

# Report for Congress

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## **Maritime and Port Security: A Comparison of Major Provisions of S. 1214 and H.R. 3983**

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# Maritime and Port Security: A Comparison of Major Provisions of S. 1214 and H.R. 3983

## Summary

Congress is considering legislation to enhance security at U.S. seaports. The September 11 terrorist attack has raised concerns that a sea container could be used to transport a weapon of mass destruction. An interagency commission on crime and security at U.S. ports found that with a few exceptions, the level of security at U.S. ports was poor to fair. This report compares major provisions in S. 1214, which passed the Senate with an amendment, and H.R. 3983, which passed the House as amended. Five areas of the legislation are examined: federal funding, plans and programs for coordinating security, efforts to enhance foreign seaport security, cargo security provisions, and restrictions on access to certain areas within a port.

Although both bills cover many of the same issues, there are differences in emphasis. These differences may be largely explained by the timing of the bills. S. 1214 was introduced before September 11, while H.R. 3983 was introduced six months after that date. H.R. 3983 is most concerned with deterring and minimizing damage from a possible terrorist act. S. 1214 is concerned with deterring terrorism, but also with reducing drug smuggling, cargo theft, trade fraud, and illegal alien smuggling. S. 1214 was introduced before the establishment of the Transportation Security Administration (TSA) in November, 2001 and thus contains no reference to it. H.R. 3983 is post-TSA and calls upon the agency, among other things, to develop an antiterrorism cargo identification and screening system. A side-by-side comparison of selected provisions of S. 1214 and H.R. 3983 is provided in Table 1.

## Contents

|   |   |
|---|---|
| Introduction .....  | 1 |
| Levels of Funding .....                                       | 2 |
| Plans and Programs for<br>Coordinating Seaport Security ..... | 3 |
| Provisions to Increase Foreign Seaport Security .....         | 4 |
| Cargo Security Provisions .....                               | 5 |
| Limiting Access to Areas within a Port .....                  | 6 |
| Role of the Coast Guard .....                                 | 7 |

## List of Tables

|   |   |
|---|---|
| Table 1. Side-by-Side Comparison of Selected Provisions in<br>S. 1214 and H.R. 3983 ..... | 8 |
|---|---|

# Maritime and Port Security: A Comparison of Major Provisions of S. 1214 and H.R. 3983

## Introduction

The 107<sup>th</sup> Congress is considering legislation to enhance security at U.S. seaports. The issue is how to tighten control over maritime commerce in a practical manner that does not impede its flow. This report provides a comparison between major provisions in S.1214 - “The Port and Maritime Security Act,” and H.R. 3983 - “The Maritime Transportation Antiterrorism Act.” Senator Hollings introduced S. 1214 on July 20, 2001 and it passed the Senate with an amendment on December 20, 2001. Representative Don Young introduced H.R. 3983 on March 18, 2002 and it passed the House as amended on June 4, 2002. Both houses have named members for a conference committee on the bill.

This comparison will focus on five areas of the legislation: federal funding provisions, plans and programs for coordinating seaport security, international maritime security provisions, cargo security provisions, and limitations on access to sensitive areas within a port. A side-by-side comparison of selected provisions of S. 1214 and H.R. 3983 is provided in Table 1.

Although both bills cover many of the same issues, there are differences in emphasis. These differences may be largely explained by the timing of the bills. S. 1214 was introduced before September 11, while H.R. 3983 was introduced six months after that date. As the title of H.R. 3983 implies, it is most concerned with deterring and minimizing damage from a possible terrorist act. S. 1214 is concerned with deterring terrorism, but also with reducing drug smuggling, cargo theft, trade fraud, and illegal alien smuggling. S. 1214 was introduced to address security issues raised by the Interagency Commission on Crime and Security in U.S. ports (the Seaport Commission). The Seaport Commission was comprised of representatives from 17 federal agencies and co-chaired by the Maritime Administration (MARAD), Customs Service, and the Justice Department. It reported its findings in the fall of 2000 and found security at U.S. seaports to be generally poor to fair with some exceptions.<sup>1</sup>

S. 1214 was introduced before the establishment of the Transportation Security Administration (TSA) in November, 2001 and thus contains no reference to it. H.R. 3983 is post-TSA and calls upon the agency to collect passenger and crew manifest

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<sup>1</sup>The report is available at [<http://uscg.mil/overview/icssrpt.pdf>].

data and to develop and maintain an antiterrorism identification, tracking, and screening system for sea containers.

## Levels of Funding

The funding provisions in S. 1214 are directed more toward specific areas than those in H.R. 3983. The Seaport Commission estimated (before September 11) that enhancing security at U.S. ports would cost between \$10 to \$50 million per port.

**S. 1214** would add a new Title XIV to the Merchant Marine Act of 1936 to authorize and provide loan guarantees and grants for port security infrastructure improvements. The loan guarantee regulations would be similar to those that exist under the existing Title XI loan guarantee program for shipbuilding and shipyards. Security infrastructure improvements could include gates, fences, and lighting, surveillance, and video systems. The bill makes available to the Department of Transportation (DOT), subject to appropriation, \$9 million annually for FY2003-2006 for loan guarantee costs and authorizes an additional \$26 million annually for the same years. According to a Senate Commerce Committee summary of the legislation, using regular federal credit risk premium calculations, this level of funding could provide up to \$700 million annually in loans. For FY2003-2006, the bill provides \$10 million in annual grants for seaport security enhancements and authorizes an additional \$70 million per year in grants.

The bill provides funding to assist the Customs Service. For the purchase of non-intrusive screening and detection equipment for ocean containers, the bill provides from \$15 million to \$19 million be made available from tonnage tax receipts for each fiscal year 2003-2006. The bill authorizes an additional \$20 million each year for this same purpose. For FY2002 only, the bill authorizes \$145 million to the Customs Service for 1,200 new customs inspectors, 300 new customs agents, and for purchase of support equipment. The bill provides \$1 million each year from FY2003- 2006 to establish shared dockside inspection facilities at seaports. These facilities would be shared by the Customs Service, the Department of Agriculture, and the Coast Guard for inspecting cargo containers.

Additional funding is provided for establishing local port security committees, training maritime security professionals, conducting port vulnerability assessments, developing technology for detecting criminal activity, and other items.

S. 1214 would extend, through fiscal year 2006, the increase in vessel tonnage duties that was enacted in 1990 by P.L. 101-508. These tonnage duties would be used to partly offset the spending provisions of the bill.

**H.R. 3983** does not provide loan guarantees for infrastructure improvements. It does provide \$83 million in grants to seaports for each of fiscal years 2003 through 2005. Like the grants provided in S. 1214, the federal grant would not exceed 75% of the total cost of a project unless the DOT determines that this requirement should be waived for a particular project. For projects costing less than \$25,000, there are no matching requirements in either bill. Both bills require grant applicants to provide the same information to the DOT for evaluating grant proposals. H.R. 3983 includes

authorization of appropriations for the Coast Guard. See CRS Report RS20924, *Homeland Security: Coast Guard Legislation in the 107<sup>th</sup> Congress*, for further information.

## **Plans and Programs for Coordinating Seaport Security**

Jurisdiction over U.S. ports is shared by federal, state, and local governments. The federal agencies with the greatest presence at U.S. ports are the Coast Guard, Customs Service, Immigration and Naturalization Service, and the Department of Agriculture. These agencies are included in the President's proposal for a new Department of Homeland Security. A major point of discussion in enhancing seaport security is coordinating the activities of all levels of government, as well as the private sector, to prevent conflict and overlap of responsibilities while improving information sharing among agencies. Both bills call for security plans to be developed at the national, local, and port facility level. Both bills also require vulnerability assessments be conducted at the port level.

**S. 1214** requires the Secretary of Transportation to establish a "National Maritime Security Advisory Committee." This committee would have up to 21 members appointed by the Secretary and made up of individuals from other departments and agencies in the federal, state, or local government, including law enforcement. The committee would be charged with coordinating seaport security enhancement among local port authorities, keeping them informed of developments in security issues, and providing guidance for awarding loans and grants for security improvements. The committee would disband on September 30, 2005.

At the local level, S. 1214 calls for the establishment of "Local Port Security Committees" which would comprise federal, state, and local government officials, law enforcement personnel from all levels of government, port authority personnel, representatives from port labor organizations, and representatives from the private sector. The Coast Guard's existing "Captain-of-the-Port" would be charged with establishing these committees at his/her port of jurisdiction.

The Secretary of Transportation would be required to develop standards and procedures for conducting port vulnerability assessments at each port that the Secretary deems appropriate. The Secretary could accept security evaluations already completed during the previous five years. The Local Port Security Committee would review and comment on the port vulnerability assessment.

The Local Port Security Committee would also be consulted in the development of Maritime Facility Security Plans. These plans would be submitted by each port authority or waterfront facility operator to the Secretary for approval. The plan would indicate how the overall physical security of the port would be maintained, how access would be controlled to the port and its facilities, the procedures for processing cargo, passengers, and crew, and create evacuation plans in case of an emergency.

S. 1214 also calls for the creation of a National Maritime Transportation Security Plan, Area Maritime Security Plans, and Vessel Security Plans. The plans would prescribe procedures for preventing and responding to maritime crimes and terrorism. These plans are very similar to the plans in H.R. 3983 which are described below.

**H.R. 3983** calls for a “National Maritime Transportation Antiterrorism Plan” that is intended to deter and minimize damage from a terrorist act. The plan would assign duties and responsibilities among federal, state, and local government agencies and establish a system of surveillance to safeguard against and provide the earliest possible notice of a terrorist act.

At the local level, H.R. 3983 calls for “Area Maritime Transportation Antiterrorism Plans” that are intended to deter terrorist acts within the area covered by the plan. The plan would describe the area covered, including populated areas, or areas with special economic, environmental, or national security importance. These plans would be developed by a Coast Guard official designated as the “Federal Maritime Antiterrorism Coordinator” and reviewed and approved by the DOT. H.R. 3983 calls for vulnerability assessments to be conducted at each port the DOT believes have a high risk of a “catastrophic emergency.”

H.R. 3983 also calls for “Vessel and Facility Antiterrorism Plans.” These plans would be prepared by ocean carriers and port facility operators. The plans would describe the training, drills, and antiterrorism actions of vessel or facility personnel to deter terrorism. The plans would identify the individual responsible for implementing antiterrorism actions and the individual who would serve as the point of contact with federal officials.

## **Provisions to Increase Foreign Seaport Security**

Some maritime security experts have advocated a greater focus on country of origin security rather than limiting security concerns just to U.S. ports of unloading. They view maritime commerce as a global transportation system which can best be secured by preventing a suspicious container from entering the system at the point of origin. They assert that it is too late to discover a dirty nuclear bomb in a sea container when it reaches a U.S. port of unloading. Pushing the borders back is a challenge because most countries, including the United States, have fewer systems in place to examine export cargo than import cargo. Both bills include provisions that would identify foreign ports with U.S. trade ties that have inadequate security and provisions to enhance the scrutiny of ships and cargo arriving from those ports.

**S. 1214** calls upon the Secretary of Transportation, after consultation with the Secretary of the Treasury, to prohibit or prescribe conditions for vessels arriving from a foreign port it has identified as not secure. In addition, the President can deny entry to vessels arriving from certain foreign ports and suspend trade with certain foreign ports if the President determines that the ports threaten the safety and security of passengers and cargo traveling to or from those ports. The bill also instructs the

Secretary of Transportation to report annually to Congress all foreign flag vessels that have arrived in the United States whose vessel registration may be suspect.

**H.R. 3983**, like the Senate bill, also calls upon the DOT to identify foreign ports that pose a security risk to the United States. Specifically, it charges the DOT to identify foreign ports that pose a high risk of introducing terrorism to maritime commerce based on the foreign port's cargo screening capability, the foreign port's restrictions on access to certain areas, and the port's certification of compliance with security standards. If the DOT finds a foreign port's security measures are inadequate, it will inform the foreign government and recommend steps to improve security. If the foreign port fails to take corrective action within 90 days, the DOT can prescribe conditions for ships and cargo entering the United States from those ports. The bill does not specify what these conditions could include. The DOT can deny entry if its conditions are not met.

## Cargo Security Provisions

Provisions to improve the timeliness and accuracy of cargo information submitted by shippers and to improve the physical security of containers themselves are included in both bills. Sea containers have been a primary focus of discussions on port security. About seven million containers arrive at U.S. ports per year. The Customs Service reviews manifest information for anomalies and targets specific containers for physical inspection. It physically inspects about 2% of imported containers. The DOT is also concerned with the security of sea containers. The DOT created a task force to examine marine container security issues in October 2001. In February 2002, the task force submitted a classified report that, according to a DOT press release, made recommendations for improving the quality and timeliness of cargo information that is transmitted to federal agencies and to improve the physical security of the container itself. The DOT inspector general's office announced in February 2002 that it was conducting an audit of the Coast Guard's hazardous materials container inspection program.<sup>2</sup>

**S. 1214** would amend the Tariff Act of 1930 to require a carrier to provide cargo manifest information by electronic transmission in advance of port entry or clearance and in such manner, time, and form as the Secretary of the Treasury prescribes. The bill also requires the Customs Service to be notified of any improperly documented cargo remaining in a port for more than 48 hours. Customs is authorized to seize and search such cargo. The bill would require a pre-arrival electronic transmission of the consignor, consignee, country of origin, and classification code of goods for cargo moving under the "in-bond" system. The Secretaries of Transportation and Treasury would be required to establish a task force to develop a system for tracking containers, possibly through the use of Global Positioning System (GPS) technology, and develop standards for container seals and locks to prevent cargo tampering. Vessels entering U.S. waters would be required to submit pre-arrival messages to the Coast Guard in sufficient time for the Coast Guard to review the information for security and safety reasons.

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<sup>2</sup>More information available at [[http://www.oig.dot.gov/item\\_details.php?item=683](http://www.oig.dot.gov/item_details.php?item=683)].



**H.R. 3983** contains provisions specifically directed towards sea containers. The bill requires the Transportation Security Administration to develop an antiterrorism cargo identification and screening system for containerized cargo. TSA must also develop standards to improve the physical security of the containers themselves, including standards for seals and locks. The bill requires ocean carriers to provide TSA with crew and passenger manifests in advance of a vessel's arrival in the United States. Cargo information must be submitted to the Customs Service in advance of port entry. The Customs Service would consult with other federal agencies in issuing regulations on submitting cargo information and would share cargo information with appropriate federal departments.

## **Limiting Access to Areas within a Port**

S. 1214 and H.R. 3983 include provisions limiting access to areas within a port. H.R. 3983 specifically mentions development of security cards. The TSA is currently developing a standardized credentialing system for transportation workers in all modes. The cards would use smart card or biometric technologies to securely link the individual to the card.<sup>3</sup>

**S. 1214** requires that the Maritime Facility Security Plan include designation of controlled access areas within a port and limited access to security-sensitive information, such as passenger and cargo manifests. The Secretary of Transportation may prescribe regulations that require physical searches of persons entering certain port areas, security escorts, and background checks for persons granted unrestricted access. Persons granted unrestricted access must not have a felony conviction within the previous seven years or release from prison within the last five years. The Secretary can approve alternative security arrangements for an individual who otherwise would be disqualified from a security-sensitive position. An appeals process will be available for individuals found to be ineligible for employment.

**H.R. 3983** calls for the DOT to issue "Transportation Security Cards" which will be used in identifying personnel with access to sensitive areas within the port. The DOT can deny cards to individuals it believes pose a terrorism security risk. Denial can be based on the fact that the individual has been convicted of a felony as defined by the Secretary or if the individual would be denied admission to the United States or removed from the United States under the Immigration and Nationality Act. The Secretary can give consideration to any circumstances surrounding a disqualifying act or restitution made by the individual and may consider other factors from which it may be concluded that the individual does not pose a terrorism security risk. An appeals process will be available for individuals found to be ineligible for a security card.

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<sup>3</sup>More information is available at [<http://www.tsa.dot.gov/>].

## Role of the Coast Guard

S. 1214 and H.R. 3983 contain provisions involving the Coast Guard that are nearly identical. In both bills, the Coast Guard is authorized to board vessels with “sea marshals” to deter or respond to acts of terrorism. Both bills also would extend the seaward jurisdiction of the Coast Guard from three miles from shore to 12 miles. For further information on the role of the Coast Guard in homeland security, see CRS Report RS21125, *Homeland Security: Coast Guard Operations- Background and Issues for Congress*.

**Table 1** provides a side-by-side comparison of selected provisions of S. 1214 and H.R. 3983.

**Table 1. Side-by-Side Comparison of Selected Provisions in S. 1214 and H.R. 3983**

| Topic   | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|---|--|---|
| National Maritime Security Advisory Committee | <p>Requires the Secretary of Transportation to establish a National Maritime Security Advisory Committee comprised of not more than 21 members appointed by the Secretary. The Committee will establish a law enforcement subcommittee that may include members from the Customs Service and the INS. The Committee may establish other subcommittees and may invite the participation of other federal, state, and local government agencies with expertise in anti-terrorism, port security, and safety issues. The functions of the Committee include advising and making recommendations to the Secretary on long term solutions for maritime security; coordinating operations and information among federal, state, local governments, and area and local port security committees; setting conditions for loan guarantees and grants; developing a National Maritime Transportation Security Plan; protecting port energy transportation facilities; and keeping concerned parties informed about maritime security enhancements. The Committee shall terminate on Sept. 30, 2005.</p> <p><i>(Sec. 102)</i></p> | No provision.   |
| Port Vulnerability Assessments                | <p>Requires the Secretary of Transportation to develop standards and procedures for conducting initial security evaluations and port vulnerability assessments. The Secretary, in consultation with local port security committees, shall conduct an initial security evaluation of all port authorities and waterfront facilities. For each port the Secretary determines appropriate, the Secretary shall also conduct a port vulnerability assessment or accept a previously completed assessment. A review and comment period by the local port security committee will be available for initial security evaluations and port vulnerability assessments.</p> <p><i>(Sec. 103)</i></p>   | <p>Requires the Secretary of Transportation to conduct a port vulnerability assessment for each port, including each facility in a port, for which the Secretary believes there is a high risk of catastrophic emergency. A catastrophic emergency is any event caused by a terrorist act in the United States or on a vessel sailing to or from the United States that may cause a substantial loss of life or major economic disruption. The Secretary can accept previously completed assessments. The Secretary shall provide a copy of the assessment to each owner or operator of a port facility.</p> <p><i>(Sec. 70102)</i></p> |

| Topic                              | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|------------------------------------|--|---|
| Local Port Security Committees     | <p>The Secretary of Transportation shall establish a local port security committee at each port that will meet at least 4 times per year and whose functions include: identifying the unique characteristics of each port for initial security evaluations and vulnerability assessments; annually reviewing local port maritime security plans; and assisting the Coast Guard Captain-of-the-Port in conducting field security exercises at least once every 3 years. Members of the local port security committee may be drawn from an existing local port committee but should include representatives of the port authority; federal, state, and local government; law enforcement agencies; long shore labor unions; and private companies operating at the port such as vessel owners, truckers, shippers, and terminal operators. The Captain-of-the-Port will be chair of each local port security committee.</p> <p><i>(Sec. 104)</i></p>   | No provision.   |
| Limiting Access to Areas in a Port | <p>The Secretary of Transportation, after consultation with the Secretary of the Treasury and Attorney General, shall prescribe regulations to designate controlled access areas within a port and limit access to security sensitive information such as cargo and passenger manifests. The Secretary of Transportation can require physical screening of persons entering/exiting secure areas or require escorts for persons without credentials. The Secretary can require background checks, including criminal history, to ensure that persons with unrestricted access do not pose a threat. If a person has a conviction within the previous 7 years or was released from prison within the previous 5 years for an offense listed in this section, the person can be disqualified from working in a security sensitive position at a port. The Secretary can accept alternative arrangements from an employer for an individual that otherwise would be disqualified from employment. An appeals process will be established for individuals found to be ineligible and a user fee system created to pay expenses for background checks.</p> <p><i>(Sec. 106)</i></p> | <p>Individuals are restricted from designated secure areas of a vessel or facility unless they hold a transportation security card and are authorized to be in that area or are accompanied by someone who does hold a card. The Secretary of Transportation shall issue a transportation security card to an individual unless the individual has been convicted of a felony the Secretary believes could be a terrorism security risk; could be denied admission to the United States under the Immigration and Nationality Act (8 U.S.C. 1101); or otherwise poses a terrorism security risk. The Secretary can give consideration to the circumstances of a disqualifying act, restitution made by the individual, mitigation remedies, and other factors. At the request of the Secretary, the Attorney General shall conduct a background records check of an individual requesting a security card and report the results to the Secretary. An appeals process will be established for individuals found ineligible for a card.</p> <p><i>(Sec. 70105)</i></p> |

CRS-10

| Topic   | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|---|--|---|
| Maritime Domain Awareness   | <p>The Secretary of Transportation shall submit a report to Congress within 180 days of enactment of the Act that identifies ways in which multi-agency cooperative efforts can improve U.S. maritime security; methods in which maritime intelligence data can be collected, shared among agencies, and safeguarded; the cost of such a database; the time frame for its development; and other maritime intelligence matters.</p> <p><i>(Sec. 107)</i></p>   | <p>No provision.</p>  |
| Foreign Port Assessments  | <p>Requires the Secretary of Transportation to assess the security measures maintained at foreign ports that are engaged in commerce with the United States. The assessment shall be conducted in consultation with appropriate foreign authorities, U.S. vessel operators serving that port, and the U.S. Secretary of State and Secretary of the Treasury; and by using International Maritime Organization standards or other internationally recognized security standards.</p> <p><i>(Sec. 108)</i></p>   | <p>Similar but not identical to Senate bill. The House bill lists criteria a foreign port's security assessment should be based on, such as the effectiveness of cargo screening, restrictions on access to certain areas, security on board the vessels, certification with appropriate security standards, and other measures.</p> <p><i>(Sec. 70108)</i></p> |
| Notifying Foreign Authorities   | <p>Requires the Secretary of Transportation, working with the Secretary of State, to notify foreign authorities if it finds their port(s) do not maintain effective security measures and to recommend steps that will bring it up to standard.</p> <p><i>(Sec. 108)</i></p>   | <p>Similar to Senate bill but requires the Secretary of Transportation (without mentioning the Secretary of State) to notify foreign authorities if it finds their port(s) do not maintain effective security measures and to recommend steps that will bring it up to standard.</p> <p><i>(Sec. 70109)</i></p>   |
| Actions To Be Taken When Foreign Ports Are Not Maintaining Effective Security | <p>If a foreign port is not maintaining effective security measures, the Secretary of Transportation, after consultation with the Secretaries of State and Treasury, can prescribe conditions (such as refusing entry or inspection) for any vessels or cargo arriving from such port or prohibit vessels from providing transportation from such port to the United States. The President can suspend the right of any U.S. vessel, or any person, to trade with the U.S., or to provide sea transportation if the President finds a condition exists that threatens the safety and security of passengers, vessels, and crew traveling to/from that port, or that public interest requires an immediate suspension of trade with that port.</p> <p><i>(Sec. 108)</i></p> | <p>If the Secretary of Transportation finds that a foreign port does not maintain effective antiterrorism measures, the Secretary may prescribe conditions for vessels and cargo arriving from that port and deny entry if the conditions are not met.</p> <p><i>(Sec. 70110)</i></p>   |

CRS-11

| Topic                          | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|--------------------------------|--|---|
| Travel Advisories              | The Secretary of Transportation shall issue a travel advisory (and publish it widely) regarding a port the Secretary has determined does not maintain effective security measures.<br><i>(Sec. 108)</i>  | No provision.   |
| Report on Foreign Flag Vessels | Requires the Secretary of Transportation, in consultation with the Secretary of State, to report annually to Congress a list identifying all nations whose flag vessels have entered U.S. ports, and specifically those nations that have vessels appearing on the Coast Guard's boarding priority list, have presented false data on manifests and vessel registrations, or have vessel registration regulations making ownership non-transparent.<br><i>(Sec. 108)</i> | No provision.   |
| Maritime Security Teams        | Requires the Secretary of Transportation to establish maritime safety and security teams to enhance the domestic maritime security capability of the United States. Their mission is to respond rapidly, deter, and protect against threats. These teams are to coordinate their activities with other law enforcement or emergency response agencies.<br><i>(Sec. 117)</i>  | Similar to Senate bill. However teams are referred to as maritime antiterrorism teams.<br><i>(Sec. 70106)</i> |

| Topic   | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|---|--|---|
| National Maritime Transportation Security Plans | <p>The Secretary of Transportation shall prepare a national maritime transportation security plan that shall provide for efficient, coordinated, and effective action to prevent and respond to acts of maritime crime or terrorism. Among other items, the plan shall include allocation of duties and responsibilities among government agencies and port authorities.<br/><i>(Sec. 203)</i></p>   | <p>Similar to Senate bill. However the plan is referred to as a national maritime transportation antiterrorism plan. Also calls for a system of surveillance and notice to be established to safeguard against and provide the earliest possible notice of a catastrophic emergency and imminent threats.<br/><i>(Sec. 70103)</i></p> |
| Area Maritime Transportation Security Plans     | <p>The Secretary of Transportation shall appoint members to an area maritime security committee (this committee can be the same as the local port security committee described above). The committee shall prepare an area maritime security plan for its area that will include, among other items, a description of the port area covered by the plan, including areas of population, or areas of special economic, environmental or national security importance. When implemented, the plan shall be adequate to prevent or rapidly respond to an act of crime or terrorism.<br/><i>(Sec. 204)</i></p> | <p>Similar to Senate bill. However the plans are referred to as area maritime transportation antiterrorism plans.<br/><i>(Sec. 70103)</i></p>   |

| Topic                                       | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|---|--|---|
| Maritime Facility and Vessel Security Plans | <p>Requires the Secretary of Transportation, in consultation with the Secretary of the Treasury and the Attorney General, to establish requirements for each port to submit a maritime facility security plan. The plan shall include: provisions for establishing and maintaining physical security for port areas; procedural security for processing of passengers, cargo, and crew; a credentialing requirement to limit access to certain areas in a port and to security sensitive information; restrictions on vehicular access and firearms or weapons; evacuation procedures in case of an attack; and other information. These plans will be reviewed and resubmitted at least every 5 years. Interim security measures are required until the maritime facility security plan is approved.</p> <p><i>(Sec. 105)</i></p> | <p>Requires the owners or operators of a vessel or facility to submit to the Secretary of Transportation an antiterrorism plan. Among other things, the plan shall identify the person having full authority to implement antiterrorism actions and the person that serves as point of contact with federal officials. The plan shall describe the training, periodic drills, and antiterrorism actions to be carried out to deter a catastrophic emergency.</p> <p><i>(Sec. 70103)</i></p> |
| Other Antiterrorism Plans                   | <p>The Secretary, in coordination with the Director of the FBI, shall ensure that all area maritime counter-terrorism and incident contingency plans are reviewed every 3 years. Simulation exercises shall be conducted annually and practice drills conducted at least every 3 years.</p> <p><i>(Sec. 109)</i></p>   | <p>The Secretary of Transportation shall cooperate with the Director of the Federal Emergency Management Agency (FEMA) to ensure that federal, state, and local terrorism response resources are coordinated with the Director's terrorism response plan for U.S. ports and waterways.</p> <p><i>(Sec. 70104)</i></p>   |



| Topic   | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|---|--|---|
| <p>Submitting Cargo Information to Federal Agencies</p> | <p>Requires that every land, air, or vessel carrier that is required to make entry or obtain U.S. customs clearance to provide by electronic transmission cargo manifest information in advance of entry and in such manner, time, and form as the Secretary of the Treasury shall prescribe. The Act lists various cargo data elements that shall be included.</p> <p>Requires the U.S. Customs Service to improve reporting procedures for “in-bond” movement of goods. Customs may require that shipment information such as the consignor, consignee, country of origin, and the Harmonized Tariff Schedule of the 6-digit classification code be electronically submitted prior to the arrival of the cargo at the initial port of unloading. This information shall be to the best of the filer’s knowledge and shall not be considered the “entry” for the goods.</p> <p>Requires shippers exporting cargo from a U.S. port to submit a complete set of shipping documents to the carrier or its agent no later than 24 hours after the cargo is delivered to the port. Shipping documents may include a shipper’s export declaration, bill of lading, shipping instructions, or other documents the Secretary of the Treasury prescribes. Any cargo left at a marine terminal for more than 48 hours without proper documentation is subject to search, seizure, and forfeiture.<br/><i>(Sec. 115)</i></p> | <p>Requires that every land, air, or vessel carrier that is required to make entry or obtain U.S. customs clearance to provide by electronic transmission cargo manifest information in advance of entry and in such manner, time, and form as the Secretary of the Treasury shall prescribe. In issuing such regulations, the Secretary of the Treasury shall consult with other federal agencies, such as the Department of Transportation, Department of Justice, and Department of Defense. The Secretary of the Treasury shall also share cargo information with other federal agencies.<br/><i>(Sec. 108)</i></p> |
| <p>Submitting Crew and Passenger Information</p>        | <p>Requires the owner or operator of any air, land, or vessel carrier destined for a U.S. port to electronically transmit prior to entry or clearance as required by U.S. customs laws the full name, date of birth, citizenship, gender, passport number, visa number, and other information for every person arriving or departing the United States.<br/><i>(Sec. 115)</i></p> <p>The Secretary of Transportation, in consultation with the Attorney General, may require the crew of vessels calling at U.S. ports to carry and present such identification as the Secretary prescribes.<br/><i>(Sec. 208)</i></p>   | <p>Requires the operator of each commercial vessel destined for the United States to electronically submit to the TSA prior to the vessel’s arrival a passenger and crew manifest. The manifest shall contain similar information as in the Senate bill.<br/><i>(Sec. 70111)</i></p>  |

| Topic   | S. 1214, Port and Maritime Security Act  | H.R. 3983, Maritime Transportation Antiterrorism Act   |
|---|--|--|
| <p>Container Identification and Container Physical Security</p> | <p>Requires the Secretaries of Transportation and Treasury to establish a task force with shippers and ocean carriers to develop standards for tracking containers, by using GPS or other systems, and especially for containerized cargo moving “in-bond.”</p> <p>Requires the development of standards for anti-tampering devices for containers, such as seals and locks.<br/><i>(Sec. 207)</i></p> | <p>The TSA shall develop and maintain an antiterrorism cargo identification and screening system for containerized cargo.</p> <p>The TSA shall develop performance standards to enhance the physical security of containers, such as seals and locks.<br/><i>(Sec. 70103e)</i></p> |

| Topic              | S. 1214, Port and Maritime Security Act   | H.R. 3983, Maritime Transportation Antiterrorism Act  |
|--------------------|---|---|
| Funding Provisions | <p>Creates a new loan guarantee program (Title XIV would be added to the Merchant Marine Act of 1936) for port security infrastructure improvements. These improvements could be equipment or facilities used for security monitoring and recording, gates and fencing, lighting systems, surveillance systems, video systems, or other items. Guarantees would be limited to 87.5% of the cost of the project, the economic soundness of the applicant will be considered, and other limitations as prescribed under the existing Title XI loan guarantee program for ship building. For guaranteed loan costs (as defined by the Federal Credit Reform Act of 1990), \$9 million shall be made available from tonnage tax receipts for each fiscal year 2003 - 2006 and an additional \$26 million is authorized to be appropriated each fiscal year 2003 - 2006.</p> <p>The Secretary of Transportation may provide grants for enhancing the physical security of ports. Federal funds for any project shall not exceed 75% of the total cost of the project, unless the project's total cost is less than \$25,000 or the Secretary determines that a different matching requirement is warranted for a particular project. From tonnage tax receipts, \$10 million shall be made available each year for grants and an additional \$70 million is authorized to be appropriated for each fiscal year 2002 - 2006.<br/>(<i>Sec. 111</i>)</p> <p>For FY2002, \$145 million is authorized for the U.S. Customs Service for 1,200 new customs inspectors, 300 new customs agents, and for other personnel and security equipment. For the purchase of non-intrusive screening and detection equipment for U.S. Customs, between \$15 to \$19 million is to be made available from tonnage tax receipts for each fiscal year 2003 - 2006. Additionally, \$20 million is authorized to be appropriated for each fiscal year 2003 - 2006 for the purchase of this equipment.<br/>(<i>Sec. 112</i>)</p> <p>The Secretary of Transportation, in consultation with the Secretaries of Treasury, Agriculture, and the Attorney General, will establish shared dockside inspection facilities at U.S. ports and shall have available \$1</p> | <p>Authorizes \$83 million in grants, for each fiscal year 2003 - 2005 for enhanced facility security, to implement a maritime antiterrorism plan or interim measure. Federal funds for any project shall not exceed 75% of the total cost of the project, unless the project's total cost is less than \$25,000 or the Under Secretary of the TSA determines that a different matching requirement is warranted for a particular project. Among other requirements, a project proposal must include a description of its relationship to the area maritime antiterrorism plan.</p> <p>Authorizes \$4 million in maritime security training grants.<br/>(<i>Sec. 70107</i>)</p> |

CRS-17

| Topic  | S. 1214, Port and Maritime Security Act   | H.R. 3983, Maritime Transportation Antiterrorism Act   |
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| Submitting Pre-arrival Messages to Coast Guard | Requires vessels destined for U.S. ports to submit a pre-arrival message to the Coast Guard containing any information that the Coast Guard determines to be necessary for the control of the vessel and the safety and security of the port. The message must be transmitted in sufficient time to permit review before the vessel's entry into port. The Coast Guard can deny a vessel's entry for failure to comply.<br>(Sec. 116) | Requires vessels destined for U.S. ports to notify the Coast Guard no later than 96 hours before the vessel's arrival and supply information as prescribed by the Coast Guard.<br>The Coast Guard can deny a vessel's entry for failure to comply.<br>(Sec. 102)                       |
| Sea Marshals Program                           | The Coast Guard may dispatch Coast Guard personnel aboard vessels and facilities to deter and respond to acts of terrorism. The Coast Guard shall report to Congress on the potential of using non Coast Guard personnel to supplement the Coast Guard in this function.<br>(Sec. 202)  | Nearly identical to Senate bill.<br>(Sec. 106)   |
| Extension of Seaward Jurisdiction              | Extends the territorial jurisdiction of the United States from 3 miles to 12 miles off shore.<br>(Sec. 119)   | Identical to Senate bill.<br>(Sec. 103)  |
| Vessel Identification System                   | No provision.   | Requires vessels to be equipped with a position indicating transponder while operating in the waters of the United States.<br>Vessels built after Dec. 31, 2002 must have this equipment while vessels built before this date must have this equipment by Dec. 31, 2004.<br>(Sec. 107) |
| Maritime Security Training                     | Requires the Secretary of Transportation to develop standards and curriculum for the training and certification of maritime security professionals.<br>(Sec. 110)   | Provides grants for developing a maritime security education program at merchant marine academies.   |
| Extension of Deepwater Port Act to Natural Gas | Would amend the Deepwater Port Act of 1974 (33 U.S.C. 1501) to include offshore natural gas facilities.<br>(Sec. 201)   | Similar to Senate bill.<br>(Sec. 6)  |