

MARITIME TRANSPORTATION ANTITERRORISM ACT OF 2002

APRIL 11, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3983]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3983) to ensure the security of maritime transportation in the United States against acts of terrorism, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Maritime Transportation Antiterrorism Act of 2002”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Port security.
- Sec. 3. Clarification of Coast Guard authority to control vessels in territorial waters of the United States.
- Sec. 4. Extension of seaward jurisdiction.
- Sec. 5. Suspension of limitation on strength of Coast Guard.
- Sec. 6. Extension of Deepwater Port Act to natural gas.
- Sec. 7. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel.
- Sec. 8. Automatic identification system.

**SEC. 2. PORT SECURITY.**

(a) **IN GENERAL.**—Title 46, United States Code, is amended by adding at the end the following new subtitle:

**“Subtitle VI—Miscellaneous**

“Chap. 701. Port Security ..... Sec. 70101

**“CHAPTER 701—PORT SECURITY**

- “Sec. 70101. Definitions.
- 70102. United States facility vulnerability assessments.
- 70103. Catastrophic emergency planning.

- “70104. Antiterrorism response.
- “70105. Transportation security cards.
- “70106. Maritime antiterrorism teams.
- “70107. Grants.
- “70108. Foreign port assessment.
- “70109. Notifying foreign authorities.
- “70110. Actions when foreign ports not maintaining effective antiterrorism measures.
- “70111. Shipping container antiterrorism.
- “70112. Crew and passenger manifests.
- “70113. Civil penalty.

**“§ 70101. Definitions**

“For the purpose of this chapter:

“(1) The term ‘Area Maritime Transportation Antiterrorism Plan’ means an Area Maritime Transportation Antiterrorism Plan prepared under section 70103(b).

“(2) The term ‘catastrophic emergency’ means any event caused by a terrorist act in the United States or on a vessel on a voyage to or from the United States that causes, or may cause, substantial loss of human life or major economic disruption in any particular area.

“(3) The term ‘facility’ means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

“(4) The term ‘National Maritime Transportation Antiterrorism Plan’ means the National Maritime Transportation Antiterrorism Plan prepared and published under section 70103(a).

“(5) The term ‘owner or operator’ means—

“(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and

“(B) in the case of a facility, any person owning or operating such facility.

“(6) The term ‘Secretary’ means the Secretary of Transportation.

“(7) The term ‘Under Secretary’ means the Under Secretary of Transportation for Security.

**“§ 70102. United States facility vulnerability assessments**

“(a) IN GENERAL.—The Secretary shall conduct a port vulnerability assessment, including an assessment of the vulnerability of each facility in a port, for each port in the United States for which the Secretary believes there is a high risk of catastrophic emergency.

“(b) FACILITY ASSESSMENTS.—(1) An assessment under this section for a port shall include an assessment of each facility in the port.

“(2) Upon completion of an assessment under this section for a port, the Secretary shall provide to the owner or operator of each facility in the port a copy of the assessment of the facility under this subsection.

“(c) ACCEPTANCE OF EXISTING ASSESSMENT.—In lieu of conducting such a port vulnerability assessment under this section, the Secretary may accept an assessment conducted by or on behalf of a port authority or marine terminal operator.

**“§ 70103. Catastrophic emergency planning**

“(a) NATIONAL MARITIME TRANSPORTATION ANTITERRORISM PLAN.—(1) The Secretary shall prepare a National Maritime Transportation Antiterrorism Plan for deterring a catastrophic emergency.

“(2) The National Maritime Transportation Antiterrorism Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from catastrophic emergencies, and shall include the following:

“(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local governmental agencies.

“(B) Identification of security resources.

“(C) Establishment of procedures for the coordination of activities of—

“(i) Coast Guard maritime antiterrorism teams established under this chapter; and

“(ii) Federal Maritime Antiterrorism Coordinators.

“(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of catastrophic emergencies and imminent threats of catastrophic emergencies to the appropriate State and Federal agencies.

“(E) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a catastrophic emergency, or the substantial threat of a catastrophic emergency.

“(F) Designation of—

“(i) areas for which Area Maritime Transportation Antiterrorism Plans are required to be prepared under subsection (b); and

- “(ii) a Coast Guard official who shall be the Federal Maritime Antiterrorism Coordinator for each such area.
- “(3) The Secretary may, from time to time, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Antiterrorism Plan.
- “(4) Actions to deter and minimize damage from catastrophic emergencies shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Antiterrorism Plan.
- “(b) AREA MARITIME TRANSPORTATION ANTITERRORISM PLANS.—(1) The Federal Maritime Antiterrorism Coordinator designated under subsection (a)(2)(F) for an area shall—
- “(A) submit to the Secretary an Area Maritime Transportation Antiterrorism Plan for the area; and
- “(B) solicit advice from local harbor safety advisory committees to assure preplanning of joint terrorism deterrence efforts, including appropriate procedures for deterrence of acts of terrorism.
- “(2) The Area Maritime Transportation Antiterrorism Plan shall—
- “(A) when implemented in conjunction with the National Maritime Transportation Antiterrorism Plan, be adequate to deter a terrorist act in or near the area to the maximum extent practicable;
- “(B) describe the area covered by the plan, including the areas of population or special economic, environmental or national security importance that might be damaged by a terrorist act;
- “(C) describe in detail how the plan is integrated with other Area Maritime Transportation Antiterrorism Plans, and with facility antiterrorism plans and vessel antiterrorism plans under this section;
- “(D) include any other information the Secretary requires; and
- “(E) be updated at least every five years by the Federal Maritime Antiterrorism Coordinator.
- “(3) The Secretary shall—
- “(A) review and approve Area Maritime Transportation Antiterrorism Plans under this subsection; and
- “(B) periodically review previously approved Area Maritime Transportation Antiterrorism Plans.
- “(c) VESSEL AND FACILITY ANTITERRORISM PLANS.—(1) Before January 1, 2003, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary an antiterrorism plan for the vessel or facility, for deterring a catastrophic emergency to the maximum extent practicable.
- “(2) The vessels and facilities referred to in paragraph (1) are vessels and facilities that the Secretary believes may be involved in a catastrophic emergency.
- “(3) A antiterrorism plan required under this subsection shall—
- “(A) be consistent with the requirements of the National Maritime Transportation Antiterrorism Plan and Area Maritime Transportation Antiterrorism Plans;
- “(B) identify the qualified individual having full authority to implement antiterrorism actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);
- “(C) identify, and ensure by contract or other means approved by the Secretary, the availability of antiterrorism measures necessary to deter a catastrophic emergency or a substantial threat of such a catastrophic emergency;
- “(D) describe the training, periodic unannounced drills, and antiterrorism actions of persons on the vessel or at the facility, to be carried out under the plan to deter a catastrophic emergency, or a substantial threat of a catastrophic emergency;
- “(E) be updated at least every five years; and
- “(F) be resubmitted for approval of each significant change.
- “(4) The Secretary shall—
- “(A) promptly review each such plan;
- “(B) require amendments to any plan that does not meet the requirements of this subsection;
- “(C) approve any plan that meets the requirements of this subsection; and
- “(D) review each plan periodically thereafter.
- “(5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after January 1, 2003, unless—
- “(A) the plan has been approved by the Secretary; and
- “(B) the vessel or facility is operating in compliance with the plan.
- “(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a antiterrorism plan approved under this subsection, until not

later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter a catastrophic emergency or a substantial threat of a catastrophic emergency.

“(7) The Secretary shall require each operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures until the antiterrorism plan for that vessel or facility operator is approved.

“(d) NONDISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

“(1) facility antiterrorism plans, vessel antiterrorism plans, and port vulnerability assessments; and

“(2) other information related to antiterrorism plans, procedures, or programs for vessels or terminals authorized under this chapter.

**“§ 70104. Antiterrorism response**

“(a) COORDINATION.—The Secretary shall cooperate with the Director of the Federal Emergency Management Agency to ensure that Federal, State, and local terrorism response resources are coordinated as part of the Director’s terrorism response plan for United States ports and waterways.

“(b) VESSEL RESPONSE PLAN SYSTEM.—Before January 1, 2003, the Secretary shall establish a system of antiterrorism response plans for vessels that may be involved in a catastrophic emergency.

**“§ 70105. Transportation security cards**

“(a) PROHIBITION.—(1) An individual shall not enter an area of a vessel or facility that is designated as a secure area in an antiterrorism plan for the vessel or facility that is approved by the Secretary under section 70103(c) unless the individual—

“(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

“(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

“(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

“(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a transportation security card to an individual specified in paragraph (2), unless the Secretary decides that the individual poses a terrorism security risk warranting denial of the card.

“(2) This subsection applies to—

“(A) an individual allowed unescorted access to a secure area designated in a maritime transportation antiterrorism plan;

“(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

“(C) a vessel pilot;

“(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel; and

“(E) an individual engaged on a vessel that may be involved in a catastrophic emergency.

“(c) DETERMINATION OF TERRORISM SECURITY RISK.—(1) An individual may not be denied a transportation security card under subsection (a) unless the Secretary determines that individual—

“(A) has been convicted of a felony that the Secretary believes could be a terrorism security risk to the United States;

“(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

“(C) otherwise poses a terrorism security risk to the United States.

“(2) In making a determination under paragraph (1), the Secretary shall give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism security risk warranting denial of the card.

“(3) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

“(4) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

“(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

“(A) conduct a background records check regarding the individual; and

“(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

“(2) A background records check regarding an individual under this subsection shall consist of the following:

“(A) A check of the relevant criminal history databases.

“(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

“(C) As appropriate, a check of the relevant international databases or other appropriate means.

“(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

“(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary of Transportation under this section may not be made available to the public under section 552 of title 5.

“(2) Any information constituting grounds for denial of a transportation security card under subsection (c)(1) shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

“(f) DEFINITION.—In this section, the term ‘alien’ has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

**“§ 70106. Maritime antiterrorism teams**

“(a) IN GENERAL.—The Secretary shall establish maritime antiterrorism teams to safeguard the public and protect vessels, ports, facilities, and cargo on waters subject to the jurisdiction of the United States from terrorist activity.

“(b) MISSION.—Each maritime antiterrorism team shall be trained, equipped, and capable of being employed to deter, protect against, and rapidly respond to threats of terrorism.

“(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime antiterrorism team shall coordinate its activities with other Federal, State, and local law enforcement agencies.

**“§ 70107. Grants**

“(a) FINANCIAL ASSISTANCE.—The Under Secretary may provide financial assistance for enhanced facility security—

“(1) to implement a maritime antiterrorism plan approved by the Secretary;

or

“(2) to implement an interim measure required by the Secretary under section 70103(c)(7).

“(b) MATCHING REQUIREMENTS.—(1) Except as provided in paragraph (2), Federal funds for any project under this section shall not exceed 75 percent of the total cost of such project.

“(2)(A) There are no matching requirements for grants under subsection (a) for projects costing not more than \$25,000.

“(B) If the Under Secretary determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Under Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

“(c) PROJECT PROPOSALS.—Each proposal for a grant under this section shall include the following:

“(1) The name of the individual or entity responsible for conducting the project.

“(2) A comprehensive description of the need for the project, and a statement of the project’s relationship to the Area Maritime Transportation Antiterrorism Plan that applies to the location where the project will be carried out.

“(3) A description of the qualifications of the individuals who will conduct the project.

“(4) An estimate of the funds and time required to complete the project.

“(5) Information regarding the source and amount of matching funding available to the applicant, as appropriate.

“(6) Any other information the Under Secretary considers to be necessary for evaluating the eligibility of the project for funding under this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—(1) To carry out this section there is authorized to be appropriated to the Secretary \$75,000,000 for each of fiscal years 2003, 2004, and 2005.

“(2) Of amounts available under this section, \$7,500,000 shall be used for proof-of-concept technology grants.

“(3) Amounts appropriated under this section may remain available until expended.

**“§ 70108. Foreign port assessment**

“(a) IN GENERAL.—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

“(1) a foreign port—

“(A) served by vessels documented under chapter 121 of this title; or

“(B) from which foreign vessels depart on a voyage to the United States;

and

“(2) any other foreign port the Secretary believes poses a high risk of introducing terrorism to international maritime commerce.

“(b) PROCEDURES.—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

“(1) screening of containerized and other cargo and baggage;

“(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

“(3) additional security on board vessels;

“(4) licensing or certification of compliance with appropriate security standards;

“(5) the security management program of the foreign port; and

“(6) other appropriate measures to deter terrorism against the United States.

“(c) CONSULTATION.—In carrying out this section, the Secretary may consult with—

“(1) the Secretary of Defense and the Secretary of State—

“(A) on the terrorist threat that exists in each country involved; and

“(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

“(2) the Secretary of the Treasury;

“(3) appropriate authorities of foreign governments; and

“(4) operators of vessels.

**“§ 70109. Notifying foreign authorities**

“If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

**“§ 70110. Actions when foreign ports not maintaining effective antiterrorism measures**

“(a) IN GENERAL.—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary may—

“(1) prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo originating from or transhipped through that port; and

“(2) deny entry into the United States to any vessel that does not meet such conditions.

“(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—

“(1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

“(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

“(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain effective antiterrorism measures.

“(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port.

**“§ 70111. Shipping container antiterrorism**

“(a) IN GENERAL.—By not later than June 30, 2003, the Under Secretary, in consultation with the Transportation Security Oversight Board, shall—

“(1) develop and maintain a antiterrorism cargo identification and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

“(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.

“(b) PROVISION OF INFORMATION.—An ocean common carrier, customs broker, freight forwarder, nonvessel operating common carrier, and shipper shall provide to the Under Secretary, by electronic transmission, containerized cargo information in a manner and form prescribed by the Under Secretary.

“(c) DEADLINE FOR PROVIDING INFORMATION.—The information required under subsection (b) shall be provided to the Under Secretary not later than 24 hours before the cargo destined for the United States is loaded on a vessel.

“(d) DENIAL OF ENTRY.—The Secretary, upon request of the Under Secretary, may deny entry by a vessel into the United States if all information requested by the Under Secretary with respect to cargo on the vessel is not provided before the deadline under subsection (c).

**“§ 70112. Crew and passenger manifests**

“(a) IN GENERAL.—The operator of each commercial vessel arriving in the United States from a foreign port shall provide to the Under Secretary by electronic transmission a passenger and crew manifest containing the information specified in subsection (b).

“(b) INFORMATION.—A passenger and crew manifest required under subsection (a) for a vessel shall contain the following information:

“(1) The full name of each passenger and crew member.

“(2) The date of birth and citizenship of each passenger and crew member.

“(3) The sex of each passenger and crew member.

“(4) The passport number and country of issuance of each passenger and crew member if required for travel.

“(5) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

“(6) Such other information as the Under Secretary determines is reasonably necessary to ensure maritime safety.

“(c) TRANSMISSION OF MANIFEST.—Subject to subsection (d), a passenger and crew manifest required for a vessel under subsection (a) shall be transmitted to the Under Secretary in advance of the vessel arriving in the United States in such manner, time, and form as the Under Secretary prescribes.

“(d) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.—Upon request, information provided to the Under Secretary under this section may be shared with other Federal agencies for the purpose of protecting national security.

**“§ 70113. Civil penalty**

“Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.”

(b) CONFORMING AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by adding at the end the following:

“VI. MISCELLANEOUS ..... 70101”.

(c) APPLICATION OF CREW AND PASSENGER MANIFEST REQUIREMENT.—Section 70112 of title 46, United States Code, as enacted by the amendment made by subsection (a), shall apply with respect to any vessel arriving in the United States after the 60-day period beginning on the date of the enactment of this Act.

(d) RULEMAKING REQUIREMENTS.—

(1) INTERIM FINAL RULE AUTHORITY.—The Secretary may issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

(2) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.

**SEC. 3. CLARIFICATION OF COAST GUARD AUTHORITY TO CONTROL VESSELS IN TERRITORIAL WATERS OF THE UNITED STATES.**

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following:

**“SEC. 15. ENTRY OF VESSELS INTO TERRITORIAL SEA; DIRECTION OF VESSELS BY COAST GUARD.**

“(a) NOTIFICATION OF COAST GUARD.—Under regulations prescribed by the Secretary, a commercial vessel entering the territorial sea of the United States shall notify the Secretary by electronic transmission not later than 96 hours before that entry and provide the following information regarding the vessel:

- “(1) The name of the vessel.
- “(2) The route and port or place of destination in the United States.
- “(3) The time of entry into the territorial sea.
- “(4) Any information requested by the Secretary to demonstrate compliance with applicable international agreements to which the United States is a party.
- “(5) If the vessel is carrying dangerous cargo, a description of that cargo.
- “(6) A description of any hazardous conditions on the vessel.
- “(7) Any other information requested by the Secretary.

“(b) DENIAL OF ENTRY.—The Secretary may deny entry of a vessel into the territorial sea of the United States if—

- “(1) the Secretary has not received notification for the vessel in accordance with subsection (a); or
- “(2) the vessel is not in compliance with any other applicable law relating to marine safety, security, or environmental protection.

“(c) DIRECTION OF VESSEL.—The Secretary may direct the operation of any vessel in the navigable waters of the United States as necessary during hazardous circumstances, including the absence of a pilot required by State or Federal law, weather, casualty, vessel traffic, or the poor condition of the vessel.

“(d) IMPLEMENTATION.—The Secretary shall implement this section consistent with section 4(d).”.

**SEC. 4. EXTENSION OF SEAWARD JURISDICTION.**

(a) DEFINITION OF TERRITORIAL WATERS.—Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195) is amended—

- (1) by striking “The term ‘United States’ as used in this Act includes” and inserting the following:

“In this Act:

- “(1) UNITED STATES.—The term ‘United States’ includes”; and
- “(2) by adding at the end the following:
  - “(2) TERRITORIAL WATERS.—The term ‘territorial waters of the United States’ includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.”.

(b) CIVIL PENALTY FOR VIOLATION OF ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (50 U.S.C. 192), is amended—

- (1) by inserting “(a) IN GENERAL.—” before “If” in the first undesignated paragraph;
- (2) by striking “(a) If any other” and inserting “(b) APPLICATION TO OTHERS.—If any other”; and
- (3) by adding at the end the following:

“(c) CIVIL PENALTY.—A person violating this Act, or any rule, regulation or order issued under this Act, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.”.

**SEC. 5. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD.**

(a) PERSONNEL END STRENGTHS.—Section 661(a) of title 14, United States Code, is amended by adding at the end the following: “If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.”.

(b) OFFICERS IN COAST GUARD RESERVE.—Section 724 of title 14, United States Code, is amended by adding at the end thereof the following:

“(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.”.



**SEC. 6. EXTENSION OF DEEPWATER PORT ACT TO NATURAL GAS.**

The following provisions of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) are each amended by inserting “or natural gas” after “oil” each place it appears:

- (1) Section 2(a) (33 U.S.C. 1501(a)).
- (2) Section 3(9) (33 U.S.C. 1502(9)).
- (3) Section 4(a) (33 U.S.C. 1503(a)).
- (4) Section 5(c)(2)(G) and (H) (33 U.S.C. 1504(c)(2)(G) and (H)).
- (5) Section 5(i)(2)(B) (33 U.S.C. 1504(i)(2)(B)).
- (6) Section 5(i)(3)(C) (33 U.S.C. 1504 (i)(3)(C)).
- (7) Section 8 (33 U.S.C. 1507).
- (8) Section 21(a) (33 U.S.C. 1520(a)).

**SEC. 7. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL.**

(a) IN GENERAL.—Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) is amended—

- (1) by striking “and” after the semicolon in paragraph (1);
  - (2) by striking “terrorism.” in paragraph (2) and inserting “terrorism; and”;
- and

(3) by adding at the end the following:

“(3) dispatch properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism.”

(b) REPORT ON USE OF NON-COAST GUARD PERSONNEL.—The Secretary of Transportation shall evaluate and report to the Congress on—

- (1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));
- (2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and
- (3) the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training under that section.

**SEC. 8. AUTOMATIC IDENTIFICATION SYSTEM.**

(a) TRANSPONDER REQUIREMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with a position indicating transponder and an appropriate situation display or other device suitable for accessing information made available by the transponder system, in accordance with regulations prescribed by the Secretary of Transportation:

- (A) Vessels subject to Public Law 92–63.
- (B) Small passenger vessels carrying more than a number of passengers determined by the Secretary of Transportation.
- (C) Towing vessels while towing astern or pushing ahead or alongside, except commercial assistance towing vessels rendering assistance to disabled small vessels.

(2) EXEMPTION.—The Secretary may exempt a vessel from paragraph (1) if the Secretary finds that a transponder is not necessary for the safe navigation of the vessel on the waters on which the vessel operates.

(b) REGULATIONS.—The Secretary of Transportation shall issue regulations implementing subsection (a), including requirements for the operation and maintenance of transponders required under subsection (a).

(c) APPLICATION.—Subsection (a) shall apply as follows:

- (1) On and after December 31, 2002, to—
  - (A) any vessel built after that date; and
  - (B) notwithstanding paragraphs (2) and (3), any vessel operating within the geographic boundaries of a Vessel Traffic Service.
- (2) On and after July 1, 2003, to any vessel built before the date referred to in paragraph (1) that is—
  - (A) a passenger vessel;
  - (B) a tanker; or
  - (C) a towing vessel engaged in moving a tank vessel.
- (3) On and after December 31, 2004, to all other vessels built before the date referred to in paragraph (1).

#### PURPOSE OF THE LEGISLATION

This bill establishes a comprehensive national antiterrorist system that increases the security of maritime transportation and reduces the risk of the maritime transportation system being involved in a terrorist incident.

#### BACKGROUND AND NEED FOR THE LEGISLATION

The U.S. Coast Guard is the primary Federal agency with responsibility for the safety and security of vessels, ports, waterways, and their related facilities. Since the terrorist attack of September 11, 2001, the Coast Guard has implemented a number of tough new security measures under existing statutory authorities contained in the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et. seq.), and in section 1 of title II of Public Law 65–24, June 15 1917, as amended (50 U.S.C. 191).

The United States maritime borders include 95,000 miles of open shoreline, 361 ports, and an Exclusive Economic Zone that spans 3.5 million square miles. The United States relies on ocean transportation for 95 percent of cargo tonnage that moves into and out of the country. Each year, more than 7,500 commercial vessels make approximately 51,000 port calls, and more than six million loaded marine containers enter U.S. ports.

Current growth predictions indicate that container cargo will quadruple in the next 20 years. Standardized cargo containers allow cargo to be quickly transferred from ships to trucks or railcars and transported immediately to destinations in the United States. Intermodal container transportation has encouraged the development of just-in-time delivery systems and other efficiency enhancements in cargo delivery methods. A disruption of business “supply chains” or other interruptions to the flow of cargo through U.S. ports from a terrorist attack would have a major impact on the U.S. economy.

Before the terrorist attacks of September 11, 2001, the primary focus of intermodal transportation was the safe movement of containers in a timely manner. As a result of the increased threat of terrorism, the United States must implement additional transportation security measures that deter a terrorist attack without interfering with the efficient movement of cargo through U.S. ports and waterways.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Short title*

This Act may be cited as the “Maritime Transportation Antiterrorism Act of 2002”.

##### *Section 2. Port security*

Section 2 of the bill creates a new subtitle VI of title 46, United States Code, to establish a comprehensive national system of antiterrorism security enhancements. Chapter 701 of this subtitle contains provisions related to port security.

New section 70101 of chapter 701 provides the definitions of seven terms used throughout the new chapter. The most significant definitions include those of National and Area Maritime Transpor-

tation Antiterrorism Plans as well as the term catastrophic emergency. In the context of this chapter, catastrophic emergency means any event caused by a terrorist act in the United States or on a vessel on a voyage to or from the United States that causes, or may cause, substantial loss of human life or major economic disruption in any particular area.

Section 70102 requires the Secretary of Transportation to conduct port vulnerability assessments for U.S. ports, including an assessment of the vulnerability of each facility in a port, at which there is a high risk of a catastrophic emergency. The results of the vulnerability assessments will be used to implement a national maritime transportation antiterrorism planning system, consisting of a national plan, area plans, as well as vessel, facility, and port terminal plans, to deter a catastrophic emergency to the maximum extent practicable. The Secretary may accept an assessment conducted by, or on behalf of, a port authority or marine terminal operator if the Secretary determines that the assessment adequately assesses the vulnerabilities of the facilities to a terrorist threat.

Section 70103 establishes the national maritime transportation antiterrorism planning system. The Secretary is required to prepare a National Maritime Transportation Antiterrorism Plan. The National Plan will assign the duties and responsibilities of the various Federal, state, and local governmental agencies. It will also create a system of surveillance and notice designed to safeguard against possible catastrophic emergencies.

Area Maritime Transportation Antiterrorism Plans are developed by Federal maritime antiterrorism coordinators, who are Coast Guard officials designated in the National Plan, in consultation with local harbor safety advisory committees. Area Plans are designed to deter a terrorist act in or near the specified area to the maximum extent practicable. The area plan will include all of the individual facility antiterrorism plans for the area plus an overall plan for the area.

Vessel and facility antiterrorism plans must be developed by owners and operators of vessels and facilities that the Secretary believes may be involved in a catastrophic emergency. The plans must be submitted to the Secretary by January 1, 2003. The vessel and facility plans must identify an individual having authority to implement antiterrorism actions as well as provide for a way to immediately communicate with appropriate Federal officials. The plans must also provide for the necessary resources, antiterrorism training, and periodic unannounced drills to deter a catastrophic emergency. Vessel or facility operators may not operate after January 1, 2003, without an approved plan.

To effectively implement this system, the Secretary will need to determine whether a particular vessel or facility poses a risk of being involved in a catastrophic emergency. For example, a ferry carrying a small number of cars across a river may not pose a risk of being involved in a catastrophic emergency. However, a ferry carrying several hundred commuters to work may be involved in just such an emergency. The vessel's area of operation or the type of cargo carried on board also may affect the decision as to whether a vessel or facility may be involved in a catastrophic emergency. For example, a ship offloading in a remote facility may not pose a

threat of being involved in a catastrophic emergency. However, the same ship entering the Port of Los Angeles may pose such a threat.

The facility plans will specify the “secure” areas of a terminal in which unescorted access will only be granted to individuals that possess a Transportation Security Card issued under section 70105. The number and scope of secure areas in a facility may vary depending upon the type of facility in question. For example, the entire facility at an oil terminal may be a secure area. In contrast, the Secretary may decide that only the areas at a container terminal where individuals have access to open containers or container manifests are secure areas. The facility plans may also provide security standards for ensuring that cargo off-loaded from the vessel does not pose a threat of causing a catastrophic emergency, including both full and empty containers. The Secretary may also require that each vessel or facility operator implement any necessary interim security measures until the antiterrorism plan for that vessel or facility operator is approved.

The Federal Emergency Management Agency (FEMA) is the primary Federal agency charged with coordinating the response to a terrorist attack in the United States. Other agencies, such as the Department of Justice, provide training for first responders to terrorist attacks, including state and local police and fire departments. Section 70104 of chapter 701 requires the Secretary of Transportation to cooperate with the Director of FEMA to coordinate maritime terrorism response actions.

Since FEMA does not have jurisdiction over vessels, this section also requires the Secretary to develop a system of terrorism response for vessels. Tank vessels are currently required under the Oil Pollution Act of 1990 to have oil spill response plans. The Secretary may allow these plans to be used to address oil spilled from vessels involved in a catastrophic emergency. Similarly, some states, such as Alaska, Washington, Oregon, and California, require non-tank vessels to have oil spill response plans. The Secretary may also allow these State-approved plans to be used to address oil spilled from these non-tank vessels involved in a catastrophic emergency.

The first step to providing security at a facility is controlling access to the secure areas of that facility. Section 70105 establishes a national standard for issuance of biometric transportation security cards whose purpose is to control access to secure terminal areas to only authorized personnel. Many truck drivers pick up or drop off cargoes from many different ports. Today, they may need multiple identification cards and background checks. A national standard is needed due to the intermodal nature of our transportation system.

This section prevents an individual from entering an area of a vessel or facility designated as a secure area in an antiterrorism plan unless that individual holds a transportation security card and is authorized to be in the area, or is accompanied by another individual who holds a card and is authorized to be in the area. The Secretary is required to issue an individual a transportation security card unless the Secretary decides that the individual poses a terrorism security risk to the United States warranting denial of the card.

There are three reasons that the Secretary may make a decision to deny issuance of the security card. First, if the individual has been convicted of a felony, the nature of which indicates that the individual may be a terrorism security risk to the United States; second, if the individual may be denied entry or removed from the United States under the Immigration and Nationality Act; and third, if the individual otherwise poses a terrorism security risk to the United States, for example, by financially supporting a terrorist organization. Subsection (e) prohibits any of the information gathered in the background investigation of an individual from being disclosed to the public, including an individual's employer. Any person who violates this prohibition is subject to penalties under the Privacy Act (5 U.S.C. 552a(i)). This section also requires the Secretary to establish an appeal process so that an individual may appeal a decision that he poses a terrorism security risk to the United States.

Section 70106 establishes Coast Guard maritime antiterrorism teams to protect vessels, ports, facilities, and cargo on United States' waters.

Section 70107 allows the Under Secretary of Transportation for Security to provide financial assistance for enhanced facility security to implement a maritime antiterrorism plan approved by the Coast Guard or an interim measure required by the Coast Guard. For each of fiscal years 2003, 2004, and 2005, \$75 million is authorized for the grants. Of the amounts authorized under this section, \$7.5 million is required to be used for proof-of-concept grants.

Section 70108 requires the Secretary to assess the effectiveness of the antiterrorism measures maintained at a foreign port from which vessels depart on a voyage to the United States or which pose a high risk of terrorism to the United States. The Secretary must assess the effectiveness of the foreign port's cargo screening process, facility access controls, and security management program. This will include evaluation of ports such as Vancouver and Montreal through which cargo is trans-shipped to the United States.

Section 70109 of chapter 701 requires the Secretary, after conducting a foreign port assessment, to contact the foreign government if he finds that a port in that foreign country does not maintain effective antiterrorism measures. The Secretary must also inform the foreign government about the steps necessary to improve the antiterrorism measures in use at the port.

If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, section 70110 allows him to prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo originating from or transshipped through that port. The Secretary may also deny entry into the United States to any vessel that does not meet these conditions. Given that, development of an international standard for intermodal security of cargo shipped to the United States could be difficult to develop and take a long time to implement, the Secretary may negotiate bilateral agreements with our trading partners that provide for implementation and enforcement of security standards in their countries' intermodal transportation system.

By no later than June 30, 2003, section 70111 requires the Under Secretary for Security, in consultation with the Transportation Security Oversight Board, to develop and maintain an

antiterrorism cargo identification and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port, such as through the ports of Vancouver or Montreal. The information that the Secretary requires for cargo identification and screening may include items such as cargo contents, place of origin, transportation routing information, and the names of the cargo's various intermodal carriers. This information must be provided to the Under Secretary at least 24 hours before the cargo is loaded on the vessel to provide the U.S. Government sufficient time to profile the cargo and have it screened before loading. The Under Secretary must also develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks as well as systems to detect any tampering or breaking of the seal or container integrity.

Section 70112 requires that the operators of commercial vessels arriving in the United States from a foreign port provide the Under Secretary with a passenger and crew manifest. This manifest must contain each passenger's and crew member's date of birth, citizenship, passport and visa number, and country of origin.

Section 70113 establishes a civil penalty of not more than \$25,000 for each violation of this new chapter.

*Section 3. Clarification of Coast Guard authority to control vessels in territorial waters of the United States*

Section 3 of the bill amends the Port and Waterways Safety Act to require all vessels entering the 12-mile territorial sea of the United States to provide notice to the Coast Guard 96 hours before entering those waters. This section also clarifies that the Coast Guard has the authority to direct the safe operations of all vessels in the 12-mile territorial sea and other navigable waters of the United States during hazardous circumstances such as when a pilot is not on board the vessel. This section does not affect the innocent passage of ships through U.S. waters.

*Section 4. Extension of seaward jurisdiction*

This section would extend the jurisdiction of the Coast Guard from three miles from shore to 12 miles from shore for certain security activities when the President determines that the national security is endangered. Section 4 also creates civil penalties not to exceed \$25,000 for each violation of a Coast Guard order based upon this authority.

*Section 5. Suspension of limitation on strength of Coast Guard*

This section would suspend Coast Guard end-strength and grade distributions for any fiscal year that there is in effect a declaration of war or national emergency, for a period not to exceed six months after the end of the war or national emergency.

*Section 6. Extension of Deepwater Port Act to natural gas*

Locating liquefied natural gas (LNG) facilities 30 miles off the coast of the United States may pose a lower threat of damage to coastal communities in the event of a catastrophic emergency at the facility than the current practice of locating LNG facilities onshore. This section would allow natural gas to be included in the Deepwater Port Act which establishes a system for permitting and

licensing deepwater terminals. Currently, only oil facilities are included in this Federal law.

*Section 7. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel*

Section 7 amends the Ports and Waterways Safety Act to allow the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism.

*Section 8. Automatic identification system*

This section requires that all vessels built after December 31, 2002, be equipped with a position-indicating transponder and an appropriate situation display for accessing the information made available by the transponder system. After July 1, 2003, all passenger vessels, tankers, and certain towing vessels, built before December 31, 2002, must be equipped with a transponder and display system. Finally, after December 31, 2004, all other vessels built before December 31, 2002, must also have this equipment.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

Prior to the consideration of H.R. 3983, the Subcommittee on Coast Guard and Maritime Transportation held a series of four hearings on port and waterways security.

The first hearing was held on December 6, 2001, for the purpose of receiving the recommendations of the Secretary of Transportation on the need to increase security in our nation's ports and waterways against terrorist attacks. The Subcommittee discussed the Federal government's current maritime security efforts and the Administration's suggestions on ways to further reduce the vulnerability of our ports and waterways to terrorist attack. During this hearing, the Subcommittee received testimony from Transportation Secretary Norman Mineta and Admiral James M. Loy, Commandant, U.S. Coast Guard.

Secretary Mineta testified that the Coast Guard had the legislative authority to adequately secure U.S. ports, but lacked the resources to provide an effective level of security. In addition, Secretary Mineta outlined four key principles which our country needs to follow in order to build an adequate system of maritime security. These principles include the development of a comprehensive security plan which protects the entire marine transportation system, the development and use of local port security plans, the ability to continually update national and local security plans, and the recognition of the intermodal nature of transportation in general.

Admiral Loy testified that the Coast Guard mounted a significant and rapid response to the September 11th attacks on the U.S. He also noted that the Coast Guard was able to increase its security posture using existing active duty, reserve, civilian, and auxiliary personnel as well as its existing shore units, ships, boats, and aircraft. Admiral Loy reported that this increased security posture was not sustainable without other Coast Guard missions being severely impacted. Finally, Admiral Loy strongly indicated the Coast Guard's need for additional resources to support a permanently enhanced level of port security and safety.

On February 13, 2002, the Subcommittee held its second port security hearing. The purpose of this hearing was to investigate the best way to implement a nationwide security system which requires transportation workers to hold secure identity cards. The Subcommittee received testimony from Admiral James Underwood, Director of the Office of Intelligence and Security for the Department of Transportation, and representatives from the National Association of Waterfront Employers, the Pacific Maritime Association, the United States Maritime Alliance, the International Longshoremen's Association, the International Longshore and Warehouse Union, and the American Trucking Associations.

Admiral Underwood testified that the Department of Transportation was working on a uniform transportation worker identification program which would require that any person who has access to secure areas of transportation facilities be required to undergo a background check and be issued a transportation security card. Admiral Underwood emphasized the need for transportation security cards to be fully intermodal, to be built on existing technology, and to minimize the need for workers to carry multiple ID cards. Finally, Admiral Underwood stated that transportation security cards would not prove effective without the physical control of all access points to secure areas of a transportation facility.

The representative from the National Association of Waterfront Employees, the Pacific Maritime Association, and the United States Maritime Alliance testified about his organizations' support for requiring the positive identification for all persons entering marine terminals, the need for one Federal standard for credentialing, and the requirement that all individuals who are issued transportation security cards undergo a criminal background check. The witness for the American Trucking Associations testified about his group's desire to have one criminal history record check and one universal security identification card for truck drivers. The two longshore unions supported credentialing procedures for controlled access to certain areas of U.S. ports, but opposed efforts to use a prior criminal conviction as a way to prevent individuals from being employed in a secure area of a transportation facility.

On March 13, 2002, the Subcommittee held a hearing to investigate the security of containers used to ship goods imported into and exported out of the United States by water. The Subcommittee received testimony from the U.S. Coast Guard, cargo shippers, vessel operators as well as freight terminal owners and operators.

Captain Anthony Regalbuto, Chief of Port Security, U.S. Coast Guard, testified that the Secretary of Transportation had established the National Infrastructure Security Committee to evaluate transportation infrastructure vulnerabilities and to recommend changes for improved security. The Container Working Group, which was established through the Security Committee, is co-chaired by the U.S. Customs Service and includes a number of additional Federal agencies concerned with cargo security. The Container Working Group issued its initial report on shipping container security to the Office of Homeland Security on February 1st. Finally, Captain Regalbuto informed the Subcommittee about the Coast Guard's efforts to have the International Maritime Organization adopt a number of improved international maritime security measures.



Chris Koch of the World Shipping Council, which represents a number of international ocean carriers that carry containerized cargo, stated his members' concerns that a terrorist attack on our marine transportation system could lead the Federal government to shut down trade into and out of the U.S. Mr. Koch also testified that any advanced cargo information required to be submitted to the government should be collected by only one Federal agency. Wayne Gibson represented the International Mass Retail Association which is a large alliance of retailers who import a large volume of goods into the United States. Mr. Gibson testified that the adherence to voluntary industry standards and internal security plans would be the best step American industry could take in improving the security of containers. Mr. Gibson also stated that pre-shipment foreign cargo exams may prove to be unreliable and that the government needs to develop a container risk assessment program.

The Subcommittee held its fourth hearing about port security on March 14, 2002. This hearing examined ways to finance the new security equipment that individual ports and marine terminal facilities must install to address the increased terrorist threat to our nation. The Subcommittee received testimony from the U.S. Maritime Administration, vessel and marine facility operators, as well as several local port authorities.

William Schubert, Maritime Administrator, testified about the Department of Transportation's plans to award \$93.3 million in competitive port security grants. These grants were funded in the Department of Defense Appropriations Act of Fiscal Year 2002. The new Port Security Grants Program will finance security enhancements at critical national seaports. The Program will accelerate the installation of enhanced security measures for passengers and cargo that pass through our vital ports.

Kathy Metcalf, who represented the Chamber of Shipping of America, reported that her members, who operate various types of oceangoing vessels, have implemented a number of measures to prevent their vessels from being used in a terrorist act. The Chamber of Shipping is also working with the Coast Guard to encourage the International Maritime Organization to accept a number of U.S. maritime security initiatives. Finally, Ms. Metcalf testified that her industry should not be held responsible for paying for the security of U.S. ports. Richard Steinke, who represented the American Association of Port Authorities (AAPA), testified that U.S. ports need additional port security grant funding. According to AAPA's recent survey, 52 ports intend to apply for the Department of Transportation's port security grants. These ports expect to request \$223 million to implement security programs as a result of the new terrorist threat.

A bill to ensure the security of maritime transportation in the United States against acts of terrorism was introduced as H.R. 3983 by Chairman Young on March 18, 2002, with Mr. Oberstar, Mr. LoBiondo, and Ms. Brown of Florida as cosponsors. The bill was referred to the Committee on Transportation and Infrastructure.

On March 20, 2002, the Subcommittee on Coast Guard and Maritime Transportation met in open session to mark up H.R. 3983, the Maritime Transportation Antiterrorism Act of 2002. The Sub-

committee considered one amendment to H.R. 3983. Mr. LoBiondo offered an amendment that allows the Secretary of Transportation to issue transportation security cards to hazardous material truck drivers who have already undergone a security background check authorized under the USA Patriot Act of 2001, Public Law 107-56. H.R. 3983, as amended by the Subcommittee, was ordered reported to the Full Committee by voice vote in the presence of a quorum.

On March 20, 2002, the Transportation and Infrastructure Committee met in open session to consider H.R. 3983. H.R. 3983 was ordered reported to the House of Representatives by a voice vote in the presence of a quorum.

#### ROLL CALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no roll call votes during Committee consideration of H.R. 3983.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF THE LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to: (a) establish a comprehensive national system of antiterrorism security enhancements; (b) clarify Coast Guard authority to control vessels in the territorial waters of the United States; (c) extend the jurisdiction of the Coast Guard from three to twelve miles from shore for certain security activities; (d) extend the Deepwater Port Act to natural gas; and (e) require a faster deployment of the automatic identification system.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3983 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 11, 2002.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3983, the Maritime Transportation Antiterrorism Act of 2002. If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), Cecil McPherson and Jean Talarico (for the private-sector impact), and Susan Sieg Tompkins (for the state and local impact).

Sincerely,

BARRY B. ANDERSON,  
(for Dan L. Crippen, Director).

Enclosure.

*H.R. 3983—Maritime Transportation Antiterrorism Act of 2002*

Summary: H.R. 3983 would establish a federal program to protect U.S. ports from terrorism. In addition, the bill would authorize the appropriation of \$75 million for each of fiscal years 2003 through 2005 for grants to help port facilities implement antiterrorism efforts.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3983 would cost \$240 million over the 2003–2007 period and \$3 million a year thereafter. Most of the funds that would be spent through 2007 would be used to implement the grant provisions of the legislation. Other than a new grant program, most of the activities mandated by the legislation are currently being carried out under the Coast Guard's existing authority. H.R. 3983 could increase federal receipts by establishing new civil penalties; therefore, pay-as-you-go procedures would apply to the legislation. CBO estimates, however, that any such increase would be less than \$500,000 annually.

H.R. 3983 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Because of uncertainties about which ports, facilities, and vessels would be affected and how certain regulations and performance standards would be implemented, CBO cannot determine whether the costs of all of the mandates contained in H.R. 3983 would exceed the thresholds established by UMRA (\$58 million for intergovernmental mandates and \$115 million for private-sector mandates in 2002, adjusted annually for inflation). The bill also would authorize appropriations for grants to help port facilities to implement antiterrorism efforts.

Major Provisions: H.R. 3983 would establish a port security program to be carried out primarily by the Department of Transportation (DOT), acting through the U.S. Coast Guard. The bill would focus on the security of facilities at U.S. and foreign ports, as well as vessels using such facilities. Major elements of the program would include:

- Vulnerability assessments for each port that DOT believes is at high risk of a terrorist act;

- A national antiterrorism plan for deterring acts of terrorism directed at maritime transportation, and individual plans for areas at risk of attack;
- Maritime antiterrorism teams to protect the public as well as vessels, ports, facilities, and cargo in U.S. waters;
- Grants to ports to implement maritime antiterrorism plans or interim measures required by the Coast Guard—for this purpose the bill would authorize the appropriation of \$75 million a year over the 2003–2005 period;
- Assessments of foreign ports that vessels entering U.S. ports might visit, including recommended actions that such ports should take to enhance security and actions that the United States might take if foreign ports fail to maintain effective antiterrorism measures;
- Regulation of deepwater ports handling natural gas; and
- Other activities to regulate shipping of containerized cargo, require manifests of vessel passengers and crew, create a sea marshal program, and safeguard American ports.

Estimated Cost to the Federal Government: The Coast Guard is implementing most of the provisions of H.R. 3983 under its existing authority. The following table shows the estimated costs of carrying out requirements of the bill that are in addition to those already authorized and planned, including grants for enhanced port security. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION <sup>1</sup>					
Estimated authorization level .....	78	78	78	3	3
Estimated outlays .....	28	53	78	54	27

<sup>1</sup> For fiscal year 2002, the Coast Guard is planning to spend about \$45 million for antiterrorism activities. To date, the agency has received about \$26 million for this purpose, and is seeking an additional \$19 million in a supplemental appropriation or reprogramming request for this year.

Basis of estimate: For this estimate, CBO assumes that H.R. 3983 will be enacted during fiscal year 2002 and that the necessary amounts will be appropriated for each fiscal year. For fiscal years 2003 through 2005, section 2 of the bill authorizes the appropriation of \$75 million for grants to owners or operators of ports. In addition, CBO estimates it would cost \$3 million a year to assess security efforts at foreign ports and regulate U.S. deepwater ports that handle natural gas—activities that are not authorized under current law. Outlays for these activities are based on historical rates for similar Coast Guard programs.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 3983 could increase federal revenues by establishing civil penalties, but CBO estimates that any such increase would be less than \$500,000 annually.

Intergovernmental and private-sector impact: H.R. 3983 contains both intergovernmental and private-sector mandates as defined in UMRA. Because of uncertainties about which ports, facilities, and vessels would be affected and how certain regulations and performance standards would be implemented, CBO cannot determine

whether the costs of all of the mandates contained in H.R. 3983 would exceed the thresholds established by UMRA (\$58 million for intergovernmental mandates and \$115 million for private-sector mandates in 2002, adjusted annually for inflation). The bill also would authorize appropriations for grants to help port facilities to implement antiterrorism efforts.

*Mandates that affect both the public and private sector*

Because facility and vessel owners and operators include both public and private-sector entities, the following requirements would be both intergovernmental and private-sector mandates as defined by UMRA.

**Antiterrorism Plans.** Section 2 would require the Coast Guard to perform port vulnerability assessments for each port, and for each facility in that port, believed to be at high risk of a catastrophic emergency, as defined in the bill. Based on the results of that assessment, certain facilities and vessel owners or operators would be required to develop and comply with their own antiterrorism plans.

The selected facilities and vessels that are required to develop the antiterrorism plans and the specific level of security improvements would be determined after the bill's enactment. Based on information from the Coast Guard, it is unclear what facilities and vessels would fall under this requirement. Consequently, CBO cannot estimate either the total costs to comply with the mandate or when such costs would be incurred.

**Federal Transportation Identity Cards.** Other provisions of section 2 would prohibit individuals from entering secure areas of specific facilities and vessels unless they meet certain conditions. Owners and operators would be required to check identification for all individuals and may have to hire additional personnel. CBO cannot estimate the cost of compliance with this mandate because the identification of the secure areas also is contingent upon the vulnerability assessments that will take place after enactment of the bill.

**Automatic Identification System.** Section 8 would require certain vessels built after December 31, 2002, to be equipped with an automatic identification system that would transmit the vessel's location and certain other information. This mandate would accelerate the Coast Guard's automatic identification system that is scheduled to begin in 2004 with staggered implementation dates. According to DOT, the cost of a transponder ranges from \$5,000 to \$12,000. The specific vessels required to be equipped with an automatic identification system would be determined by the Secretary after enactment of the bill.

*Mandates that affect the private sector only*

H.R. 3983 would impose mandates on shippers and certain persons involved in the transport of containerized cargo, and owners and operators of commercial vessels.

**Shipping Container Security.** Section 2 would require the Under Secretary of Transportation for Security to develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks, no later than June 30, 2003. CBO cannot estimate the cost to comply with the mandate,

however, since the details of the performance standards have not been established.

**Electronic Notification.** The bill would require shippers and certain persons involved in the transport of cargo to provide the Under Secretary of Transportation for Security, by electronic transmission, information on containerized cargo, no later than 24 hours before the cargo destined for the United States is loaded on a vessel. The bill also would require the operator of each commercial vessel arriving in the United States from a foreign port to provide to the Under Secretary, by electronic transmission, a passenger and crew manifest, in advance of the vessel arriving in the United States. Finally, the bill would require a commercial vessel entering the territorial sea of the United States to notify the Secretary by electronic transmission not later than 96 hours before that entry and to provide the information regarding the vessel, including its name, route, time of entry, and a description of dangerous or hazardous cargo. The above entities already transmit the information although not electronically. The additional cost to transmit the required information electronically would be minimal.

Previous CBO cost estimate: On September 18, 2001, CBO transmitted a cost estimate of S. 1214, the Port and Maritime Security Act of 2001, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on August 2, 2001. S. 1214 contains provisions similar to those of H.R. 3983, but the Senate bill encompasses other law enforcement activities such as drug interdiction. The Senate bill also would extend the collection of some vessel tonnage duties that will expire after 2002 and would make most of the duties available to the Coast Guard without further appropriation for implementing port security activities. As a result, most of the spending under S. 1214 would be financed from such fees, while the new spending under H.R. 3983 would all come from annual appropriations.

CBO identified intergovernmental and private-sector mandates in H.R. 3983 that are similar to those found in S. 1214. For example, both bills require that the Coast Guard conduct vulnerability assessments for ports. CBO cannot determine the aggregate cost of the mandates in either version, in part because of the uncertainty about which ports would be affected.

Estimate prepared by: Federal Costs: Deborah Reis, Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins, Impact on the Private Sector: Cecil McPherson and Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article 1, section 8 of the Constitution.

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 (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires 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. Except to the extent that international maritime commerce is subject to the exclusive jurisdiction of the United States under the Constitution, the Committee states that H.R. 3983 does not preempt any state, local, or tribal law.

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 THE 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 (Public Law 104-1).

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 italic, existing law in which no change is proposed is shown in roman):

**TITLE 46, UNITED STATES CODE**

Subtitle	Sec.
I. GENERAL .....	101
*       *       *       *       *       *	
VI. MISCELLANEOUS .....	70101
*       *       *       *       *       *	

***Subtitle VI—Miscellaneous***

Chap.	Sec.
701. <b>Port Security</b> .....	<b>70101</b>

**CHAPTER 701—PORT SECURITY**

- Sec.
- 70101. *Definitions.*
  - 70102. *United States facility vulnerability assessments.*
  - 70103. *Catastrophic emergency planning.*
  - 70104. *Antiterrorism response.*
  - 70105. *Transportation security cards.*
  - 70106. *Maritime antiterrorism teams.*
  - 70107. *Grants.*
  - 70108. *Foreign port assessment.*

70109. Notifying foreign authorities.  
 70110. Actions when foreign ports not maintaining effective antiterrorism measures.  
 70111. Shipping container antiterrorism.  
 70112. Crew and passenger manifests.  
 70113. Civil penalty.

### **§ 70101. Definitions**

*For the purpose of this chapter:*

(1) The term “Area Maritime Transportation Antiterrorism Plan” means an Area Maritime Transportation Antiterrorism Plan prepared under section 70103(b).

(2) The term “catastrophic emergency” means any event caused by a terrorist act in the United States or on a vessel on a voyage to or from the United States that causes, or may cause, substantial loss of human life or major economic disruption in any particular area.

(3) The term “facility” means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

(4) The term “National Maritime Transportation Antiterrorism Plan” means the National Maritime Transportation Antiterrorism Plan prepared and published under section 70103(a).

(5) The term “owner or operator” means—

(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and

(B) in the case of a facility, any person owning or operating such facility.

(6) The term “Secretary” means the Secretary of Transportation.

(7) The term “Under Secretary” means the Under Secretary of Transportation for Security.

### **§ 70102. United States facility vulnerability assessments**

(a) *IN GENERAL.*—The Secretary shall conduct a port vulnerability assessment, including an assessment of the vulnerability of each facility in a port, for each port in the United States for which the Secretary believes there is a high risk of catastrophic emergency.

(b) *FACILITY ASSESSMENTS.*—(1) An assessment under this section for a port shall include an assessment of each facility in the port.

(2) Upon completion of an assessment under this section for a port, the Secretary shall provide to the owner or operator of each facility in the port a copy of the assessment of the facility under this subsection.

(c) *ACCEPTANCE OF EXISTING ASSESSMENT.*—In lieu of conducting such a port vulnerability assessment under this section, the Secretary may accept an assessment conducted by or on behalf of a port authority or marine terminal operator.

### **§ 70103. Catastrophic emergency planning**

(a) *NATIONAL MARITIME TRANSPORTATION ANTITERRORISM PLAN.*—(1) The Secretary shall prepare a National Maritime Transportation Antiterrorism Plan for deterring a catastrophic emergency.

(2) The National Maritime Transportation Antiterrorism Plan shall provide for efficient, coordinated, and effective action to deter



and minimize damage from catastrophic emergencies, and shall include the following:

(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local governmental agencies.

(B) Identification of security resources.

(C) Establishment of procedures for the coordination of activities of—

(i) Coast Guard maritime antiterrorism teams established under this chapter; and

(ii) Federal Maritime Antiterrorism Coordinators.

(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of catastrophic emergencies and imminent threats of catastrophic emergencies to the appropriate State and Federal agencies.

(E) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a catastrophic emergency, or the substantial threat of a catastrophic emergency.

(F) Designation of—

(i) areas for which Area Maritime Transportation Antiterrorism Plans are required to be prepared under subsection (b); and

(ii) a Coast Guard official who shall be the Federal Maritime Antiterrorism Coordinator for each such area.

(3) The Secretary may, from time to time, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Antiterrorism Plan.

(4) Actions to deter and minimize damage from catastrophic emergencies shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Antiterrorism Plan.

(b) AREA MARITIME TRANSPORTATION ANTITERRORISM PLANS.—(1) The Federal Maritime Antiterrorism Coordinator designated under subsection (a)(2)(F) for an area shall—

(A) submit to the Secretary an Area Maritime Transportation Antiterrorism Plan for the area; and

(B) solicit advice from local harbor safety advisory committees to assure preplanning of joint terrorism deterrence efforts, including appropriate procedures for deterrence of acts of terrorism.

(2) The Area Maritime Transportation Antiterrorism Plan shall—

(A) when implemented in conjunction with the National Maritime Transportation Antiterrorism Plan, be adequate to deter a terrorist act in or near the area to the maximum extent practicable;

(B) describe the area covered by the plan, including the areas of population or special economic, environmental or national security importance that might be damaged by a terrorist act;

(C) describe in detail how the plan is integrated with other Area Maritime Transportation Antiterrorism Plans, and with facility antiterrorism plans and vessel antiterrorism plans under this section;

(D) include any other information the Secretary requires; and

(E) be updated at least every five years by the Federal Maritime Antiterrorism Coordinator.

- (3) *The Secretary shall—*
- (A) *review and approve Area Maritime Transportation Antiterrorism Plans under this subsection; and*
  - (B) *periodically review previously approved Area Maritime Transportation Antiterrorism Plans.*
- (c) *VESSEL AND FACILITY ANTITERRORISM PLANS.—(1) Before January 1, 2003, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a antiterrorism plan for the vessel or facility, for deterring a catastrophic emergency to the maximum extent practicable.*
- (2) *The vessels and facilities referred to in paragraph (1) are vessels and facilities that the Secretary believes may be involved in a catastrophic emergency.*
  - (3) *A antiterrorism plan required under this subsection shall—*
    - (A) *be consistent with the requirements of the National Maritime Transportation Antiterrorism Plan and Area Maritime Transportation Antiterrorism Plans;*
    - (B) *identify the qualified individual having full authority to implement antiterrorism actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);*
    - (C) *identify, and ensure by contract or other means approved by the Secretary, the availability of antiterrorism measures necessary to deter a catastrophic emergency or a substantial threat of such a catastrophic emergency;*
    - (D) *describe the training, periodic unannounced drills, and antiterrorism actions of persons on the vessel or at the facility, to be carried out under the plan to deter a catastrophic emergency, or a substantial threat of a catastrophic emergency;*
    - (E) *be updated at least every five years; and*
    - (F) *be resubmitted for approval of each significant change.*
  - (4) *The Secretary shall—*
    - (A) *promptly review each such plan;*
    - (B) *require amendments to any plan that does not meet the requirements of this subsection;*
    - (C) *approve any plan that meets the requirements of this subsection; and*
    - (D) *review each plan periodically thereafter.*
  - (5) *A vessel or facility for which a plan is required to be submitted under this subsection may not operate after January 1, 2003, unless—*
    - (A) *the plan has been approved by the Secretary; and*
    - (B) *the vessel or facility is operating in compliance with the plan.*
  - (6) *Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a antiterrorism plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter a catastrophic emergency or a substantial threat of a catastrophic emergency.*
  - (7) *The Secretary shall require each operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the*

United States to implement any necessary interim security measures until the antiterrorism plan for that vessel or facility operator is approved.

(d) **NONDISCLOSURE OF INFORMATION.**—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

(1) facility antiterrorism plans, vessel antiterrorism plans, and port vulnerability assessments; and

(2) other information related to antiterrorism plans, procedures, or programs for vessels or terminals authorized under this chapter.

#### **§ 70104. Antiterrorism response**

(a) **COORDINATION.**—The Secretary shall cooperate with the Director of the Federal Emergency Management Agency to ensure that Federal, State, and local terrorism response resources are coordinated as part of the Director's terrorism response plan for United States ports and waterways.

(b) **VESSEL RESPONSE PLAN SYSTEM.**—Before January 1, 2003, the Secretary shall establish a system of antiterrorism response plans for vessels that may be involved in a catastrophic emergency.

#### **§ 70105. Transportation security cards**

(a) **PROHIBITION.**—(1) An individual shall not enter an area of a vessel or facility that is designated as a secure area in an antiterrorism plan for the vessel or facility that is approved by the Secretary under section 70103(c) unless the individual—

(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

(b) **ISSUANCE OF CARDS.**—(1) The Secretary shall issue a transportation security card to an individual specified in paragraph (2), unless the Secretary decides that the individual poses a terrorism security risk warranting denial of the card.

(2) This subsection applies to—

(A) an individual allowed unescorted access to a secure area designated in a maritime transportation antiterrorism plan;

(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

(C) a vessel pilot;

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel; and

(E) an individual engaged on a vessel that may be involved in a catastrophic emergency.

(c) **DETERMINATION OF TERRORISM SECURITY RISK.**—(1) An individual may not be denied a transportation security card under subsection (a) unless the Secretary determines that individual—

(A) *has been convicted of a felony that the Secretary believes could be a terrorism security risk to the United States;*

(B) *may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or*

(C) *otherwise poses a terrorism security risk to the United States.*

(2) *In making a determination under paragraph (1), the Secretary shall give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism security risk warranting denial of the card.*

(3) *The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.*

(4) *Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.*

(d) **BACKGROUND RECORDS CHECK.**—(1) *On request of the Secretary, the Attorney General shall—*

(A) *conduct a background records check regarding the individual; and*

(B) *upon completing the background records check, notify the Secretary of the completion and results of the background records check.*

(2) *A background records check regarding an individual under this subsection shall consist of the following:*

(A) *A check of the relevant criminal history databases.*

(B) *In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.*

(C) *As appropriate, a check of the relevant international databases or other appropriate means.*

(D) *Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.*

(e) **RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.**—

(1) *Information obtained by the Attorney General or the Secretary of Transportation under this section may not be made available to the public under section 552 of title 5.*

(2) *Any information constituting grounds for denial of a transportation security card under subsection (c)(1) shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.*

(f) **DEFINITION.**—*In this section, the term “alien” has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).*

#### **§ 70106. Maritime antiterrorism teams**

(a) **IN GENERAL.**—*The Secretary shall establish maritime antiterrorism teams to safeguard the public and protect vessels, ports, facilities, and cargo on waters subject to the jurisdiction of the United States from terrorist activity.*

(b) *MISSION.*—Each maritime antiterrorism team shall be trained, equipped, and capable of being employed to deter, protect against, and rapidly respond to threats of terrorism.

(c) *COORDINATION WITH OTHER AGENCIES.*—To the maximum extent feasible, each maritime antiterrorism team shall coordinate its activities with other Federal, State, and local law enforcement agencies.

#### **§ 70107. Grants**

(a) *FINANCIAL ASSISTANCE.*—The Under Secretary may provide financial assistance for enhanced facility security—

(1) to implement a maritime antiterrorism plan approved by the Secretary; or

(2) to implement an interim measure required by the Secretary under section 70103(c)(7).

(b) *MATCHING REQUIREMENTS.*—(1) Except as provided in paragraph (2), Federal funds for any project under this section shall not exceed 75 percent of the total cost of such project.

(2)(A) There are no matching requirements for grants under subsection (a) for projects costing not more than \$25,000.

(B) If the Under Secretary determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Under Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

(c) *PROJECT PROPOSALS.*—Each proposal for a grant under this section shall include the following:

(1) The name of the individual or entity responsible for conducting the project.

(2) A comprehensive description of the need for the project, and a statement of the project's relationship to the Area Maritime Transportation Antiterrorism Plan that applies to the location where the project will be carried out.

(3) A description of the qualifications of the individuals who will conduct the project.

(4) An estimate of the funds and time required to complete the project.

(5) Information regarding the source and amount of matching funding available to the applicant, as appropriate.

(6) Any other information the Under Secretary considers to be necessary for evaluating the eligibility of the project for funding under this section.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—(1) To carry out this section there is authorized to be appropriated to the Secretary \$75,000,000 for each of fiscal years 2003, 2004, and 2005.

(2) Of amounts available under this section, \$7,500,000 shall be used for proof-of-concept technology grants.

(3) Amounts appropriated under this section may remain available until expended.

#### **§ 70108. Foreign port assessment**

(a) *IN GENERAL.*—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

(1) a foreign port—

- (A) served by vessels documented under chapter 121 of this title; or
- (B) from which foreign vessels depart on a voyage to the United States; and
- (2) any other foreign port the Secretary believes poses a high risk of introducing terrorism to international maritime commerce.
- (b) **PROCEDURES.**—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—
- (1) screening of containerized and other cargo and baggage;
  - (2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;
  - (3) additional security on board vessels;
  - (4) licensing or certification of compliance with appropriate security standards;
  - (5) the security management program of the foreign port; and
  - (6) other appropriate measures to deter terrorism against the United States.
- (c) **CONSULTATION.**—In carrying out this section, the Secretary may consult with—
- (1) the Secretary of Defense and the Secretary of State—
    - (A) on the terrorist threat that exists in each country involved; and
    - (B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;
  - (2) the Secretary of the Treasury;
  - (3) appropriate authorities of foreign governments; and
  - (4) operators of vessels.

**§ 70109. Notifying foreign authorities**

If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

**§ 70110. Actions when foreign ports not maintaining effective antiterrorism measures**

- (a) **IN GENERAL.**—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary may—
- (1) prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo originating from or transshipped through that port; and
  - (2) deny entry into the United States to any vessel that does not meet such conditions.
- (b) **EFFECTIVE DATE FOR SANCTIONS.**—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—
- (1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

(c) *STATE DEPARTMENT TO BE NOTIFIED.*—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain effective antiterrorism measures.

(d) *ACTION CANCELED.*—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port.

#### **§ 70111. Shipping container antiterrorism**

(a) *IN GENERAL.*—By not later than June 30, 2003, the Under Secretary, in consultation with the Transportation Security Oversight Board, shall—

(1) develop and maintain a antiterrorism cargo identification and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.

(b) *PROVISION OF INFORMATION.*—An ocean common carrier, customs broker, freight forwarder, nonvessel operating common carrier, and shipper shall provide to the Under Secretary, by electronic transmission, containerized cargo information in a manner and form prescribed by the Under Secretary.

(c) *DEADLINE FOR PROVIDING INFORMATION.*—The information required under subsection (b) shall be provided to the Under Secretary not later than 24 hours before the cargo destined for the United States is loaded on a vessel.

(d) *DENIAL OF ENTRY.*—The Secretary, upon request of the Under Secretary, may deny entry by a vessel into the United States if all information requested by the Under Secretary with respect to cargo on the vessel is not provided before the deadline under subsection (c).

#### **§ 70112. Crew and passenger manifests**

(a) *IN GENERAL.*—The operator of each commercial vessel arriving in the United States from a foreign port shall provide to the Under Secretary by electronic transmission a passenger and crew manifest containing the information specified in subsection (b).

(b) *INFORMATION.*—A passenger and crew manifest required under subsection (a) for a vessel shall contain the following information:

(1) The full name of each passenger and crew member.

(2) The date of birth and citizenship of each passenger and crew member.

(3) The sex of each passenger and crew member.

(4) The passport number and country of issuance of each passenger and crew member if required for travel.

(5) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

(6) Such other information as the Under Secretary determines is reasonably necessary to ensure maritime safety.

(c) *TRANSMISSION OF MANIFEST.*—Subject to subsection (d), a passenger and crew manifest required for a vessel under subsection (a) shall be transmitted to the Under Secretary in advance of the vessel arriving in the United States in such manner, time, and form as the Under Secretary prescribes.

(d) *TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.*—Upon request, information provided to the Under Secretary under this section may be shared with other Federal agencies for the purpose of protecting national security.

**§ 70113. Civil penalty**

Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.

**PORTS AND WATERWAYS SAFETY ACT**

\* \* \* \* \*

**SEC. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.**

(a) \* \* \*

(b) *SPECIFIC AUTHORITY.*—Under subsection (a), the Secretary may—

(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; **[and]**

(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism~~[\.]~~; and

(3) *dispatch properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism.*

\* \* \* \* \*

**SEC. 15. ENTRY OF VESSELS INTO TERRITORIAL SEA; DIRECTION OF VESSELS BY COAST GUARD.**

(a) *NOTIFICATION OF COAST GUARD.*—Under regulations prescribed by the Secretary, a commercial vessel entering the territorial sea of the United States shall notify the Secretary by electronic transmission not later than 96 hours before that entry and provide the following information regarding the vessel:

(1) *The name of the vessel.*

(2) *The route and port or place of destination in the United States.*

(3) *The time of entry into the territorial sea.*

(4) *Any information requested by the Secretary to demonstrate compliance with applicable international agreements to which the United States is a party.*

(5) *If the vessel is carrying dangerous cargo, a description of that cargo.*

(6) *A description of any hazardous conditions on the vessel.*

(7) *Any other information requested by the Secretary.*

(b) *DENIAL OF ENTRY.*—The Secretary may deny entry of a vessel into the territorial sea of the United States if—



(1) *the Secretary has not received notification for the vessel in accordance with subsection (a); or*

(2) *the vessel is not in compliance with any other applicable law relating to marine safety, security, or environmental protection.*

(c) *DIRECTION OF VESSEL.—The Secretary may direct the operation of any vessel in the navigable waters of the United States as necessary during hazardous circumstances, including the absence of a pilot required by State or Federal law, weather, casualty, vessel traffic, or the poor condition of the vessel.*

(d) *IMPLEMENTATION.—The Secretary shall implement this section consistent with section 4(d).*

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**ACT OF JUNE 15, 1917**

**Chap. 30.**—AN ACT To punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes.

TITLE I.

\* \* \* \* \*

TITLE II.

\* \* \* \* \*

SEC. 2. (a) *IN GENERAL.*—If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

[(a) If any other] (b) *APPLICATION TO OTHERS.*—If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

(c) *CIVIL PENALTY.*—A person violating this Act, or any rule, regulation or order issued under this Act, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

\* \* \* \* \*

TITLE XIII.

GENERAL PROVISIONS.

SECTION 1. [The term "United States" as used in this Act includes] *In this Act:*

(1) UNITED STATES.—*The term "United States" includes the Canal Zone and all territory and waters continental or insular, subject to the jurisdiction of the United States.*

(2) TERRITORIAL WATERS.—*The term "territorial waters of the United States" includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.*

\* \* \* \* \*

TITLE 14, UNITED STATES CODE

\* \* \* \* \*

PART I—REGULAR COAST GUARD

\* \* \* \* \*

CHAPTER 17—ADMINISTRATION

\* \* \* \* \*

§ 661. Authorization of personnel end strengths

(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law. *If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.*

\* \* \* \* \*

PART II—COAST GUARD RESERVE AND AUXILIARY

\* \* \* \* \*

CHAPTER 21—COAST GUARD RESERVE

\* \* \* \* \*

§ 724. Authorized number of officers

(a) \* \* \*

\* \* \* \* \*

(c) DEFERRAL OF LIMITATION.—*If at the end of any fiscal year there is in effect a declaration of war or national emergency, the*

*President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.*

\* \* \* \* \*

**DEEPWATER PORT ACT OF 1974**

\* \* \* \* \*

DECLARATION OF POLICY

SEC. 2. (a) It is declared to be the purposes of the Congress in this Act to—

(1) \* \* \*

\* \* \* \* \*

(5) promote the construction and operation of deepwater ports as a safe and effective means of importing oil or natural gas into the United States and transporting oil or natural gas from the outer continental shelf while minimizing tanker traffic and the risks attendant thereto; and

(6) promote oil or natural gas production on the outer continental shelf by affording an economic and safe means of transportation of outer continental shelf oil or natural gas to the United States mainland.

\* \* \* \* \*

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) \* \* \*

\* \* \* \* \*

(9) “deepwater port” means any fixed or floating manmade structures other than a vessel, or any group of structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for transportation, storage, and further handling of oil or natural gas for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this title, including transportation of oil or natural gas from the United States outer continental shelf. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a “new source” for purposes of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;

\* \* \* \* \*

LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF A DEEPWATER PORT

SEC. 4. (a) No person may engage in the ownership, construction, or operation of a deepwater port except in accordance with a license issued pursuant to this Act. No person may transport or otherwise transfer any oil or natural gas between a deepwater port and the United States unless such port has been so licensed and the license is in force.

\* \* \* \* \*

PROCEDURE

SEC. 5. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

(2) Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—

(A) \* \* \*

\* \* \* \* \*

(G) the location and capacity of existing and proposed storage facilities and pipelines which will store or transport oil or natural gas transported through the deepwater port, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

(H) with respect to any existing and proposed refineries which will receive oil or natural gas transported through the deepwater port, the location and capacity of each such refinery and the anticipated volume of such oil or natural gas to be refined by each such refinery, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

\* \* \* \* \*

(i)(1) \* \* \*

(2) In the event more than one application is submitted for an application area, the Secretary, unless one of the proposed deepwater ports clearly best serves the national interest, shall issue a license according to the following order of priorities:

(A) \* \* \*

(B) to a person who is neither (i) engaged in producing, refining, or marketing oil or natural gas, nor (ii) an affiliate of any person who is engaged in producing, refining, or marketing oil or natural gas or an affiliate of any such affiliate;

\* \* \* \* \*

(3) In determining whether any one proposed deepwater port clearly best serves the national interest, the Secretary shall consider the following factors:

(A) \* \* \*

\* \* \* \* \*

(C) any differences in costs of construction and operation of the proposed deepwater ports, to the extent that such differen-

tial may significantly affect the ultimate cost of oil *or natural gas* to the consumer.

\* \* \* \* \*

SEC. 8. (a) A deepwater port and a storage facility serviced directly by that deepwater port shall operate as a common carrier under applicable provisions of part I of the Interstate Commerce Act and subtitle IV of title 49, United States Code, and shall accept, transport, or convey without discrimination all oil *or natural gas* delivered to the deepwater port with respect to which its license is issued, except as provided by subsection (b) of this section.

(b) A licensee under this Act shall accept, transport, or convey without discrimination all oil *or natural gas* delivered to the deepwater port with respect to which its license is issued. However, a licensee is not subject to common carrier regulations under subsection (a) of this section when that licensee—

(1) \* \* \*

\* \* \* \* \*

PIPELINE SAFETY AND OPERATION

SEC. 21. (a) The Secretary, in cooperation with the Secretary of the Interior, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of oil *or natural gas* pipelines on the Outer Continental Shelf.

\* \* \* \* \*

