

Calendar No. 290

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-164

TO PROVIDE NATIONALLY CONSISTENT
MEASURES OF PERFORMANCE OF THE
NATION'S PORTS, AND FOR OTHER PUR-
POSES

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1298

together with

ADDITIONAL VIEWS



NOVEMBER 5, 2015.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

59-010

WASHINGTON : 2015

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

JOHN THUNE, South Dakota, *Chairman*

ROGER F. WICKER, Mississippi	BILL NELSON, Florida
ROY BLUNT, Missouri	MARIA CANTWELL, Washington
MARCO RUBIO, Florida	CLAIRE MCCASKILL, Missouri
KELLY AYOTTE, New Hampshire	AMY KLOBUCHAR, Minnesota
TED CRUZ, Texas	RICHARD BLUMENTHAL, Connecticut
DEB FISCHER, Nebraska	BRIAN SCHATZ, Hawaii
JERRY MORAN, Kansas	ED MARKEY, Massachusetts
DAN SULLIVAN, Alaska	CORY BOOKER, New Jersey
RON JOHNSON, Wisconsin	TOM UDALL, New Mexico
DEAN HELLER, Nevada	JOE MANCHIN, West Virginia
CORY GARDNER, Colorado	GARY PETERS, Michigan
STEVE DAINES, Montana	

DAVID SCHWIETERT, *Staff Director*
NICK ROSSI, *Deputy Staff Director*
REBECCA SEIDEL, *General Counsel*
KIM LIPSKY, *Democratic Staff Director*
CHRISTOPHER DAY, *Democratic Deputy Staff Director*
CLINT ODOM, *Democratic General Counsel*

Calendar No. 290

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-164

TO PROVIDE NATIONALLY CONSISTENT MEASURES OF PERFORMANCE OF THE NATION'S PORTS, AND FOR OTHER PURPOSES

NOVEMBER 5, 2015.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T together with ADDITIONAL VIEWS

[To accompany S. 1298]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1298) to provide nationally consistent measures of performance of the Nation's ports, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to improve the overall transparency of port productivity at the Nation's ports. A clear understanding of port productivity and throughput would help to identify bottlenecks, would indicate performance trends, and would help to inform investment and policy decisions.

BACKGROUND AND NEEDS

The Nation's ports play a critical role in its supply chain network. In 2014, nearly a third of the U.S. economy was tied to international trade, and the consumer economy, which is about 70 percent of Gross Domestic Product, is heavily dependent on the inter-

modal supply chain.¹ In addition, reliable and efficient movement of goods through the Nation's ports ensures that U.S. goods are available to customers around the world.

Breakdowns in this network, particularly at the Nation's ports, can result in tremendous economic harm. More importantly, some believe that extended disruptions can result in long-term changes to the supply chain, including permanent loss of market share as customers turn to more dependable sources.

In particular, productivity at West Coast ports was down significantly during the second half of 2014 and in early 2015 due to protracted labor contract negotiations. After 9 months of unsuccessful negotiations, a labor dispute resulted in the partial shutdown of 29 West Coast container ports that may have cost the economy up to \$2.5 billion per day.² At the height of the disruptions, 28 vessels were at anchor waiting for berthing at the ports of Los Angeles and Long Beach.³ At the same time, up to 20 vessels were in berths for unloading for extended periods of time.⁴ Container terminals were operating at 90-95 percent land utilization (beyond 80 percent utilization, efficiency, and service levels at a terminal deteriorate rapidly).⁵ In addition, truck turn times rose from a low of 75 minutes in early 2014 to a peak of 112 minutes during the worst of the labor dispute.⁶ Congestion problems and contract negotiations were reported as main factors in the productivity changes.

There are many causes of port delays. Newly formed shipping alliances and their shipping practices may be adversely impacting the supply chain. A logistics firm found that more than half of arrivals of ships of 10,000 twenty-foot equivalent units (TEU) or more were delayed longer than 12 hours, and nearly a quarter were delayed more than 24 hours.⁷ A recent report from the Federal Maritime Commission found that alliances between certain carriers may result in the consolidation of terminal operations and reduction in the number of terminals serving their vessels in southern California.⁸ Ultimately, this could lead to increased congestion at those terminals. In addition, chassis and container shortages also contribute to increased delays.

Increased transparency surrounding the performance of the Nation's ports is crucial to our national economic competitiveness in both the short and long-term. A clear understanding of port pro-

¹U.S. Congress. Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security. "Keeping Goods Moving." (Date 2/10/2015). Retrieved from http://www.commerce.senate.gov/public/?a=Files.Serve&File_id=f0f03328-7f6b-40c8-850b-4c91a16ac9b0.

²Laing, Keith. 2014, December 15. West Coast port labor strife worries retailers. Retrieved from <http://thehill.com/policy/transportation/227142-west-coast-port-labor-strife-worries-retailers>.

³Mongelluzzo, Bill. 2015, May 4. Lack of ships anchored at LA, Long Beach signals 'new normal.' Retrieved from http://www.joc.com/port-news/us-ports/port-long-beach/lack-ships-anchored-la-long-beach-signals-%E2%80%98new-normal%E2%80%99_20150504.html.

⁴Ibid.

⁵Mongelluzzo, Bill. 2015, January 21. U.S. West Coast congestion hits new high as ILWU, PMA lay blame on manning. Retrieved from http://www.joc.com/port-news/us-ports/port-los-angeles/west-coast-congestion-builds-ilwu-employers-lay-blame-manning_20150121.html.

⁶Mongelluzzo, Bill. 2015, April 28. LA, Long Beach drayage truckers face 'new normal' in wait Times. Retrieved from http://www.joc.com/port-news/us-ports/port-los-angeles/la-long-beach-drayage-truckers-face-%E2%80%98new-normal%E2%80%99-wait-times_20150428.html.

⁷Journal of Commerce whitepaper entitled "Berth Productivity: The Trends, Outlook and Market Forces Impacting Ship Turnaround Times," July 2014. Retrieved from <http://www.joc.com/sites/default/files/u59196/Whitepapers/JOC-PP-whitepaper-v8%20%281%29.pdf>.

⁸Federal Maritime Commission. (2015). Report: Rules, Rates, and Practices Relating to Detention, Demurrage, and Free Time for Containerized Imports and Exports Moving Through Selected United States Ports. Retrieved from <http://www.fmc.gov/assets/1/1/ReportDemurrage.pdf>.

ductivity and throughput would help to identify freight bottlenecks, indicate performance and trends over time, and help to make investment decisions. This is especially important if the Federal Government's goal is to enhance the freight transportation system and promote economic growth by supporting the development of capacity-enhancing infrastructure.

The need for port performance metrics

The Department of Transportation (DOT) has stated that a "lack of complete data on U.S. international freight continues to hamper research and analysis of trends in international freight movement and its impact on transportation activity within the United States."⁹ While the Maritime Administration (MARAD) produces its annual Statistical Snapshot of 20 water-freight-related statistics on freight volume and port of entry, MARAD has suggested that "a lack of consistent national port efficiency data" and "the lack of a reporting process have stymied its attempts to measure the efficiency of major U.S. ports."¹⁰ In its 2005 Report to Congress on the Performance of Ports and the Intermodal System, MARAD noted that a "lack of uniform data collection, prevents the general measurement of port efficiency."¹¹ As a result, the agency has been unsuccessful in understanding and reporting on port congestion and performance of the intermodal system, which makes it difficult for the agency to identify specific port needs.¹²

Nevertheless, a number of studies on national port performance standards have been conducted. In 2001 the Transportation Research Board and its Marine Board met with over 70 stakeholders from the maritime transportation industry. In their search for national maritime performance indicators, they learned that little information was collected on how the Nation's maritime transportation system (MTS) facilitates commerce, "which is essential for focusing Federal efforts in furthering this national interest."¹³ A 2004 National Academies study contained several recommendations on this same issue, and one suggested that the Secretary of Transportation should seek a mandate to be the Federal lead in the measure, monitoring, and assessment options necessary to strengthen the MTS's contribution to enhancing commerce, among other things.¹⁴ If successful, it would enable the DOT to assess Federal resource requirements to strengthen performance, identify critical gaps and shortcomings in performance that may benefit from increased Federal attention, and evaluate and recommend policy options.

In 2014, section 8104 of the Administration's GROW America Act (drafted by the DOT) contained a DOT request that would author-

⁹Department of Transportation, America's Freight Transportation Gateways, November, 2009. Retrieved from http://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/america_freight_transportation_gateways/2009/pdf/entire.pdf.

¹⁰Transportation Research Board. (2011). National Cooperative Freight Research Program, Report 10, Performance Measures for Freight Transportation. Retrieved from http://onlinepubs.trb.org/onlinepubs/ncfrp/ncfrp_rpt_010.pdf.

¹¹U.S. Department of Transportation. (2005). Report to Congress on the Performance of Ports and the Intermodal System. Retrieved from http://www.marad.dot.gov/documents/Rpt_to_Congress-Perf_Ports_Intermodal_Sys-June2005.pdf.

¹²Performance Measures for Freight Transportation.

¹³Transportation Research Board. (2004). The Marine Transportation System and the Federal Role Targeting Improvement Measuring Performance. Retrieved from <http://onlinepubs.trb.org/onlinepubs/sr/sr279.pdf>.

¹⁴Ibid.

ize the Bureau of Transportation Statistics (BTS) to establish a ports performance program.¹⁵ Data collected through this program also would support the Federal Highway Administration's Freight Analysis Framework, a national tool for freight planning and understanding freight flows.

Additionally, MARAD is working to develop a system or algorithm that calculates regional and national container port and terminal productivity indices on an on-going basis. The maritime industry is further ahead with its own effort to develop performance based measures which could be used to predict, shape, and report on the results of system investments and operations. MARAD and the DOT would use this information for policy development, the MTS Initiative, and the Marine Transportation System National Assessment.¹⁶ Still, the DOT does not have the authority to maintain a database of data related to port productivity that can be used to evaluate the performance or flow of freight through the Nation's ports.

SUMMARY OF PROVISIONS

S. 1298, the Ports Performance Act, would:

- Require the Director of the BTS (Director) to establish a port performance statistics program and report annually to Congress on the performance and capacity of the Nation's ports.
- Require key U.S. ports that are subject to Federal regulation or that receive Federal assistance to report monthly to the BTS on their capacity and throughput.
- Require the Secretary of Transportation, in consultation with the Secretaries of Labor and Commerce, to report to Congress on a port's performance at certain intervals before and after the expiration of the port's maritime labor agreement to articulate the economic ramifications from such disputes, until such time that a new maritime labor agreement is agreed to by all parties.

LEGISLATIVE HISTORY

Recent hearings in the Committee on Commerce, Science, and Transportation of the Senate have highlighted the importance of the smooth flow of imports and exports through U.S. ports, as well as the need for performance based measures:

- January 29, 2015: "Improving the Performance of our Transportation Networks: Stakeholder Perspectives."
- February 10, 2015: "Keeping Goods Moving."
- March 24, 2015: "Surface Transportation Reauthorization: Performance, Not Prescription."

On May 12, 2015, Senator Thune introduced S. 1298, the Ports Performance Act, with Senators Fischer, Gardner, and Alexander as original cosponsors.

On June 25, 2015, the Committee met in open Executive Session and, by a voice vote, ordered S. 1298 reported favorably with an

¹⁵ <http://www.transportation.gov/policy-initiatives/grow-america/grow-america-act>.

¹⁶ U.S. Department of Transportation Maritime Administration. Ports, System Data and Information. Retrieved 7 May, 2015, from <http://www.marad.dot.gov/ports/office-of-port-infrastructure-development-and-congestion-mitigation/system-data-and-info/>.

amendment in the nature of a substitute. Amendments were offered by Senators Wicker, Booker, and Manchin, with Senator Wicker's being accepted by voice vote.

Changes that were incorporated at markup include removing the requirement for port authorities to collect ports performance data, and rather, require the Director to collect monthly port measures from key ports. In addition, the substitute includes a provision that would authorize the Director to commission a working group of stakeholders that will provide recommendations to the Director on data measurements and a process by which the DOT can collect timely and consistent data.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1298—Port Performance Act

S. 1298 would direct the Bureau of Transportation Statistics (BTS) within the Department of Transportation (DOT) to establish a program to collect statistical information on the largest 25 ports in the United States. Under the bill, BTS would collect performance measures monthly and report annually to the Congress on the capacity and throughput at those ports. S. 1298 would establish a working group to develop recommendations for specifications of port performance measures and determine what additional information would be needed. The legislation also would require monthly performance reports for ports where a maritime labor agreement is near expiration.

Based on information provided by DOT, CBO estimates that implementing the bill would cost \$9 million over the 2016–2020 period, subject to appropriation of the necessary amounts. Enacting S. 1298 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The bill would impose an intergovernmental and private-sector mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on publicly and privately owned ports to the extent that those ports are required to provide information on port capacity and throughput to BTS. Based on information from the Department of Transportation and Industry experts, some of the information is already collected by ports, and CBO expects that the cost of supplying that information to BTS would be small. Ports may incur additional costs to collect new information, but CBO estimates that the cost of collecting the additional information would not be substantial. Consequently, CBO estimates that the cost of the mandate would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Martin von Gnechten (for federal costs), Melissa Merrell (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The esti-

mate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1298 as reported would create a new program that would require the Nation's top 25 ports by tonnage, top 25 ports by TEU, and top 25 ports by dry bulk to provide monthly reports on port capacity and throughput to the Director.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation's economy.

PRIVACY

S. 1298 would not impact the personal privacy of individuals.

PAPERWORK

S. 1298 would require key U.S. ports to provide monthly reports to the BTS regarding port capacity and throughput, which would increase paperwork requirements for key ports that are subject to Federal regulations or that receive Federal assistance. In addition, ports also would be required to report on certain performance indicators, labor positions ordered, or other factors that might have created delays prior to and after the expiration of maritime labor agreements.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section would provide that this Act may be cited as the "Ports Performance Act."

Section 2. Findings.

This section highlights the critical role that the Nation's ports play in its transportation supply chain network.

Section 3. Port performance freight statistics program.

Subsection (a) of this section would establish a port performance statistics program within the BTS and require the Director to provide an annual report to Congress on capacity and throughput at the Nation's top 25 ports by tonnage, top 25 ports by TEU, and top 25 ports by dry bulk. This section also would require U.S. ports

that are subject to Federal regulation or receive Federal assistance to submit monthly statistics to the BTS on their capacity and throughput statistics.

Additionally, this section would authorize the Director to commission a working group composed of public and private stakeholders from across the maritime and surface transportation industries, as well as representatives from various advisory committees and the National Academies to provide recommendations to the Director on port performance measures, a process for the DOT to collect timely and consistent data, and safeguards to protect proprietary information. Furthermore, this section would ensure that statistics compiled through this program are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

Subsections (b) and (c) of this section would establish prohibitions on certain disclosures of ports performance data or reports collected or produced under the authority of this program.

Section 4. Monthly reports on performance at United States ports.

This section would require the Secretary of Transportation, in consultation with the Secretaries of Commerce and Labor, to report to Congress on port performance indicators required in section 3 of this bill for ports one year prior to expiration of its maritime labor agreement, three months prior to the expiration of that agreement, and then monthly from the time of expiration until a new labor agreement is reached.

The report shall include the type and number of vessels awaiting berthing at a port, the average wait time for berthing, the number of canceled vessel calls at the port, an estimate of the economic impact associated with any delays at the port and across the national economy, an estimate of the amount of time required to clear any congestion, the average number of positions ordered and filled, and any other factors that might have created delays, including weather, equipment maintenance or failures, or infrastructure development or repair.

VOTES IN COMMITTEE

Senator Manchin offered an amendment, to the amendment (in the nature of a substitute) offered by Senator Thune, to strike the provision requiring monthly reports on performance at United States ports. By rollcall vote of 11 yeas and 13 nays as follows, the amendment was defeated:

YEAS—11	NAYS—13
Mr. Nelson	Mr. Wicker
Ms. Cantwell	Mr. Blunt
Ms. McCaskill ¹	Mr. Rubio ¹
Ms. Klobuchar	Ms. Ayotte
Mr. Blumenthal	Mr. Cruz
Mr. Schatz	Ms. Fischer ¹
Mr. Markey	Mr. Moran ¹
Mr. Booker	Mr. Sullivan
Mr. Udall ¹	Mr. Johnson ¹
Mr. Manchin ¹	Mr. Heller
Mr. Peters	Mr. Gardner

8

Mr. Daines
Mr. Thune

¹By proxy

ADDITIONAL VIEWS OF SENATOR NELSON

I write separately to express my views regarding S.1298, a bill with the noble goal of providing nationally consistent measures of performance of the Nation's ports. I had serious concerns when it was marked up in Committee, and, at that time, I was joined by several of my Democratic colleagues in asking to be recorded as voting against the bill, since we believed changes were needed to improve it.

The efficient movement of goods through America's seaports and across our infrastructure is vital to the Nation's economy and global competitiveness. Trade activity moving through seaports accounts for 26 percent of the U.S. economy, generates over 23 million American jobs, and provides over \$320 billion in tax revenues.

While I strongly support efforts at developing a robust national freight system, I have concerns with this bill. The bill originally introduced by Chairman Thune intended for port authorities to collect overall performance metrics at a port, a very heavy paperwork requirement for private and public ports alike. Port authorities, however, are not the appropriate reporting body for those metrics. Terminal operators, carriers, and other maritime entities collect and keep this information, not port authorities. Furthermore, this information is often proprietary and could be used to put some U.S. ports at a competitive disadvantage. Finally, some ports raised serious concerns with the specific measures because the data are not consistent across ports. These ports believed a better approach would be to allow an industry working group, as opposed to lawmakers far removed from the day-to-day operations, to set the appropriate measures. Senator Booker filed an alternative amendment that would have established this more collaborative working group to identify port measures.

In addition, the legislation leaves the distinct impression that organized labor is the major reason for port slowdowns and port congestion. Unfortunately, while focusing on labor-related measures, the bill does not take into account or seek to measure the myriad variables that affect port productivity and have nothing to do with labor unions or collective bargaining agreements, such as increases in ship size, congestion, outmoded landside infrastructure, the availability of chassis, and inclement weather. As the legislation was drafted, the collective bargaining process could be blamed for all problems related to productivity without any consideration of the complexities involved with port logistics networks.

Given what I believe were shortcomings in the bill coming out of the Committee markup, I would like to acknowledge the efforts of Chairman Thune to engage in meaningful negotiations regarding this legislation. The Chairman helped facilitate bipartisan efforts aimed at improving the bill, which were ultimately included in a later version of the bill that became part of H.R. 22, the Developing

a Reliable and Innovative Vision for the Economy Act (DRIVE) Act. Specifically, the modified version of the bill would require the Bureau of Transportation Statistics to collect port measures and would enlist the assistance of a working group made up of government and industry stakeholders to issue recommendations. The bill also provided flexibility on the individual measures as long as they met the intent of the bill. Furthermore, the modified bill struck the controversial section requiring additional reporting before, during, and after labor contract agreements.

I look forward to working with the Chairman and my other colleagues as we improve this important piece of legislation.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49. TRANSPORTATION

SUBTITLE III. GENERAL AND INTERMODAL PROGRAMS

CHAPTER 63. BUREAU OF TRANSPORTATION STATISTICS

§ 6307. Furnishing of information, data, or reports by Federal agencies

(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

(b) PROHIBITION ON CERTAIN DISCLOSURES.—

(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) or section 6314(b) can be identified;

(B) use the information provided under section 6302(b)(3)(B) or section 6314(b) for a nonstatistical purpose; or

(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B) or section 6314(b).

(2) COPIES OF REPORTS.—

(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) or section 6314(b) with the Bureau or retained by an individual respondent.

(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

(i) shall be immune from legal process; and

(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a

nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

(c) **TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.**—The Director shall be provided access to any transportation and transportation-related information in the possession of any Federal agency, except—

(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

§ 6314. Port performance freight statistics program

(a) *IN GENERAL.*—The Director shall establish, on behalf of the Secretary, a port performance statistics program to provide nationally consistent measures of performance of—

(1) the Nation's top 25 ports by tonnage;

(2) the Nation's top 25 ports by 20-foot equivalent unit; and

(3) the Nation's top 25 ports by dry bulk.

(b) *ANNUAL REPORTS.*—

(1) *PORT CAPACITY AND THROUGHPUT.*—Not later than January 15 of each year, the Director shall submit an annual report to Congress that includes statistics on capacity and throughput at the ports described in subsection (a).

(2) *PORT PERFORMANCE MEASURES.*—The Director shall collect monthly port performance measures for each of the United States ports referred to in subsection (a) that receives Federal assistance or is subject to Federal regulation to submit an annual report to the Bureau of Transportation Statistics that includes monthly statistics on capacity and throughput as applicable to the specific configuration of the port, including—

(A) the total capacity of inbound and outbound cargo, including containers, break bulk, vehicles, and dry and liquid bulk;

(B) the total volume of inbound and outbound cargo, including containers, break bulk, vehicles, and dry and liquid bulk;

(C) the average number of lifts per hour of containers by crane;

(D) the average vessel turn time by vessel type;

(E) the average cargo or container dwell time;

(F) port storage capacity and utilization;

(G) the average truck time at ports;

(H) the average rail time at ports; and

(I) any additional metrics, as determined by the Director after receiving recommendations from the working group established under subsection (c).

(c) *RECOMMENDATIONS.*—

(1) *IN GENERAL.*—The Director shall obtain recommendations for—

(A) specifications and data measurements for the port performance measures listed in subsection (b)(2);

(B) additionally needed data elements for measuring port performance; and

(C) a process for the Department of Transportation to collect timely and consistent data, including identifying safeguards to protect proprietary information described in subsection (b)(2).

(2) *WORKING GROUP.*—Not later than 60 days after the date of the enactment of this Act, the Director shall commission a working group composed of—

(A) operating administrations of the Department of Transportation;

(B) the Coast Guard;

(C) the Federal Maritime Commission;

(D) U.S. Customs and Border Protection;

(E) the Marine Transportation System National Advisory Council;

(F) the Army Corps of Engineers;

(G) the Saint Lawrence Seaway Development Corporation;

(H) the Advisory Committee on Supply Chain Competitiveness;

(I) 1 representative from the rail industry;

(J) 1 representative from the trucking industry;

(K) 1 representative from the port management industry;

(L) 1 representative from the maritime shipping industry;

(M) 1 representative from the maritime labor industry;

(N) representatives of the National Freight Advisory Committee of the Department; and

(O) representatives of the Transportation Research Board of the National Academies.

(3) *RECOMMENDATIONS.*—Not later than 1 year after the date of the enactment of this Act, the working group commissioned under this subsection shall submit its recommendations to the Director.

(d) *ACCESS TO DATA.*—The Director shall ensure that the statistics compiled under this section are readily accessible to the public, consistent with applicable security constraints and confidentiality interests.