



## COMPARISON OF "PATRIOT" PROVISIONS

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HEREIN IS UNCLASSIFIED  
DATE 01-31-2012 BY 65179 DMH/STP/MJS  
Outside the Scope

	USA PATRIOT Act	USA PATRIOT Improvement and Reauthorization Act (incl. Sen. Sununu's Bill, S.2271)	Sen. Specter's New PATRIOT Bill (S. 2369)
<b>Status/Sunsets</b>	Became law 10/26/2001.  16 provisions designed to sunset on 12/31/2005 (postponed to 03/10/2006).	Became law 03/09/2006.  4-year sunsets kept for PATRIOT § 206 (FISA "roving" wiretaps) and § 215 (FISA business records).	Introduced 03/06/2006.  Adds 4-year sunset for NSLs.
<b>FISA Business Records Orders (Section 215) - Legal Standard</b>	Requires certification "that the records concerned are <u>sought for</u> an authorized investigation" (implicit relevance standard).	Requires "statement of facts" showing "reasonable grounds to believe" records are " <u>relevant</u> " to authorized investigation.  Creates a <u>legal presumption</u> of relevance for records that satisfy 3-part test (see next column).	Under <u>3-part test</u> , the records must: (1) pertain to a foreign power or an agent of a foreign power ("AFP"); (2) be relevant to the activities of a suspected AFP who is the subject of an authorized investigation, or (3) pertain to an individual in contact with a suspected AFP.
<b>Judicial Review of Section 215 Orders</b>	No explicit right to judicial review of production order or non-disclosure requirement.	Explicit right to challenge both production request and "gag."  But, includes "conclusive presumption" (like NSLs) and requires a 1-year waiting period for challenges to the "gag" order.	Eliminates the "conclusive presumption" and the 1-year waiting period for challenges to the non-disclosure requirement.