY RESOURCES AND OVERSIGHT

- Sec. 401. Trade and customs revenue functions of the department.
- Sec. 402. Office of international trade; oversight.
- Sec. 403. Resources.
- Sec. 404. Negotiations.
- Sec. 405. International Trade Data System.

- Sec. 406. In-bond cargo.
- Sec. 407. Sense of the Senate.

TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE

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

TITLE VI—COMMERCIAL MOBILE SERVICE ALERTS

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

TITLE VII—OTHER MATTERS

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

TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

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

* * * * *

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

* * * * *

[Subtitle B—Customs-Trade Partnership Against Terrorism

[SEC. 211. ESTABLISHMENT.

[(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, is authorized to establish a voluntary government-private sector program (to be known as the “Customs-Trade Partnership Against Terrorism” or “C-TPAT”) to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C-TPAT shall include Tier 1 participants, Tier 2 participants, and Tier 3 participants.

[(b) MINIMUM SECURITY REQUIREMENTS.—The Secretary, acting through the Commissioner, shall review the minimum security requirements of C-TPAT at least once every year and update such requirements as necessary.]

[SEC. 212. ELIGIBLE ENTITIES.]

[Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C-TPAT.]

[SEC. 213. MINIMUM REQUIREMENTS.]

[An applicant seeking to participate in C-TPAT shall—

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

[(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—

[(A) business partner requirements;

[(B) container security;

[(C) physical security and access controls;

[(D) personnel security;

[(E) procedural security;

[(F) security training and threat awareness; and

[(G) information technology security;

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

[(4) meet all other requirements established by the Commissioner, in consultation with the Commercial Operations Advisory Committee.]

[SEC. 214. TIER 1 PARTICIPANTS IN C-TPAT.]

[(a) BENEFITS.—The Secretary, acting through the Commissioner, shall offer limited benefits to a Tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high-risk threshold established by the Secretary.]

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

[(c) TIMEFRAME.—To the extent practicable, the Secretary, acting through the Commissioner, shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in C-TPAT.]

[SEC. 215. TIER 2 PARTICIPANTS IN C-TPAT.]

[(a) VALIDATION.—The Secretary, acting through the Commissioner, shall validate the security measures and supply chain security practices of a Tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-

site assessments at appropriate foreign locations utilized by the Tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a Tier 1 participant.

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

- [(1) reduced scores in the Automated Targeting System;
- [(2) reduced examinations of cargo; and
- [(3) priority searches of cargo.

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

[SEC. 216. TIER 3 PARTICIPANTS IN C-TPAT.]

[(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish a third tier of C-TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in C-TPAT under section 215.

[(b) CRITERIA.—The Secretary, acting through the Commissioner, shall designate criteria for validating a C-TPAT participant as a Tier 3 participant under this section. Such criteria may include—

- [(1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 215 of this Act for validating a C-TPAT participant as a Tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;
- [(2) submission of additional information regarding cargo prior to loading, as determined by the Secretary;
- [(3) utilization of container security devices, technologies, policies, or practices that meet standards and criteria established by the Secretary; and
- [(4) compliance with any other cargo requirements established by the Secretary.

[(c) BENEFITS.—The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C-TPAT participant that has been validated as a Tier 3 participant under this section, which may include—

- [(1) the expedited release of a Tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;
- [(2) further reduction in examinations of cargo;
- [(3) priority for examinations of cargo; and
- [(4) further reduction in the risk score assigned pursuant to the Automated Targeting System; and
- [(5) inclusion in joint incident management exercises, as appropriate.

[(d) DEADLINE.—Not later than 2 years after the date of the enactment of this Act, the Secretary, acting through the Commis-

sioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated Tier 3 participants pursuant to subsection (c).

[SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.

[(a) IN GENERAL.—If at any time a C-TPAT participant’s security measures and supply chain security practices fail to meet any of the requirements under this subtitle, the Commissioner may deny the participant benefits otherwise available under this subtitle, in whole or in part. The Commissioner shall develop procedures that provide appropriate protections to C-TPAT participants before benefits are revoked. Such procedures may not limit the ability of the Commissioner to take actions to protect the national security of the United States.

[(b) FALSE OR MISLEADING INFORMATION.—If a C-TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this subtitle, the Commissioner shall suspend or expel the participant from C-TPAT for an appropriate period of time. The Commissioner, after the completion of the process under subsection (c), may publish in the Federal Register a list of participants who have been suspended or expelled from C-TPAT pursuant to this subsection, and may make such list available to C-TPAT participants.

[(c) RIGHT OF APPEAL.—

[(1) IN GENERAL.—A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

[(2) APPEALS OF OTHER DECISIONS.—A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

[SEC. 218. THIRD PARTY VALIDATIONS.

[(a) PLAN.—The Secretary, acting through the Commissioner, shall develop a plan to implement a 1-year voluntary pilot program to test and assess the feasibility, costs, and benefits of using third party entities to conduct validations of C-TPAT participants.

[(b) CONSULTATIONS.—Not later than 120 days after the date of the enactment of this Act, after consulting with private sector stakeholders, including the Commercial Operations Advisory Committee, the Secretary shall submit a report to the appropriate congressional committees on the plan described in subsection (a).

[(c) PILOT PROGRAM.—

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

[(2) AUTHORITY OF THE SECRETARY.—The decision to validate a C-TPAT participant is solely within the discretion of the Secretary, or the Secretary’s designee.

[(d) CERTIFICATION OF THIRD PARTY ENTITIES.—The Secretary shall certify a third party entity to conduct validations under subsection (c) if the entity—

[(1) demonstrates to the satisfaction of the Secretary that the entity has the ability to perform validations in accordance with standard operating procedures and requirements designated by the Secretary; and

[(2) agrees—

[(A) to perform validations in accordance with such standard operating procedures and requirements (and updates to such procedures and requirements); and

[(B) to maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary; and

[(3) signs an agreement to protect all proprietary information of C-TPAT participants with respect to which the entity will conduct validations.

[(e) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A third party entity seeking a certificate under subsection (d) shall submit to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under this Act.

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

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

[(A) any beneficial interest in or any direct or indirect control over the C-TPAT participant for which the validation services are performed; or

[(B) any other conflict of interest with respect to the C-TPAT participant; and

[(2) the C-TPAT participant has entered into a contract with the third party entity under which the C-TPAT participant agrees to pay all costs associated with the validation.

[(g) MONITORING.—

[(1) IN GENERAL.—The Secretary shall regularly monitor and inspect the operations of a third party entity conducting validations under subsection (c) to ensure that the entity is meeting the minimum standard operating procedures and requirements for the validation of C-TPAT participants established by the Secretary and all other applicable requirements for validation services.

[(2) REVOCATION.—If the Secretary determines that a third party entity is not meeting the minimum standard operating procedures and requirements designated by the Secretary under subsection (d)(1), the Secretary shall—

[(A) revoke the entity's certificate of conformance issued under subsection (d)(1); and

[(B) review any validations conducted by the entity.

[(h) LIMITATION ON AUTHORITY.—The Secretary may only grant a C-TPAT validation by a third party entity pursuant to subsection (c) if the C-TPAT participant voluntarily submits to validation by such third party entity.

[(i) REPORT.—Not later than 30 days after the completion of the pilot program conducted pursuant to subsection (c), the Secretary

shall submit a report to the appropriate congressional committees that contains—

- [(1) the results of the pilot program, including the extent to which the pilot program ensured sufficient protection for proprietary commercial information;
- [(2) the cost and efficiency associated with validations under the pilot program;
- [(3) the impact of the pilot program on the rate of validations conducted under C-TPAT;
- [(4) any impact on national security of the pilot program; and
- [(5) any recommendations by the Secretary based upon the results of the pilot program.

[SEC. 219. REVALIDATION.

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

- [(1) a revalidation process for Tier 2 and Tier 3 participants;
- [(2) a framework based upon objective criteria for identifying participants for periodic revalidation not less frequently than once during each 4-year period following the initial validation; and
- [(3) an annual plan for revalidation that includes—
 - [(A) performance measures;
 - [(B) an assessment of the personnel needed to perform the revalidations; and
 - [(C) the number of participants that will be revalidated during the following year.

[SEC. 220. NONCONTAINERIZED CARGO.

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

[SEC. 221. C-TPAT PROGRAM MANAGEMENT.

[(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish sufficient internal quality controls and record management to support the management systems of C-TPAT. In managing the program, the Secretary shall ensure that the program includes:

- [(1) STRATEGIC PLAN.—A 5-year plan to identify outcome-based goals and performance measures of the program.
- [(2) ANNUAL PLAN.—An annual plan for each fiscal year designed to match available resources to the projected workload.
- [(3) STANDARDIZED WORK PROGRAM.—A standardized work program to be used by agency personnel to carry out the certifications, validations, and revalidations of participants. The Secretary shall keep records and monitor staff hours associated with the completion of each such review.

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

[(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Operations Advisory Committee, the Secretary, acting through the Commissioner, shall develop and imple-

ment procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, and revalidation processes.

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

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

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

[(e) REPORT TO CONGRESS.—In connection with the President's annual budget submission for the Department, the Secretary shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, and revalidate C-TPAT participants. Such report shall be due on the same date that the President's budget is submitted to the Congress.

[SEC. 222. ADDITIONAL PERSONNEL.

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

[SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

[(a) C-TPAT.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of sections 211 through 221 to remain available until expended—

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

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

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

[(b) ADDITIONAL PERSONNEL.—In addition to any amounts otherwise appropriated to the United States Customs and Border Protection, there are authorized to be appropriated for the purpose of meeting the staffing requirement provided for in section 222, to remain available until expended—

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

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

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

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

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

Subtitle B—Customs-Trade Partnership Against Terrorism

SEC. 211. ESTABLISHMENT OF THE CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM PROGRAM.

(a) *IN GENERAL.*—There is established within U.S. Customs and Border Protection a voluntary government-private sector partnership program to be known as the Customs-Trade Partnership Against Terrorism (C-TPAT).

(b) *PURPOSE.*—The purposes of the C-TPAT program are to—

(1) *strengthen and improve the overall security of the international supply chain and United States border security;*

(2) *facilitate the movement of secure cargo through the international supply chain;*

(3) *ensure compliance with applicable law; and*

(4) *serve as the Authorized Economic Operator program for the United States.*

(c) *DIRECTOR.*—*There shall be at the head of the C-TPAT program a Director, who shall report to the Executive Assistant Commissioner of the Office of Field Operations (in this subtitle referred to as the “Executive Assistant Commissioner”) of U.S. Customs and Border Protection.*

(d) *DUTIES.*—*The Director of the C-TPAT program shall—*

(1) *oversee the activities of the C-TPAT program, including certification of C-TPAT participants;*

(2) *evaluate and make revisions to security criteria pursuant to subsections (c) and (d) of section 213;*

(3) *ensure that participants receive a tangible and measurable benefit for participation; and*

(4) *carry out other duties and powers prescribed by the Executive Assistant Commissioner.*

SEC. 212. ELIGIBLE ENTITIES AND NOTICE OF BENEFITS.

(a) *ELIGIBLE ENTITIES.*—*Importers, exporters, customs brokers, forwarders, air, sea, and land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply for participation in the C-TPAT program.*

(b) *TIERED PARTICIPATION.*—

(1) *IN GENERAL.*—*Applicants may be eligible to participate as Tier 1 or Tier 2 participants.*

(2) *IMPORTERS.*—*Importers may be eligible to participate as Tier 3 participants.*

(3) *EXTENSION.*—*The Executive Assistant Commissioner may, in his or her discretion, extend Tier 3 participation to other entity types, if appropriate.*

(c) *NOTICE OF BENEFITS.*—

(1) *IN GENERAL.*—*The Commissioner of U.S. Customs and Border Protection shall publish, on the U.S. Customs and Border Protection website and through other appropriate online publication, information about benefits to C-TPAT program participants.*

(2) *CHANGES.*—*The Commissioner of U.S. Customs and Border Protection shall publish, on the U.S. Customs and Border Protection website and through other appropriate online publication, notice of any changes to benefits to C-TPAT program participants not later than 30 days before any such changes take effect.*

SEC. 213. PARTICIPATION ELIGIBILITY.

(a) *IN GENERAL.*—*The Executive Assistant Commissioner shall review all documentation submitted by an applicant pursuant to subsection (b)(2), conduct a background investigation of such applicant, and vet such applicant.*

(b) *GENERAL REQUIREMENTS.*—*To be eligible for participation in the C-TPAT program, an entity shall, at a minimum—*

(1) *have a designated company employee authorized to bind such entity that is a direct company employee and will serve as the primary point of contact responsible for participation of such entity in the C-TPAT program;*

(2) *at the time of initial application and annually thereafter, including in advance of any recertification or revalidation, submit an international supply chain security profile, which shall identify how such entity meets the minimum security criteria of the C-TPAT program established by the Commissioner of U.S. Customs and Border Protection and how such entity will maintain and enhance internal policies, procedures, and practices related to international supply chain security; and*

(3) *meet any specific requirements for eligible entities, as established by the Commissioner.*

(c) **MINIMUM SECURITY CRITERIA.**—*The Commissioner of U.S. Customs and Border Protection shall establish minimum security criteria for participants in the C-TPAT program, review such minimum security criteria not less than once every two years, and update such minimum security criteria as necessary. Such minimum security criteria shall seek to address security vulnerabilities in the international supply chain.*

(d) **ADDITIONAL AND UPDATED CRITERIA.**—*The Commissioner of U.S. Customs and Border Protection may establish additional and updated security criteria for individual C-TPAT program participants, categories of C-TPAT program participants, or particular entity types to meet in order to address a security vulnerability in the international supply chain.*

(e) **CONSULTATION.**—*When establishing or updating security criteria in accordance with subsection (c), and when establishing additional or updated security criteria in accordance subsection (d), the Commissioner of U.S. Customs and Border Protection shall consult with C-TPAT program participants and other interested parties, and shall—*

(1) *conduct a cost benefit analysis of such proposed new, additional, or updated security criteria in consultation with the Commercial Customs Operations Advisory Committee established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316);*

(2) *determine operational feasibility and, where appropriate, conduct a phased implementation of such proposed additional or updated security criteria; and*

(3) *provide C-TPAT program participants and other interested parties a 90-day comment period to review and comment on such proposed additional or updated security criteria.*

(f) **WAIVER.**—*The Commissioner of U.S. Customs and Border Protection may waive the requirements of subsection (e) if the Commissioner determines there is a significant and imminent risk to the national security of the United States and such a waiver is necessary to protect such national security. Not later than 120 days after the issuance of any such waiver, the Commissioner shall announce on the U.S. Customs and Border Protection website and through other appropriate online publication the Commissioner's intent to either withdraw such waiver or maintain such waiver while commencing efforts to establish minimum security criteria or establish additional*

or update existing security criteria in accordance with subsection (c) or (d), respectively.

SEC. 214. BENEFITS FOR C-TPAT PROGRAM PARTICIPANTS.

(a) *IN GENERAL.*—The Executive Assistant Commissioner shall extend certain benefits to each C-TPAT program participant. Minimum benefits for each such participant shall include the following:

(1) Assignment of a U.S. Customs and Border Protection Supply Chain Security Specialist.

(2) Access to the C-TPAT program's web-based Portal system and training materials.

(3) A periodic and unclassified update on regional and other relevant threats to the international supply chain.

(b) *PUBLIC AVAILABILITY.*—The Executive Assistant Commissioner shall make publicly available on the C-TPAT portal an annual assessment of the tangible benefits being realized by C-TPAT program participants.

(c) *ANNUAL ASSESSMENT.*—The Executive Assistant Commissioner shall conduct, on an annual basis, an assessment of the benefits conferred to C-TPAT program participants. The Executive Assistant Commissioner shall determine a process to carry out such assessments, to include projected milestones and completion dates for addressing data reliability issues and, as necessary, correcting data weaknesses, so that U.S. Customs and Border Protection can produce accurate and reliable annual assessments that can be compared year-to-year.

SEC. 215. TIER 1 PARTICIPANTS.

(a) *CERTIFICATION.*—The Executive Assistant Commissioner shall certify the security measures and international supply chain security practices of all applicants to and participants in the C-TPAT program in accordance with section 213(b)(2) and the guidelines referred to in subsection (c) of this section. Certified participants shall be Tier 1 participants.

(b) *BENEFITS FOR TIER 1 PARTICIPANTS.*—Upon completion of the certification under subsection (a), a C-TPAT program participant shall be certified as a Tier 1 participant. The Executive Assistant Commissioner shall extend limited benefits to a Tier 1 participant.

(c) *GUIDELINES.*—Not later than 180 days after the date of the enactment of this subtitle, the Commissioner of U.S. Customs and Border Protection shall update the guidelines and criteria for certifying a C-TPAT program participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and review of appropriate documentation, as determined by the Commissioner.

(d) *TIMEFRAME.*—To the extent practicable, the Executive Assistant Commissioner shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in the C-TPAT program.

SEC. 216. TIER 2 PARTICIPANTS.

(a) *VALIDATION.*—The Executive Assistant Commissioner shall validate the security measures and international supply chain security practices of a Tier 1 C-TPAT program participant in accordance with the guidelines referred to in subsection (c) to validate such participant as a Tier 2 participant. Such validation shall include on-site assessments at appropriate foreign and domestic loca-

tions utilized by such Tier 1 participant in its international supply chain.

(b) **BENEFITS FOR TIER 2 PARTICIPANTS.**—*The Executive Assistant Commissioner, shall extend benefits to each C-TPAT participant that has been validated as a Tier 2 participant under this section. Such benefits may include the following:*

(1) *Reduced scores in U.S. Customs and Border Protection's Automated Targeting System.*

(2) *Reduced number of security examinations by U.S. Customs and Border Protection.*

(3) *Priority examinations of cargo.*

(4) *Access to the Free and Secure Trade (FAST) Lanes at United States ports of entry.*

(5) *Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with U.S. Customs and Border Protection.*

(6) *In the case of importers, eligibility to participate in the Importer Self-Assessment Program (ISA) or successor compliance program.*

(c) **GUIDELINES.**—*Not later than 180 days after the date of the enactment of this subtitle, the Commissioner shall develop a schedule and update the guidelines and criteria for validating a C-TPAT participant's security measures and supply chain security practices under this section.*

(d) **TIMEFRAME.**—*To the extent practicable, the Executive Assistant Commissioner shall complete the Tier 2 validation process for a C-TPAT program participant under this section within one year after certification of such participant as a Tier 1 participant.*

SEC. 217. TIER 3 PARTICIPANTS.

(a) **IN GENERAL.**—*The Commissioner shall establish a third tier of C-TPAT program participation that offers additional benefits to C-TPAT program participants that are importers or other entity types, in accordance with section 212(b), that demonstrate a sustained commitment to maintaining security measures and international supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in the C-TPAT program under section 216.*

(b) **BEST PRACTICES.**—*The Executive Assistant Commissioner may designate a Tier 2 C-TPAT program participant as a Tier 3 participant based on a review of best practices in such participant's international supply chain that reflect a continued approach to enhanced international supply chain security, including—*

(1) *compliance with any additional or updated criteria established by the Commissioner of U.S. Customs and Border Protection under section 213(d) that exceed the guidelines established pursuant to section 216 for validating a C-TPAT program participant as a Tier 2 participant; and*

(2) *any other factors that the Executive Assistant Commissioner determines appropriate.*

(c) **BENEFITS FOR TIER 3 PARTICIPANTS.**—*The Executive Assistant Commissioner, in consultation with the Commercial Customs Operations Advisory Committee established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316) and the National Maritime Security Advisory Committee established under section 70112 of title 46, United*

States Code, shall extend benefits to each C-TPAT program participant that has been validated as a Tier 3 participant under this section, which may include the following:

- (1) Further reduction in the number of examinations by U.S. Customs and Border Protection.*
- (2) Front of the line inspections and examinations.*
- (3) Exemption from Stratified Exams.*
- (4) Shorter wait times at United States ports of entry.*
- (5) Access to the Free and Secure Trade (FAST) Lanes at United States ports of entry.*
- (6) Recognition as a trusted trade partner by foreign customs administrations that have signed Mutual Recognition Arrangements with U.S. Customs and Border Protection.*
- (7) In the case of importers, eligibility to participate in the Importer Self-Assessment Program (ISA) or successor compliance program.*

SEC. 218. CONSEQUENCES FOR LACK OF COMPLIANCE.

(a) IN GENERAL.—If at any time the Executive Assistant Commissioner determines that a C-TPAT program participant's security measures or international supply chain security practices fail to meet applicable requirements under this subtitle, the Executive Assistant Commissioner may deny such participant benefits otherwise made available pursuant to this subtitle, either in whole or in part. The Executive Assistant Commissioner shall develop procedures, in consultation with Commercial Customs Operations Advisory Committee, established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114-125; 19 U.S.C. 4316), that provide appropriate protections to C-TPAT program participants, including advance notice and an opportunity for such participants to provide additional information to U.S. Customs and Border Protection regarding any such alleged failure, before any of such benefits are withheld. Such procedures may not limit the ability of the Executive Assistant Commissioner to take actions to protect the national security of the United States.

(b) FALSE OR MISLEADING INFORMATION; LACK OF COMPLIANCE WITH LAW.—If a C-TPAT program participant knowingly provides false or misleading information to the Commissioner of U.S. Customs and Border Protection, the Executive Assistant Commissioner, or any other officers or officials of the United States Government, or if at any time the Executive Assistant Commissioner determines that a C-TPAT program participant has committed a serious violation of Federal law or customs regulations, or if a C-TPAT program participant has committed a criminal violation relating to the economic activity of such participant, the Executive Assistant Commissioner may suspend or expel such participant from the C-TPAT program for an appropriate period of time. The Executive Assistant Commissioner, after the completion of the process described in subsection (d), may publish in the Federal Register a list of C-TPAT program participants that have been so suspended or expelled from the C-TPAT program pursuant to this subsection.

(c) NATIONAL SECURITY.—If at any time the Executive Assistant Commissioner determines that a C-TPAT program participant poses a significant and imminent risk to the national security of the United States or has committed a serious violation of Federal law or customs regulations, or if a C-TPAT program participant has

committed a criminal violation relating to the economic activity of such participant, the Executive Assistant Commissioner may suspend or expel such participant from the C-TPAT program for an appropriate period of time. The Executive Assistant Commissioner, after the completion of the process described in subsection (d), may publish in the Federal Register a list of C-TPAT program participants that have been so suspended or expelled from the C-TPAT program pursuant to this subsection.

(d) RIGHT OF APPEAL.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall establish a process for a C-TPAT program participant to appeal a decision of the Executive Assistant Commissioner under subsection (a). Such appeal shall be filed with the Commissioner not later than 90 days after the date of such decision, and the Commissioner shall issue a determination not later than 90 days after such appeal is filed.

(2) APPEALS OF OTHER DECISIONS.—The Commissioner of U.S. Customs and Border Protection shall establish a process for a C-TPAT program participant to appeal a decision of the Executive Assistant Commissioner under subsections (b) and (c). Such appeal shall be filed with the Commissioner not later than 30 days after the date of such decision, and the Commissioner shall issue a determination not later than 90 days after such appeal is filed.

SEC. 219. VALIDATIONS BY OTHER DHS COMPONENTS.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection may recognize regulatory inspections conducted by other components of the Department of Homeland Security of entities as sufficient to constitute validation for C-TPAT program participation in cases in which any such component's inspection regime is harmonized with validation criteria for the C-TPAT program. Such regulatory inspections shall not limit the ability of U.S. Customs and Border Protection to conduct a C-TPAT program validation.

(b) REVALIDATION.—Nothing in this section may limit the Commissioner of U.S. Customs and Border Protection's ability to require a revalidation by U.S. Customs and Border Protection.

(c) CERTIFICATION.—Nothing in this section may be construed to authorize certifications of C-TPAT applicants to be performed by any party other than U.S. Customs and Border Protection.

SEC. 220. RECERTIFICATION AND REVALIDATION.

(a) RECERTIFICATION.—The Commissioner of U.S. Customs and Border Protection shall implement a recertification process for all C-TPAT program participants. Such process shall occur annually, and shall require—

(1) a review of the security profile and supporting documentation to ensure adherence to the minimum security criteria under section 213; and

(2) background checks and vetting.

(b) REVALIDATION.—The Commissioner of U.S. Customs and Border Protection shall implement a revalidation process for all Tier 2 and Tier 3 C-TPAT program participants. Such process shall require—

(1) a framework based upon objective, risk based criteria for identifying participants for periodic revalidation at least once

every four years following the initial validation of such participants;

(2) on-site assessments at appropriate foreign and domestic locations utilized by such a participant in its international supply chain; and

(3) an annual plan for revalidation that includes—

(A) performance measures;

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

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

(c) **REVALIDATION UNDER A MUTUAL RECOGNITION ARRANGEMENT.**—

(1) **IN GENERAL.**—Upon request from the Commissioner of U.S. Customs and Border Protection, all Tier 2 and Tier 3 C-TPAT program participants shall provide any revalidation report conducted by a foreign government under a Mutual Recognition Arrangement.

(2) **RECOGNITION.**—The Commissioner of U.S. Customs and Border Protection may recognize revalidations of entities conducted by foreign governments under a Mutual Recognition Arrangement as sufficient to constitute a revalidation for C-TPAT program participation under subsection (b).

(3) **NO LIMITATION.**—Nothing in this subsection may be construed to limit the Commissioner of U.S. Customs and Border Protection's ability to require a revalidation by U.S. Customs and Border Protection.

(d) **DESIGNATED COMPANY EMPLOYEES.**—Only designated company employees of a C-TPAT program participant under section 213(b)(1) are authorized to respond to a revalidation report. Third-party entities are not authorized to respond to a revalidation report.

SEC. 221. NONCONTAINERIZED CARGO AND THIRD PARTY LOGISTICS PROVIDERS.

The Commissioner of U.S. Customs and Border Protection shall consider the potential for participation in the C-TPAT program by importers of noncontainerized cargoes and non-asset-based third party logistics providers that otherwise meet the requirements under this subtitle.

SEC. 222. PROGRAM MANAGEMENT.

(a) **IN GENERAL.**—The Commissioner of U.S. Customs and Border Protection shall establish sufficient internal quality controls and record management, including recordkeeping (including maintenance of a record management system in accordance with subsection (b)) and monitoring staff hours, to support the management systems of the C-TPAT program. In managing the C-TPAT program, the Commissioner shall ensure that the C-TPAT program includes the following:

(1) A 5-year plan to identify outcome-based goals and performance measures of the C-TPAT program.

(2) An annual plan for each fiscal year designed to match available resources to the projected workload.

(3) A standardized work program to be used by agency personnel to carry out the certifications, validations, recertifications, and revalidations of C-TPAT program participants.

(4) *In accordance with subsection (e), a standardized process for the Executive Assistant Commissioner to receive reports of suspicious activity, including reports regarding potentially compromised cargo or other border or national security concerns.*

(b) DOCUMENTATION OF REVIEWS.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall maintain a record management system to document determinations on the reviews of each C-TPAT program participant, including certifications, validations, recertifications, and revalidations.

(2) STANDARDIZED PROCEDURES.—To ensure accuracy and consistency within the record management system required under this subsection, the Commissioner shall develop, disseminate, and require utilization of standardized procedures for agency personnel carrying out certifications, validations, recertifications, and revalidations to report and track information regarding the status of each C-TPAT program participant.

(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Customs Operations Advisory Committee established under section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125; 19 U.S.C. 4316), the Commissioner of U.S. Customs and Border Protection shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, recertification, and revalidation processes.

(d) RESOURCE MANAGEMENT STAFFING PLAN.—The Commissioner of U.S. Customs and Border Protection shall—

(1) develop a staffing plan to recruit and train staff (including a formalized training program) to meet the objectives identified in the 5-year strategic plan under subsection (a)(1); and

(2) provide cross-training in post incident trade resumption for the C-TPAT Director and other relevant personnel who administer the C-TPAT program.

(e) ENGAGEMENT.—In carrying out the standardized process required under subsection (a)(4), the Commissioner shall engage with and provide guidance to C-TPAT program participants and other appropriate stakeholders on submitting reports described in such subsection.

(f) REPORT TO CONGRESS.—In connection with the President’s annual budget submission for the Department of Homeland Security, the Commissioner of U.S. Customs and Border Protection shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, recertify, and revalidate C-TPAT program participants. Each such report shall be due on the same date that the President’s budget is submitted to Congress.

* * * * *