

MARITIME TERMINAL SECURITY ENHANCEMENT ACT OF  
2006

SEPTEMBER 29, 2006.—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. 4880]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4880) to direct the Commandant of the Coast Guard to require that a security plan for a maritime facility be resubmitted for approval upon transfer of ownership or operation of such facility, 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:

**SEC. 1. SHORT TITLE.**

This Act may be cited as the “Maritime Terminal Security Enhancement Act of 2006”.

**SEC. 2. REVIEW OF FACILITY PLANS.**

The Commandant of the Coast Guard shall require that a security plan for a facility required under section 70103(c) of title 46, United States Code, shall be resubmitted for approval upon transfer of ownership or operation of such facility.

**SEC. 3. FACILITY SECURITY OFFICERS.**

The Commandant of the Coast Guard shall require that the qualified individual having full authority to implement security actions who is required to be identified under section 70103(c)(3)(B) of title 46, United States Code, for a facility described in section 70103(c)(2) of that title shall be a citizen of the United States.

**SEC. 4. TRANSPORTATION SECURITY CARDS.**

Section 70105(a)(1) of title 46, United States Code, is amended by striking “The” and inserting “Not later than July 1, 2006, the”.

**SEC. 5. FOREIGN PORT ASSESSMENTS.**

Section 70108 of title 46, United States Code, is amended by adding at the end the following:

“(d) PERIODIC REASSESSMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described under subsection (a) and of procedures described in subsection (b) not less than every 5 years.”.

**SEC. 6. ENHANCED CREWMEMBER IDENTIFICATION.**

Section 70111 of title 46, United States Code, is amended—

- (1) in subsection (a) by striking “The” and inserting “Not later than July 1, 2006, the”; and
- (2) in subsection (b) by striking “The” and inserting “Not later than July 1, 2006, the”.

**SEC. 7. LONG-RANGE VESSEL TRACKING.**

(a) REGULATIONS.—Section 70115 of title 46, United States Code, is amended by striking “The Secretary shall” and inserting “Not later than April 1, 2007, the Secretary shall”.

(b) VOLUNTARY PROGRAM.—The Secretary may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued to carry out section 70115 of title 46, United States Code.

**SEC. 8. CENTER OF EXCELLENCE FOR MARITIME DOMAIN AWARENESS.**

(a) ESTABLISHMENT.—The Secretary of the department in which the Coast Guard is operating shall establish a university-based Center for Excellence for Maritime Domain Awareness following the merit-review processes and procedures that have been established by the Secretary for selecting university program centers of excellence.

(b) DUTIES.—The Center shall—

- (1) prioritize its activities based on the “National Plan to Improve Maritime Domain Awareness” published by the Department of Homeland Security in October 2005;
- (2) recognize the extensive previous and ongoing work and existing competence in the field of maritime domain awareness at numerous academic and research institutions, such as the Naval Postgraduate School;
- (3) leverage existing knowledge and continue development of a broad base of expertise within academia and industry in maritime domain awareness; and
- (4) provide educational, technical, and analytical assistance to Federal agencies with responsibilities for maritime domain awareness, including the Coast Guard, to focus on the need for interoperability, information sharing, and common information technology standards and architecture.

**SEC. 9. REQUIREMENTS RELATING TO ENTRY OF CONTAINERS INTO THE UNITED STATES.**

(a) REQUIREMENTS.—Section 70116 of title 46, United States Code, is amended by adding at the end the following:

“(c) REQUIREMENTS RELATING TO ENTRY OF CONTAINERS.—

“(1) IN GENERAL.—A container shipped, either directly or via a foreign port, may enter the United States only if—

“(A) the container is scanned with equipment that meets the standards established pursuant to paragraph (2)(A) and a copy of the scan is provided to the Commandant of the Coast Guard; and

“(B) the container is secured with a seal that meets the standards established pursuant to paragraph (2)(B), before the container is loaded on the vessel for shipment.

“(2) STANDARDS FOR SCANNING EQUIPMENT AND SEALS.—

“(A) SCANNING EQUIPMENT.—The Commandant of the Coast Guard shall establish standards for scanning equipment required to be used under paragraph (1)(A) to ensure that such equipment uses the best-available technology, including technology to scan a container for radiation and density and, if appropriate, for atomic elements.

“(B) SEALS.—The Commandant of the Coast Guard shall establish standards for seals required to be used under paragraph (1)(B) to ensure that such seals are developed and made using the best-available technology, including technology to detect any breach into a container and identify the time of such breach.

“(C) REVIEW AND REVISION.—The Commandant of the Coast Guard shall—

“(i) review and, if necessary, revise the standards established pursuant to subparagraphs (A) and (B) not less than once every two years; and

“(ii) ensure that any such revised standards require the use of technology, as soon as such technology becomes available, to—

“(I) identify the place of a breach into a container;

“(II) notify the Commandant of such breach before the container enters the Exclusive Economic Zone of the United States; and

“(III) track the time and location of the container during transit to the United States, including by truck, rail, or vessel.

“(D) DEFINITION.—In subparagraph (C), the term ‘Exclusive Economic Zone of the United States’ has the meaning given the term ‘Exclusive Economic Zone’ in section 2101(10a) of this title.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 70116(c) of title 46, United States Code, as added by subsection (a) of this section, such sums as may be necessary for each of fiscal years 2007 through 2012.

(c) REGULATIONS; APPLICATION.—

(1) REGULATIONS.—

(A) INTERIM FINAL RULE.—The Commandant of the Coast Guard shall issue an interim final rule as a temporary regulation to implement section 70116(c) of title 46, United States Code, as added by subsection (a) of this section, not later than 120 days after the date of the enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

(B) FINAL RULE.—The Commandant shall issue a final rule as a permanent regulation to implement section 70116(c) of title 46, United States Code, as added by subsection (a) of this section, not later than one year after the date of the enactment of this section, in accordance with the provisions of chapter 5 of title 5, United States Code. The final rule issued pursuant to that rulemaking may supersede the interim final rule issued pursuant to subparagraph (A).

(2) PHASED-IN APPLICATION.—

(A) IN GENERAL.—The requirements of section 70116(c) of title 46, United States Code, as added by subsection (a) of this section, apply with respect to a container being shipped, either directly or via a foreign port, and entering the United States beginning on—

(i) the last day of the 3-year period beginning on the date of the enactment of this Act, in the case of a container loaded on a vessel destined for the United States in a country in which more than 75,000 twenty-foot equivalent units of containers were loaded on vessels for shipping to the United States in 2005; and

(ii) the last day of the 5-year period beginning on the date of the enactment of this Act, in the case of a container loaded on a vessel destined for the United States in any other country.

(B) EXTENSION.—The Commandant of the Coast Guard may extend by up to one year the period under clause (i) or (ii) of subparagraph (A) for containers loaded in a port, if the Commandant—

(i) finds that the scanning equipment required under section 70116(c) of title 46, United States Code, as added by subsection (a) of this section, is not available for purchase and installation in the port; and

(ii) at least 60 days prior to issuing such extension, transmits such finding to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

#### SEC. 10. SECURITY PLANS FOR CARGO TERMINAL FACILITIES.

(a) IN GENERAL.—Section 70103(c) of title 46, United States Code, is amended by adding at the end the following:

“(8) The Secretary may require the owner or operator of a facility that is required to have a security plan under paragraph (1) and that is a cargo terminal, to submit information, including contracts or other agreements that govern operations of such facilities, to the Secretary to determine if there is any security risk involving that owner or operator.”.

(b) ANNUAL REPORT.—The Secretary of the department in which the Coast Guard is operating shall annually submit to Congress a report regarding contracts and agreements that govern operation of facilities required to have a security plan under section 70103(c)(1) of title 46, United States Code. Such report shall detail the extent of foreign ownership of parties to such contracts and agreements and detail any security risks that such foreign ownership may pose.

#### PURPOSE OF THE LEGISLATION

H.R. 4880, the Maritime Terminal Security Enhancement Act of 2006, makes several amendments to current law to enhance maritime security at U.S. ports and aboard vessels that operate on U.S. waterways.

#### BACKGROUND AND NEED FOR THE LEGISLATION

Following the attacks on September 11, 2001, Congress passed the Maritime Transportation Security Act of 2002 (MTSA) to establish a national framework to enhance security throughout the maritime domain. Under the MTSA, the Coast Guard and other Federal agencies have developed and implemented critical maritime security programs, systems, and procedures to improve awareness of activities in the maritime domain and capabilities to prevent future attacks to the Maritime Transportation System. However, despite this progress, several key mandates under the MTSA have not yet been completed. The Committee on Transportation and Infrastructure remains extremely concerned and frustrated by the Department of Homeland Security's failure to fully implement the maritime security measures required under the MTSA.

The recently proposed takeover of port terminal operations by Dubai Ports World, a United Arab Emirates state-owned entity, raised several concerns regarding the responsibilities of port operators in maintaining security in U.S. ports. While it appears that the proposed takeover will not go forward, it brought the Nation's collective attention to the importance of maintaining high levels of security at our ports and the need for comprehensive and fully integrated security measures to protect each component of the Maritime Transportation System. The open and interrelated nature of the Maritime Transportation System necessitates that the full scope of security measures required under the MTSA be implemented quickly and completely.

H.R. 4880 requires the Federal government to take several actions to enhance the capabilities of the Coast Guard and other Federal agencies to secure the maritime domain including the establishment of deadlines for several maritime security programs required under the MTSA.

#### SUMMARY OF THE LEGISLATION

H.R. 4880 makes several amendments to current law to enhance maritime security at U.S. ports and aboard vessels that operate in U.S. waters.

Section 1 states that the legislation may be referred to as "The Maritime Terminal Security Enhancement Act of 2006".

Section 2 requires the resubmission of a facility security plan for the Coast Guard's approval upon the transfer of ownership or operational control over a port terminal facility. Under section 70103 of title 46, United States Code, all U.S. facilities were required to submit and receive approval of a facility security plan prior to July 1, 2004. That section also requires such facilities to resubmit a facility security plan for approval if there is a change to the facility "that may substantially affect the security of the . . . facility"; however it is unclear whether a change in ownership or operational control over a facility would require such a resubmission.

Section 3 requires an individual that is designated as the Facility Security Officer under a facility security plan to be a U.S. citizen.

Section 4 requires the Secretary of the department in which the Coast Guard is operating to issue regulations not later than July 1, 2006, to carry out a program to issue transportation security cards to provide maritime workers and merchant mariners access to secure areas within U.S. ports and aboard U.S.-flag vessels.

The Transportation Security Administration (TSA) is in the process of developing a Transportation Worker Identification Credential (TWIC), in consultation with the Coast Guard, to meet the transportation security card requirements that were included in the MTSA (46 U.S.C. 70105). In the more than three years since the enactment of this requirement, little progress has been made in developing the TWIC program. The TSA recently completed a “prototype phase” which tested and evaluated several credential technologies and issuance procedures; however the TSA did not test or evaluate procedures to carry out security background checks or methods to collect and display biometric information on each credential. The Committee remains extremely concerned by the apparent lack of interest on the part of the TSA and the Department of Homeland Security in this vital homeland security mission. The TWIC will be one of the primary means of restricting access to potentially vulnerable areas within ports, terminal facilities, and aboard vessels in the United States.

The TSA and the Coast Guard have finalized a Notice of Proposed Rulemaking for the implementation of the TWIC program in the maritime transportation sector and the development of a Merchant Mariner Credential that will combine the elements of Merchant Mariner’s License, Merchant Mariner’s Document, Certificate of Registry, and STCW Endorsement into one qualification credential. It is expected that the Notice of Proposed Rulemaking will be published in the Federal Register later this month and that the public will have an adequate period to comment on the proposed rules. The Committee will continue to monitor the progress of the proposed rules and will use its oversight function to ensure that any regulations take into account the concerns of merchant mariners and the general public.

Section 5 requires the Coast Guard to periodically reassess foreign ports’ compliance with international port security requirements and the effectiveness of antiterrorism measures maintained at those ports under such agreements not less than every 5 years. The Committee supports the Coast Guard’s ongoing efforts to enhance maritime security at foreign ports through its foreign port assessments and through the International Port Security Program; however, the Committee believes that the Coast Guard should continue to validate foreign ports’ compliance with international regulations through periodic reassessments.

Section 6 requires the Secretary of the department in which the Coast Guard is operating to not later than July 1, 2006, develop standards and procedures for enhanced crewmember identification credentials for U.S. and foreign merchant mariners that are carried aboard vessels that call on U.S. ports and to issue regulations that require such crewmembers to carry such credentials and present them on demand as required under the MTSA (46 U.S.C. 70111). The Committee believes that the rulemaking for crewmembers’

identification be carried out on the same timeline as the rule-making for the TWIC. The Committee strongly recommends that the Secretary continue to work with our international partners to develop common standards and procedures for such credentials; however, failure to come to an agreement through the International Maritime Organization should not deter the United States from implementing this critical maritime security measure domestically by the statutory deadline of July 1, 2006.

Section 7 amends section 70115 of title 46, United States Code, to require the Secretary of the department in which the Coast Guard is operating to issue regulations that establish and implement a long range vessel tracking system by not later than April 1, 2007. This system will have the capability to track vessels up to 2,000 nautical miles from shore and will compliment the near-shore tracking capabilities provided by the Automatic Identification System (AIS). The Coast Guard has previously testified to the Committee that they are working through the International Maritime Organization (IMO) to develop the components of a global system rather than implementing a long range vessel tracking system domestically.

The IMO has announced that it is holding meetings in May 2006 to discuss proposed standards and requirements for an international long-range vessel tracking system. The Committee understands that the final domestic system will have to be compatible with the system that will be implemented by our international partners; however, the Committee remains concerned by the Administration's apparent decision to delay the development and implementation of this system here at home. The Committee strongly recommends that the Coast Guard actively work through the IMO to develop standards and procedures; however, failure to come to an agreement through the IMO should not deter the United States from implementing this critical maritime security measure domestically by the statutory deadline of April 1, 2007.

This section also authorizes the Secretary to establish a pilot program to track vessels who voluntarily agree to participate until such time as the program under this section becomes mandatory. The Committee strongly recommends that the Secretary utilize the pilot program to test and evaluate technologies and procedures to further the development of a mandatory, nationwide long-range vessel tracking system.

Section 8 directs the Secretary of the department in which the Coast Guard is operating to establish a university-based Center for Excellence for Maritime Domain Awareness. The Department of Homeland Security has created six such Centers of Excellence which bring together the nation's best experts and focus its most talented researchers on a variety of threats to the Nation's homeland security. The Committee recommends that such a Center be established to improve the Federal government's capabilities to deter and respond to potential threats in the maritime domain by enhancing its awareness of all activities that occur within the maritime domain.

Section 9 would prohibit maritime cargo containers from entering a U.S. port unless a container was screened using non-intrusive scanning equipment in a foreign port, the results of the scan are provided to U.S. authorities, and the container is sealed with an

enhanced seal. The provision establishes a timeline that would require all cargo containers originating from foreign nations that exported more than 75,000 twenty-foot equivalent units (TEUs) in calendar year 2005 to be screened and sealed by not later than three years after enactment. The provision further requires that containers originating from all other ports be screened and sealed by not later than five years after enactment. The provision further requires that containers originating from all other ports be screened and sealed by not later than five years after enactment. As the scanning technology develops, the Commandant of the Coast Guard could also require that the scan identify the atomic elements of the contents of the container. This will help decrease the rate of false positives in the scan results.

The Committee is concerned that a weapon of mass destruction could be smuggled into the United States in one of the 11 million containers that enter the United States each year. After 9/11, the Coast Guard was the first agency to declare that we must “push the borders out”. It is too late to screen the containers once they reach the United States.

The major container terminals in Hong Kong have been scanning 100 percent of the containers entering the facility over the past year. They scan for radiation and for density. It costs \$6.50 to scan a container at those terminals. This does not include the cost of reading and interpreting those scans.

Section 9 also requires all containers shipped to the United States to have a container seal that will indicate whether any of the sides of a container have been breached. For years, thieves have drilled out the container hinges, stolen merchandise, and replaced the hinge bolts—without being caught. In the post-9/11 environment, it is important to be able to detect any breach in the shell of a container after it has been scanned to ensure that a weapon of mass destruction has not been smuggled into the container between the point of scanning and when it enters the United States.

Section 10 would authorize the Secretary to request certain information from an owner or operator of a maritime facility that is necessary to determine the facility’s security risk.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 4880, the Maritime Terminal Security Enhancement Act of 2006, was introduced by Coast Guard and Maritime Transportation Subcommittee Chairman Frank A. LoBiondo on March 6, 2006. The bill was referred primarily to the Committee on Transportation and Infrastructure.

The Subcommittee on Coast Guard and Maritime Transportation has held numerous hearings during the 109th Congress and previous Congresses to continue its oversight over the Federal government’s implementation of maritime security measures as required by the Maritime Transportation Security Act of 2002 and the Coast Guard and Maritime Transportation Security Act of 2004. The Subcommittee held a field hearing on January 24, 2006, in Philadelphia, Pennsylvania, to review the status of several maritime security programs including the requirement to develop a Transportation Workers’ Identification Credential (TWIC). The Subcommittee held an additional oversight hearing on March 9, 2006

to investigate the impacts of foreign control of operations at U.S. ports on U.S. maritime security efforts.

On April 5, 2005, the Subcommittee on Coast Guard and Maritime Transportation was discharged from consideration of the bill, and the bill was considered during a mark-up session of the Committee on Transportation and Infrastructure. At this mark-up, Coast Guard and Maritime Transportation Subcommittee Chairman, Mr. LoBiondo, offered an amendment to add several new sections to the end of the bill. The amendment was adopted unanimously by voice vote. Mr. Nadler of New York also offered an amendment to add a section requiring maritime cargo containers to be screened at foreign ports prior to entry at a U.S. port. The Nadler amendment was also adopted by voice vote. Mr. Cummings of Maryland offered an amendment to authorize the Secretary of the department in which the Coast Guard is operating to request certain information from the owner or operator of a maritime facility. The Cummings amendment was also adopted by voice vote.

H.R. 4880, as amended, was approved by voice vote and was ordered favorably reported to the House.

#### ROLLCALL 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 rollcall votes during committee consideration of the bill.

#### 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 LEGISLATION

Clause 3(d)(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 requirement 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 Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 4880.

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. 4880 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 15, 2006.*

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. 4880, the Maritime Terminal Security Enhancement Act of 2006.

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), Sarah Puro (for the State and local impact), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 4880—Maritime Terminal Security Enhancement Act of 2006*

Summary: H.R. 4880 would amend the Maritime Transportation Security Act of 2002 (MTSA) to address new and ongoing issues relating to port security. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 4880 would cost about \$140 million over the next five years. We estimate that enacting this legislation would have no effect on revenues or direct spending.

The bill contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs to public ports would not exceed the threshold established by that act (\$64 million in 2006, adjusted annually for inflation).

H.R. 4880 also would impose new private-sector mandates, as defined in UMRA, on the shipping industry. CBO estimates that the aggregate direct cost of complying with those mandates would exceed the annual threshold for private-sector mandates (\$128 million in 2006, adjusted annually for inflation) in at least one of the first five years the mandates would be in effect, beginning in 2010.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4880 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Spending for Center of Excellence					
Estimated Authorization Level .....	4	4	4	4	4
Estimated Outlays .....	4	4	4	4	4
Spending to Implement Scan and Seal Requirements					
Estimated Authorization Level .....	10	15	30	40	45
Estimated Outlays .....	5	10	25	35	45
Total Spending Under H.R. 4880					
Estimated Authorization Level .....	14	19	34	44	49
Estimated Outlays .....	9	14	29	39	49

Basis of estimate: For this estimate, CBO assumes that H.R. 4880 will be enacted near the end of fiscal year 2006 and that the entire amounts estimated to be necessary to carry out the bill will be appropriated for each of fiscal years 2007 through 2011.

CBO estimates that implementing most provisions of H.R. 4880 would have no significant effect on federal spending because the activities that would be required by these provisions are already underway. Such provisions would establish new deadlines for ongoing projects, require new elements to be added to port security plans, and create new federal reporting requirements. The bill's provisions that would establish a Center for Excellence for Maritime Awareness and increase oversight of shipping container security would increase federal costs, assuming appropriation of the amounts needed to implement them. CBO estimates that, in total, these projects would cost about \$9 million in 2007 and about \$140 million over the 2007–2011 period.

#### *Center for excellence for maritime awareness*

H.R. 4880 would direct the United States Coast Guard (USCG) to establish a center for excellence for maritime awareness. The university-based center would provide educational and other assistance to federal agencies on issues relating to maritime security. Such centers sponsored by the Department of Homeland Security (DHS) typically receive between \$3 million and \$6 million annually. Based on the costs of supporting similar centers established by other agencies within the department, CBO estimates that the USCG would provide a grant of \$4 million a year to the new center beginning in 2007.

#### *Container security*

H.R. 4880 would prohibit cargo containers from entering the United States unless they are sealed and have been scanned with imaging and radiation-detection equipment. Under the bill, the USCG would promulgate standards for scanning equipment and for seals to detect breaches in containers after they have been scanned. The new requirements would become effective within three years (for containers loaded in countries that originate more than 75,000 “twenty-foot equivalent” containers) and within five years (for countries originating a smaller volume of traffic). The bill would authorize the appropriation of whatever amounts are necessary for this purpose.

Assuming appropriation of the necessary amounts, CBO estimates that implementing and enforcing this provision would cost about \$5 million in 2007. Annual costs would rise to \$45 million by 2011. We estimate that most of these amounts would be used to equip, train, pay, and support an additional 300 to 400 DHS employees to review container scans and enforce the bill's requirement that containers be sealed. We expect that annual costs would fall in later years (after 2011) because DHS would probably develop more efficient ways to review scans and inspect seals.

For this estimate, CBO assumes that the cost of installing and maintaining the systems necessary to comply with the bill's requirements would be borne by foreign shipyards rather than the federal government, although we expect that DHS would probably finance some of this effort through its existing container security

initiative (CSI). DHS received appropriations of nearly \$140 million for the CSI program for 2006. Industry experts have estimated that up-front costs to acquire and deploy the necessary scanning and detection equipment for nearly all foreign ports shipping containers to the U.S. would be about \$1.5 billion over three years, with those costs borne primarily by foreign governments and the shipping industry.

Estimated impact on State, local, and tribal governments: H.R. 4880 contains intergovernmental mandates as defined in UMRA because it would require ports to comply with certain regulations more quickly than under current law, to resubmit security plans to the Coast Guard in certain circumstances, and to hire a United States citizen for the position of chief security officer. Only the provisions that would require publicly owned ports to comply with regulations more quickly than under current law could impose costs on those entities. Based on information from industry and governmental sources, CBO estimates that the costs to intergovernmental entities of these provisions likely would total less than \$3 million and therefore would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 4880 would impose new private-sector mandates, as defined in UMRA, on shipping carriers and owners and operators of maritime terminal facilities. CBO estimates that the aggregate direct cost of complying with those mandates would exceed the annual threshold for private-sector mandates (\$128 million in 2006, adjusted annually for inflation) in at least one of the first five years the mandates would be in effect, beginning in 2010. That conclusion is based on our analysis of the mandate with the highest cost that would require that all cargo containers that enter the United States be secured with a seal that meets certain standards.

#### *Seal requirements for cargo containers*

The bill would impose a mandate on certain shipping carriers by requiring all containers to be secured with a seal that meets certain standards before the containers are loaded on the vessel for shipment to the United States. The bill would require seals that are able to detect any breach and identify the time of such breach. The requirement would be phased in over the next five years.

While the standards for such seals have not been established, industry sources indicate that based on current technology certain electronic seals could be secured and read at a cost of approximately \$30 to \$45 per container for each shipment. Based on information from industry and government sources, approximately 15 million containers required to have such seals are projected to enter the United States in 2010. Based on this information, CBO expects that the direct costs to comply with this mandate would amount to at least \$450 million or more in 2010, the first year the mandate would be in effect and thus, would exceed the annual threshold for private-sector mandates. In subsequent years, the direct cost of the mandate on shipping carriers would tend to decrease as the cost of seals may decrease according to industry sources, but CBO has no basis for estimating the change in costs.

*Other requirements*

The bill also would impose mandates on owners and operators of maritime terminal facilities. The bill would require that any individual having full authority to implement security action at a terminal facility be a citizen of the United States. The bill also would authorize the Secretary of DHS to require that owners or operators of a terminal facility submit certain information that govern operations of the facility to the Secretary to determine if there is any security risk involving the owner or operator. Additionally, the bill would require that owners and operators of maritime terminal facilities resubmit their security plans for approval upon transfer of ownership or operation of the facility. And finally, the bill could impose additional mandates on the private-sector depending on how and when certain regulations addressed in the bill would be issued. Based on information from industry and government sources, CBO expects that the direct cost of complying with those requirements would be small relative to UMRA's annual threshold.

*Other impacts*

The bill also would require all shipping containers entering the United States to be scanned with certain equipment with a copy of the scan to be sent to the Coast Guard. Because the bill does not specify who would be required to provide such scans, this provision may not impose a mandate as defined in UMRA on the private sector. Even so, to the extent that scanning causes a delay in the delivery of shipments, the private sector could incur additional costs.

Previous CBO estimates: On May 9, 2006, CBO transmitted a cost estimate for S. 2495, the Greenlane Maritime Cargo Security Act, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 2, 2006. On April 28, 2006, we transmitted a cost estimate for H.R. 4954, the Security and Accountability for Every Port Act, as ordered reported by the House Committee on Homeland Security on April 26, 2006. On March 29, 2006, CBO transmitted a cost estimate for S. 1052, the Transportation Security Improvement Act of 2005, as reported by the Senate Committee on Commerce, Science, and Transportation on February 27, 2006. Like H.R. 4880, all three of those bills would address concerns about port security, particularly regarding freight containers entering the United States from foreign ports, and would use different approaches to address such concerns, which are reflected in CBO's cost estimates.

Estimate prepared by: Federal Costs: Deborah Reis. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

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 pursu-

ant to its powers granted under article I, 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).

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 VI—Miscellaneous**

\* \* \* \* \*

**CHAPTER 701—PORT SECURITY**

\* \* \* \* \*

**§ 70103. Maritime transportation security plans**

(a) \* \* \*

\* \* \* \* \*

(c) VESSEL AND FACILITY SECURITY PLANS.—(1) \* \* \*

\* \* \* \* \*

(8) *The Secretary may require the owner or operator of a facility that is required to have a security plan under paragraph (1) and that is a cargo terminal, to submit information, including contracts or other agreements that govern operations of such facilities, to the Secretary to determine if there is any security risk involving that owner or operator.*

\* \* \* \* \*

**§ 70105. Transportation security cards**

(a) PROHIBITION.—(1) **[The]** *Not later than July 1, 2006, the Secretary shall prescribe regulations to prevent an individual from en-*

tering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

(A) \* \* \*

\* \* \* \* \*

**§ 70108. Foreign port assessment**

(a) \* \* \*

\* \* \* \* \*

(d) *PERIODIC REASSESSMENT.*—*The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described under subsection (a) and of procedures described in subsection (b) not less than every 5 years.*

\* \* \* \* \*

**§ 70111. Enhanced crewmember identification**

(a) *REQUIREMENT.*—**[The]** *Not later than July 1, 2006, the Secretary, in consultation with the Attorney General and the Secretary of State, shall require crewmembers on vessels calling at United States ports to carry and present on demand any identification that the Secretary decides is necessary.*

(b) *FORMS AND PROCESS.*—**[The]** *Not later than July 1, 2006, the Secretary, in consultation with the Attorney General and the Secretary of State, shall establish the proper forms and process that shall be used for identification and verification of crewmembers.*

\* \* \* \* \*

**§ 70115. Long-range vessel tracking system**

**[The Secretary shall]** *Not later than April 1, 2007, the Secretary shall, consistent with international treaties, conventions, and agreements to which the United States is a party, develop and implement a long-range automated vessel tracking system for all vessels in United States waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The system shall be designed to provide the Secretary the capability of receiving information on vessel positions at interval positions appropriate to deter transportation security incidents. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.*

**§ 70116. Secure systems of transportation**

(a) \* \* \*

\* \* \* \* \*

(c) *REQUIREMENTS RELATING TO ENTRY OF CONTAINERS.*—

(1) *IN GENERAL.*—*A container shipped, either directly or via a foreign port, may enter the United States only if—*

(A) *the container is scanned with equipment that meets the standards established pursuant to paragraph (2)(A) and a copy of the scan is provided to the Commandant of the Coast Guard; and*

(B) the container is secured with a seal that meets the standards established pursuant to paragraph (2)(B), before the container is loaded on the vessel for shipment.

(2) STANDARDS FOR SCANNING EQUIPMENT AND SEALS.—

(A) SCANNING EQUIPMENT.—The Commandant of the Coast Guard shall establish standards for scanning equipment required to be used under paragraph (1)(A) to ensure that such equipment uses the best-available technology, including technology to scan a container for radiation and density and, if appropriate, for atomic elements.

(B) SEALS.—The Commandant of the Coast Guard shall establish standards for seals required to be used under paragraph (1)(B) to ensure that such seals are developed and made using the best-available technology, including technology to detect any breach into a container and identify the time of such breach.

(C) REVIEW AND REVISION.—The Commandant of the Coast Guard shall—

(i) review and, if necessary, revise the standards established pursuant to subparagraphs (A) and (B) not less than once every two years; and

(ii) ensure that any such revised standards require the use of technology, as soon as such technology becomes available, to—

(I) identify the place of a breach into a container;

(II) notify the Commandant of such breach before the container enters the Exclusive Economic Zone of the United States; and

(III) track the time and location of the container during transit to the United States, including by truck, rail, or vessel.

(D) DEFINITION.—In subparagraph (C), the term “Exclusive Economic Zone of the United States” has the meaning given the term “Exclusive Economic Zone” in section 2101(10a) of this title.

\* \* \* \* \*

