

115TH CONGRESS
1ST SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Ms. MCSALLY (for herself, Mr. REICHERT, Mr. McCAUL, Mr. KING of New York, Mr. HURD, and Mr. GARRETT) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**
4 **RORISM.**

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

1 **“Subtitle B—Customs-Trade**
2 **Partnership Against Terrorism**

3 **“SEC. 211. ESTABLISHMENT OF THE CUSTOMS-TRADE**
4 **PARTNERSHIP AGAINST TERRORISM PRO-**
5 **GRAM.**

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

11 “(b) PURPOSE.—The purposes of the C-TPAT pro-
12 gram are to—

13 “(1) strengthen and improve the overall secu-
14 rity of the international supply chain and United
15 States border security;

16 “(2) facilitate the movement of secure cargo
17 through the international supply chain;

18 “(3) ensure compliance with applicable law; and

19 “(4) serve as the Authorized Economic Oper-
20 ator program for the United States.

21 “(c) DIRECTOR.—There shall be at the head of the
22 C-TPAT program a Director, who shall report to the Ex-
23 ecutive Assistant Commissioner of the Office of Field Op-
24 erations (in this subtitle referred to as the ‘Executive As-

1 sistant Commissioner’) of U.S. Customs and Border Pro-
2 tection.

3 “(d) DUTIES.—The Director of the C-TPAT pro-
4 gram shall—

5 “(1) oversee the activities of the C-TPAT pro-
6 gram, including certification of C-TPAT partici-
7 pants;

8 “(2) evaluate and make revisions to security
9 criteria pursuant to subsections (c) and (d) of sec-
10 tion 213;

11 “(3) ensure that participants receive a tangible
12 and measurable benefit for participation; and

13 “(4) carry out other duties and powers pre-
14 scribed by the Executive Assistant Commissioner.

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

16 “(a) ELIGIBLE ENTITIES.—Importers, exporters,
17 customs brokers, forwarders, air, sea, and land carriers,
18 contract logistics providers, and other entities in the inter-
19 national supply chain and intermodal transportation sys-
20 tem are eligible to apply for participation in the C-TPAT
21 program.

22 “(b) TIERED PARTICIPATION.—

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

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

3 “(3) EXTENSION.—The Executive Assistant
4 Commissioner may, in his or her discretion, extend
5 Tier 3 participation to other entity types, if appro-
6 priate.

7 “(c) NOTICE OF BENEFITS.—

8 “(1) IN GENERAL.—The Commissioner of U.S.
9 Customs and Border Protection shall publish, on the
10 U.S. Customs and Border Protection website or
11 through other appropriate online publication, infor-
12 mation about benefits to C-TPAT program partici-
13 pants.

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

21 **“SEC. 213. PARTICIPATION ELIGIBILITY.**

22 “(a) IN GENERAL.—The Executive Assistant Com-
23 missioner shall review all documentation submitted by an
24 applicant pursuant to subsection (b)(2), conduct a back-

1 ground investigation of such applicant, and vet such appli-
2 cant.

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

6 “(1) have a designated company employee au-
7 thorized to bind such entity that will serve as the
8 primary cargo security officer responsible for partici-
9 pation of such entity in the C-TPAT program;

10 “(2) at the time of initial application and annu-
11 ally thereafter, including in advance of any recertifi-
12 cation or revalidation, submit an international sup-
13 ply chain security profile, which shall identify how
14 such entity meets the minimum security criteria of
15 the C-TPAT program established by the Commis-
16 sioner of U.S. Customs and Border Protection and
17 how such entity will maintain and enhance internal
18 policies, procedures, and practices related to inter-
19 national supply chain security; and

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

22 “(c) MINIMUM SECURITY CRITERIA.—The Commis-
23 sioner of U.S. Customs and Border Protection shall estab-
24 lish minimum security criteria for participants in the C-
25 TPAT program, review such minimum security criteria

1 not less than once each year, and update such minimum
2 security criteria as necessary. Such minimum security cri-
3 teria shall seek to address security vulnerabilities in the
4 international supply chain.

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

12 “(e) CONSULTATION.—When establishing or updat-
13 ing security criteria in accordance with subsection (c), and
14 when establishing additional or updated security criteria
15 in accordance subsection (d), the Commissioner of U.S.
16 Customs and Border Protection shall consult with C-
17 TPAT program participants and other interested parties,
18 and shall—

19 “(1) conduct a cost benefit analysis of such pro-
20 posed new, additional, or updated security criteria in
21 consultation with the Commercial Customs Oper-
22 ations Advisory Committee established under section
23 109 of the Trade Facilitation and Trade Enforce-
24 ment Act of 2015 (Public Law 114–125; 19 U.S.C.
25 4316);

1 “(3) A periodic and unclassified update on
2 threats to the international supply chain.

3 “(b) PUBLIC AVAILABILITY.—The Executive Assist-
4 ant Commissioner shall make publicly available on the C-
5 TPAT portal an annual assessment of the tangible bene-
6 fits being realized by C-TPAT program participants.

7 **“SEC. 215. TIER 1 PARTICIPANTS.**

8 “(a) CERTIFICATION.—The Executive Assistant
9 Commissioner shall certify the security measures and
10 international supply chain security practices of all appli-
11 cants to and participants in the C-TPAT program in ac-
12 cordance with section 213(b)(2) and the guidelines re-
13 ferred to in subsection (c) of this section. Certified partici-
14 pants shall be Tier 1 participants.

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

20 “(c) GUIDELINES.—Not later than 180 days after the
21 date of the enactment of this subtitle, the Commissioner
22 of U.S. Customs and Border Protection shall update the
23 guidelines and criteria for certifying a C-TPAT program
24 participant’s security measures and supply chain security
25 practices under this section. Such guidelines shall include

1 a background investigation and review of appropriate doc-
2 umentation, as determined by the Commissioner.

3 “(d) TIMEFRAME.—To the extent practicable, the
4 Executive Assistant Commissioner shall complete the Tier
5 1 certification process within 90 days of receipt of an ap-
6 plication for participation in the C-TPAT program.

7 **“SEC. 216. TIER 2 PARTICIPANTS.**

8 “(a) VALIDATION.—The Executive Assistant Com-
9 missioner shall validate the security measures and inter-
10 national supply chain security practices of a Tier 1 C-
11 TPAT program participant in accordance with the guide-
12 lines referred to in subsection (c) to validate such partici-
13 pant as a Tier 2 participant. Such validation shall include
14 on-site assessments at appropriate foreign and domestic
15 locations utilized by such Tier 1 participant in its inter-
16 national supply chain.

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

22 “(1) Reduced scores in U.S. Customs and Bor-
23 der Protection’s Automated Targeting System.

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

1 “(3) Priority examinations of cargo.

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

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

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

14 “(d) TIMEFRAME.—To the extent practicable, the
15 Executive Assistant Commissioner shall complete the Tier
16 2 validation process for a C-TPAT program participant
17 under this section within one year after certification of
18 such participant as a Tier 1 participant.

19 **“SEC. 217. TIER 3 PARTICIPANTS.**

20 “(a) IN GENERAL.—The Commissioner shall estab-
21 lish a third tier of C-TPAT program participation that
22 offers additional benefits to C-TPAT program partici-
23 pants that are importers or other entity types, in accord-
24 ance with section 212(b), that demonstrate a sustained
25 commitment to maintaining security measures and inter-

1 national supply chain security practices that exceed the
2 guidelines established for validation as a Tier 2 partici-
3 pant in the C-TPAT program under section 216.

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

10 “(1) compliance with any additional or updated
11 criteria established by the Commissioner of U.S.
12 Customs and Border Protection under section
13 213(d) that exceed the guidelines established pursu-
14 ant to section 216 for validating a C-TPAT pro-
15 gram participant as a Tier 2 participant; and

16 “(2) any other factors that the Executive As-
17 sistant Commissioner determines appropriate.

18 “(c) BENEFITS FOR TIER 3 PARTICIPANTS.—The
19 Executive Assistant Commissioner, in consultation with
20 the Commercial Customs Operations Advisory Committee
21 established under section 109 of the Trade Facilitation
22 and Trade Enforcement Act of 2015 (Public Law 114–
23 125; 19 U.S.C. 4316) and the National Maritime Security
24 Advisory Committee established under section 70112 of
25 title 46, United States Code, shall extend benefits to each

1 C-TPAT program participant that has been validated as
2 a Tier 3 participant under this section, which may include
3 the following:

4 “(1) Further reduction in the number of exami-
5 nations by U.S. Customs and Border Protection.

6 “(2) Front of the line inspections and examina-
7 tions.

8 “(3) Exemption from Stratified Exams.

9 “(4) Shorter wait times at United States ports
10 of entry.

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

13 “(6) Recognition as a trusted trade partner by
14 foreign customs administrations that have signed
15 Mutual Recognition Agreements with U.S. Customs
16 and Border Protection.

17 “(7) In the case of importers, eligibility to par-
18 ticipate in the Importer Self-Assessment Program
19 (ISA).

20 **“SEC. 218. CONSEQUENCES FOR LACK OF COMPLIANCE.**

21 “(a) IN GENERAL.—If at any time the Executive As-
22 sistant Commissioner determines that a C-TPAT pro-
23 gram participant’s security measures or international sup-
24 ply chain security practices fail to meet any of the require-
25 ments under this subtitle, the Executive Assistant Com-

1 missioner may deny such participant benefits otherwise
2 made available pursuant to this subtitle, either in whole
3 or in part. The Executive Assistant Commissioner shall
4 develop procedures, in consultation with Commercial Cus-
5 toms Operations Advisory Committee, established under
6 section 109 of the Trade Facilitation and Trade Enforce-
7 ment Act of 2015 (Public Law 114–125; 19 U.S.C. 4316),
8 that provide appropriate protections to C–TPAT program
9 participants, including advance notice and an opportunity
10 for such participants to provide additional information to
11 U.S. Customs and Border Protection regarding any such
12 alleged failure, before any of such benefits are revoked.
13 Such procedures may not limit the ability of the Executive
14 Assistant Commissioner to take actions to protect the na-
15 tional security of the United States.

16 “(b) FALSE OR MISLEADING INFORMATION; LACK OF
17 COMPLIANCE WITH LAW.—If a C–TPAT program partici-
18 pant knowingly provides false or misleading information
19 to the Commissioner of U.S. Customs and Border Protec-
20 tion, the Executive Assistant Commissioner, or any other
21 officers or officials of the United States Government, or
22 if at any time the Executive Assistant Commissioner de-
23 termines that a C–TPAT program participant has com-
24 mitted a serious violation of Federal law or customs regu-
25 lations, or if a C–TPAT program participant has com-

1 mitted a criminal violation relating to the economic activ-
2 ity of such participant, the Executive Assistant Commis-
3 sioner may suspend or expel such participant from the C-
4 TPAT program for an appropriate period of time. The Ex-
5 ecutive Assistant Commissioner, after the completion of
6 the process described in subsection (d), may publish in the
7 Federal Register a list of C-TPAT program participants
8 that have been so suspended or expelled from the C-TPAT
9 program pursuant to this subsection.

10 “(c) NATIONAL SECURITY.—If at any time the Exec-
11 utive Assistant Commissioner determines that a C-TPAT
12 program participant poses a significant and imminent risk
13 to the national security of the United States or has com-
14 mitted a serious violation of Federal law or customs regu-
15 lations, or if a C-TPAT program participant has com-
16 mitted a criminal violation relating to the economic activ-
17 ity of such participant, the Executive Assistant Commis-
18 sioner may suspend or expel such participant from the C-
19 TPAT program for an appropriate period of time. The Ex-
20 ecutive Assistant Commissioner, after the completion of
21 the process described in subsection (d), may publish in the
22 Federal Register a list of C-TPAT program participants
23 that have been so suspended or expelled from the C-TPAT
24 program pursuant to this subsection.

25 “(d) RIGHT OF APPEAL.—

1 “(1) IN GENERAL.—The Commissioner of U.S.
2 Customs and Border Protection shall establish a
3 process for a C-TPAT program participant to ap-
4 peal a decision of the Executive Assistant Commis-
5 sioner under subsection (a). Such appeal shall be
6 filed with the Commissioner not later than 90 days
7 after the date of such decision, and the Commis-
8 sioner shall issue a determination not later than 90
9 days after such appeal is filed.

10 “(2) APPEALS OF OTHER DECISIONS.—The
11 Commissioner of U.S. Customs and Border Protec-
12 tion shall establish a process for a C-TPAT pro-
13 gram participant to appeal a decision of the Execu-
14 tive Assistant Commissioner under subsections (b)
15 and (c). Such appeal shall be filed with the Commis-
16 sioner not later than 30 days after the date of such
17 decision, and the Commissioner shall issue a deter-
18 mination not later than 90 days after such appeal is
19 filed.

20 **“SEC. 219. VALIDATIONS BY OTHER DHS COMPONENTS.**

21 “(a) IN GENERAL.—The Commissioner of U.S. Cus-
22 toms and Border Protection may recognize regulatory in-
23 spections conducted by other components of the Depart-
24 ment of Homeland Security of entities as sufficient to con-
25 stitute validation for C-TPAT program participation.

1 Such regulatory inspections shall not limit the ability of
2 U.S. Customs and Border Protection to conduct a C-
3 TPAT program validation.

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

8 “(c) CERTIFICATION.—Nothing in this section may
9 be construed to authorize certifications of C-TPAT appli-
10 cants to be performed by any party other than U.S. Cus-
11 toms and Border Protection.

12 **“SEC. 220. RECERTIFICATION AND REVALIDATION.**

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

17 “(1) a review of the security profile and sup-
18 porting documentation to ensure adherence to the
19 minimum security criteria under section 213; and

20 “(2) background checks and vetting.

21 “(b) REVALIDATION.—The Commissioner of U.S.
22 Customs and Border Protection shall implement a re-
23 validation process for all Tier 2 and Tier 3 C-TPAT pro-
24 gram participants. Such process shall require—

1 “(1) a framework based upon objective, risk
2 based criteria for identifying participants for peri-
3 odic revalidation at least once every four years fol-
4 lowing the initial validation of such participants;

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

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

10 “(A) performance measures;

11 “(B) an assessment of the personnel need-
12 ed to perform such revalidations; and

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

15 “(c) REVALIDATION UNDER A MUTUAL RECOGNI-
16 TION AGREEMENT.—

17 “(1) IN GENERAL.—Upon request from the
18 Commissioner of U.S. Customs and Border Protec-
19 tion, all Tier 2 and Tier 3 C-TPAT program par-
20 ticipants shall provide any revalidation report con-
21 ducted by a foreign government under a Mutual
22 Recognition Agreement.

23 “(2) RECOGNITION.—The Commissioner of
24 U.S. Customs and Border Protection may recognize
25 revalidations of entities conducted by foreign govern-

1 ments under a Mutual Recognition Agreement as
2 sufficient to constitute a revalidation for C-TPAT
3 program participation under subsection (b).

4 “(3) NO LIMITATION.—Nothing in this sub-
5 section may be construed to limit the Commissioner
6 of U.S. Customs and Border Protection’s ability to
7 require a revalidation by U.S. Customs and Border
8 Protection.

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

14 **“SEC. 221. NONCONTAINERIZED CARGO.**

15 “The Commissioner of U.S. Customs and Border
16 Protection shall consider the potential for participation in
17 the C-TPAT program by importers of noncontainerized
18 cargoes that otherwise meet the requirements under this
19 subtitle.

20 **“SEC. 222. PROGRAM MANAGEMENT.**

21 “(a) IN GENERAL.—The Commissioner of U.S. Cus-
22 toms and Border Protection shall establish sufficient in-
23 ternal quality controls and record management, including
24 recordkeeping (including maintenance of a record manage-
25 ment system in accordance with subsection (b)) and moni-

1 toring staff hours, to support the management systems of
2 the C-TPAT program. In managing the C-TPAT pro-
3 gram, the Commissioner shall ensure that the C-TPAT
4 program includes the following:

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

8 “(2) An annual plan for each fiscal year de-
9 signed to match available resources to the projected
10 workload.

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

15 “(b) DOCUMENTATION OF REVIEWS.—The Commis-
16 sioner of U.S. Customs and Border Protection shall main-
17 tain a record management system to document determina-
18 tions on the reviews of each C-TPAT program partici-
19 pant, including certifications, validations, recertifications,
20 and revalidations.

21 “(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—
22 In consultation with the Commercial Customs Operations
23 Advisory Committee established under section 109 of the
24 Trade Facilitation and Trade Enforcement Act of 2015
25 (Public Law 114–125; 19 U.S.C. 4316), the Commis-

1 sioner of U.S. Customs and Border Protection shall de-
2 velop and implement procedures to ensure the protection
3 of confidential data collected, stored, or shared with gov-
4 ernment agencies or as part of the application, certifi-
5 cation, validation, recertification, and revalidation proc-
6 esses.

7 “(d) RESOURCE MANAGEMENT STAFFING PLAN.—
8 The Commissioner of U.S. Customs and Border Protec-
9 tion shall—

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

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

18 “(e) REPORT TO CONGRESS.—In connection with the
19 President’s annual budget submission for the Department
20 of Homeland Security, the Commissioner of U.S. Customs
21 and Border Protection shall report to the appropriate con-
22 gressional committees on the progress made by the Com-
23 missioner to certify, validate, recertify, and revalidate C-
24 TPAT program participants. Each such report shall be

1 due on the same date that the President’s budget is sub-
2 mitted to Congress.”.

3 (b) SAVING CLAUSE.—

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

9 (2) EXCEPTION.—Paragraph (1) shall not
10 apply in case of C-TPAT program participants who
11 are such participants as of the date specified in such
12 paragraph. Such participants shall be subject to the
13 amendments made by this Act upon revalidation of
14 such participants to participate in such program.
15 Until such time, such participants shall be subject to
16 the requirements of the C-TPAT program as in ex-
17 istence on the day before the date of the enactment
18 of this Act.

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

“Subtitle B—Customs-Trade Partnership Against Terrorism

“Sec. 211. Establishment of the Customs and Trade Partnership Against Ter-
rorism 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.
- “Sec. 222. Program management.”.

