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Homeland Security: Coast Guard Legislation in the 107th Congress

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Summary

House-passed H.R. 1699, House-passed H.R. 3507, and S. 951, as reported, would authorize the agency's programs for FY2002. The Senate and House-passed versions of a port security bill, S. 1214, are in conference. In passing it, the House added the FY2002 authorization language of H.R. 3507. The Senate Commerce Committee approved a seaport security bill, S. 2329, on May 17. House-passed H.R. 1099 contains various personnel, maritime safety, advisory group, and miscellaneous provisions. Another reported bill, H.R. 2481, the Omnibus Maritime Improvement Act of 2001 contains numerous provisions on Coast Guard operations and activities

P.L. 107-20 (H.R. 2216), the FY2001 emergency supplemental appropriations bill, increased FY2001 Coast Guard funding by \$92 million. A terrorism FY2001 supplemental, P.L. 107-38, included \$18 million for the recall of Coast Guard reservists. For FY2002 funding, Congress approved P.L. 107-87, the DOT appropriations bill which contains \$5.03 billion for the Coast Guard. Congress also included in the Emergency Terrorism Supplemental, P.L. 107-118 (H.R. 3338, Division B) an additional \$209 million for Coast Guard activities following September 11. Another FY2002 supplemental, H.R. 4775, now in conference, would also increase current appropriations, \$661 million under the Senate version and \$288 million under the House version.

Among the several bills proposing to move the Coast Guard into a new Department of Homeland Security are the Administration's proposal, H.R. 5005, and S. 2452 as reported (S. Rept. 107-175) by the Senate Committee on Governmental Affairs on June 24, 2002. On July 11, the House Committee on Transportation and Infrastructure recommended that the Coast Guard not be moved but be maintained in the Department of Transportation.

Introduction

Congress generally authorizes the programs of the U.S. Coast Guard and appropriates annually in the Department of Transportation bill.¹ FY1999 is the last year that programs were formally authorized by Congress.

The Coast Guard is a multi-function agency with a mission to protect people, the environment, and U.S. economic interests in coastal and ocean waters. For a full description of responsibilities, see [<http://www.uscg.mil/services.html>]. Increased duties related to high seas illegal drug trafficking and immigration have added to the agency's obligations and increased the complexity of the issues it faces. Congress continues to be concerned with how the agency is responding operationally to these new demands and managing plans to replace many of its aging vessels and aircraft.

Coast Guard Authorization Legislation for FY2002

House-passed H.R. 3507 and Senate-reported S. 951 were the main FY2002 reauthorization bills. On June 4, in passing a port security bill, S. 1214, the House added the authorization language of House-passed H.R. 3507. Table 1 shows the major differences in their proposed authorization levels.

The House passed an authorization bill, H.R. 1699 June 7, 2001. It would have authorized a total of \$5.3 billion for all Coast Guard programs in six major accounts. The House later passed, under suspension, H.R. 3507 which would authorize Coast Guard programs at \$5.9 billion for FY2002, the same authorization levels adopted in S. 1214 on June 4. A similar Senate bill, S. 951, would authorize \$5.2 billion, and was reported October 31 by the Senate Committee on Commerce, Science, and Transportation (S.Rept. 107-89). Table 1 shows the recommended authorization levels of House-passed H.R. 3507/S. 1214 and S. 951 as reported compared to FY1999, the last year in which programs were authorized.

Operations and Maintenance. H.R. 3507 and S. 1214 as passed by the House would authorize Coast Guard operation and maintenance activities at \$4.2 billion for FY2002. \$623 million of this is authorized to be available for domestic maritime homeland security. S. 951 would authorize this account at \$3.6 billion and does not specify an allocation for domestic maritime security.

Acquisition, Construction, Improvements. House-passed H.R. 3507 and S. 1214 authorize Coast Guard acquisition activities, construction and capital improvements at a FY2002 level of \$717.8 million. The Senate bill's level is \$669.0 million.

For FY2002, H.R. 3507 and S. 1214 authorize \$58.5 million for domestic maritime homeland security vessels and detection equipment. They also authorize \$338 million from this account for implementing Phase II of the Deepwater Capabilities Replacement Project. This is a critical year for this \$10 billion project since the first contracts for actual construction were recently awarded. The Senate bill does specify these allocations.

¹ For a discussion of FY2002 appropriations, see CRS Report RL31008, *Appropriations for FY2002: Department of Transportation and Related Agencies*.

**Table 1. Major Coast Guard Activities Authorized
(in billions of dollars)**

Account	FY1999 (last year authorized)	FY2002 House-passed H.R. 3507 & S. 1214	FY2002 S. 951, as reported
Operation and Maintenance	2.854	4.204	3.633
Acquisition and Construction	0.510	0.717	0.669
Research, Development, Test, Evaluation	0.018	0.022	0.022
Retired Pay	0.692	0.876	0.876
Alteration of Bridges	0.026	0.016	0.016
Environmental Compliance	0.026	0.017	0.017
TOTAL Authorization	4.126	5.854	5.223

* Totals may not add due to rounding. Senate-passed S. 1214 does not contain authorization provisions.

Other Portions of the Authorization. H.R. 3507 and S. 1214 would authorize Coast Guard research, testing, development and related activities at a \$21.7 million for FY2002; S. 951, at \$22 million. For mandatory retirement benefits, the authorized amount is \$876 million under both House and Senate bills for FY2002. Under both bills, alteration of bridges would be authorized at \$16 million; for complying with environmental laws and performing environmental restoration activities the levels are \$17.0 million FY2002.

Military Strength and Training. The House bill would increase the authorized number of active-duty personnel from 38,038 previously to 44,000 in FY2002. The Senate bill would set the level at 40,000.

Coast Guard Funding

The Coast Guard appropriation is constrained, and its management challenged, by increased responsibilities for drug and illegal immigrant interdiction on the high seas as well as by its aging water craft and aircraft. Enhanced responsibilities in the wake of September 11th have greatly added to Coast Guard duties.

FY2002. The Administration requested \$5.056 billion for Coast Guard funding in FY2002. The House approved \$5.03 billion (H.R. 2299; H.Rept. 107-108), \$60 million less than requested. The Senate approved \$5.102 billion (H.R. 2299; H.Rept. 107-108, amended by S. 1178, in the nature of a substitute). P.L. 107-87 (H.Rept. 107-308) included \$5.03 billion.

P.L. 107-20 (H.R. 2216), the FY2001 emergency supplemental bill, increased FY2001 Coast Guard funding by \$92 million. A terrorism FY2001 supplemental of September 21, 2001, P.L. 107-38, included \$18 million in additional FY2001 funds for the recall of Coast Guard reservists. House-passed H.R. 3338, the Defense Appropriations

bill in Division B, the FY2002 Supplemental, would have increased the Coast Guard's operating appropriation by \$144.9 million, funds directly in support of September 11-related activities; the Senate-reported substitute (S.Rept. 107-109) included \$273 million. On December 7, the Senate Committee substitute was ruled out of order by the Chair. The same day the Senate passed the Byrd /Stevens/Inouye amendment to H.R. 3338, which included \$285.35 million for the Coast Guard in Division B, Transfers from the Emergency Response Fund Pursuant to P.L. 107-38. The final version, P.L. 107-118, included \$209 million for Coast Guard terrorism-related activities.

The requested \$3.38 billion (\$197.8 million, or 6% more than FY2001) would have been allocated to operation and maintenance of a wide range of ships, boats, aircraft, shore units, and aids to navigation. The House approved \$3.38 billion; the Senate approved \$3.43 billion; and the conferees \$3.38 billion. For acquisition, construction, and improvement; the Administration sought \$659.3 million; the House approved \$600 million; the Senate approved \$669.3 billion; and, the conferees \$636.4 million. For complying with environmental regulations and cleaning up contaminated sites, conferees approved \$16.9 million. \$15.5 million was requested and approved for altering bridges. The \$21.7 million approved by the House and Senate for research and development was the same as the amount requested, and slightly more than the \$20.2 million approved by the conferees. The allocation approved for retirement pay will be \$876.3 million, the same as requested. The Administration requested, and conferees approved, \$83.2 million to train, support, and sustain a ready military Selected Reserve Force of 8,000 members.

For FY2002 deepwater replacement, \$338 million was requested; the final version included \$320 million. Actual purchases of nearly \$10 billion are anticipated over a 20-year period beginning in FY2002. In approving the bill, Congress included legislative language requiring a capital investment plan for the Coast Guard.

FY2003. The Administration requests budget authority of \$7.275 billion for Coast Guard funding in FY2003. Compared to the \$5.702 billion appropriated in FY2002, the FY2003 request would be \$1.573 billion, or 28%, more. Planned increases of \$733 million for Coast Guard operating expenses, \$92 million for acquisitions, and a new \$736 retirement fund payment account for most of the proposed increase. Coast Guard programs are usually authorized every 2 years; see also CRS Report RS21125, *Homeland Security: Coast Guard Operations—Background and Issues for Congress* and CRS Report RS21079, *Maritime Security: Overview of Issues*, for discussions of related issues.

The FY2003 budget request is intended to allow the Coast Guard to continue its activities against drug smuggling and to recapitalize aircraft and vessel fleets while it conducts accelerated Homeland Security activities. A requested \$4.635 billion (\$733.0 million, or 19%, more than FY2002) is for operation and maintenance of a wide range of ships, boats, aircraft, shore units, and aids to navigation. This includes \$340.0 million in defense-related funding. Another major component of the request is allocated to acquisition, construction, and improvement. The Administration seeks \$735.8 million, \$92.0 million, or 14%, more than current year funding. For complying with environmental regulations and cleaning up contaminated Coast Guard sites, the budget seeks \$17.3 million. No funds are requested for altering bridges; \$15.5 million was appropriated for the current year. The \$23.1 million for research and development would be slightly more than current year funding. Other Coast Guard requested funding

includes \$62.1 million for spill clean-up and initial damage assessment, available without further appropriation from the Oil Spill Liability Trust Fund.

The chief current issue is how the Coast Guard is handling heightened security responsibilities with its many other responsibilities such as search and rescue, and enforcement of laws and treaties. About half of the planned \$733 million increase for operating activities is to be allocated among Homeland Security and these traditional activities. Another prominent issue has been the Coast Guard's management of a major planned replacement of aging and outmoded high seas vessels and aircraft, with a special emphasis on improving the Coast Guard's capabilities on the high seas or in deep waters. Only planning and analysis funds were included for FY1998 through FY2001. Key dates include July 2001, when industry teams submitted their design and construction proposals; and the second quarter of FY2002, when the Coast Guard will award the contracts to begin the replacement program. For FY2003, \$500 million is requested, a \$200 million or 63% increase over current year funding. Actual purchases of nearly \$10 billion are anticipated over a 20-year period beginning in FY2002. CRS Report 98-830, *Coast Guard Integrated Deepwater System: Background and Issues for Congress*, discusses the issues associated with the program.

Transferring the Coast Guard to a Department of Homeland Security

Senate Governmental Affairs-reported S. 2452 (S. Rept. 107-175) section 102 and the Administration's proposal, H.R. 5005 section 402, would transfer the agency to the new department and place it under a new border and transportation security undersecretary or directorate. Both bills state that the Coast Guard would be maintained as a distinct entity in the new department. (See also CRS Report RS21125, *Homeland Security: Coast Guard Operations—Background and Issues for Congress*.)

Some Members of Congress and others are concerned that certain non-security functions such as boating safety, search and rescue, and fishing regulation may receive a low priority under the proposed arrangement. On this, the Senate report on S. 2452 stated: "The Coast Guard and Customs would be maintained as distinct entities, however, and all of the transferred programs and agencies would retain and be required to continue their non-security missions. For instance, the Coast Guard's search and rescue operations would not be diminished."² In making its July 11 legislative recommendations on H.R. 5005, the House Transportation and Infrastructure recommended that the Coast Guard remain in DOT, a new Coast Guard Vice Commandant for Homeland Security be created, and all core missions be performed at adequate levels.

Other Legislation

Coast Guard Personnel and Maritime Safety Act. On March 22, 2001, the House passed H.R. 1099, the Coast Guard Personnel and Maritime Safety Act of 2001. It includes several personnel provisions in title I, five provisions on maritime safety in title II, provisions renewing six advisory groups in title III, and twelve miscellaneous provisions. Noteworthy among the miscellaneous provisions is section 420 requiring

² S.Rept. 107-175, p. 12.

vessels to notify the Coast Guard before entering the territorial sea, whereas they are currently required to notify before approaching a port. S. 1214 has some of these provisions.

Omnibus Maritime Improvement Act. H.R. 2481 was reported (amended) October 16, 2001 by the Committee on Transportation (H.Rept. 107-243) and sequentially referred to the Committee on Armed Services. It includes certain housing and various safety provisions.

Port Security. House- and Senate-passed S. 1214, now in conference, would amend the 1936 Merchant Marine Act amend the Merchant Marine Act, 1936, to establish a program to ensure greater port security for United States, including a grant program. The Senate Commerce Committee approved a seaport security bill, S. 2329, on May 17. (See CRS Report RS21079, *Maritime Security: Overview of Issues*, for further discussion)

Key Policy Issues: New Pressures and the Coast Guard's Response

At the same time that the Coast Guard has assumed significantly increased responsibilities for high seas enforcement, its deepwater-capable cutters and aircraft are aging and increasingly inadequate. To address this, the Coast Guard launched a major acquisition program called the Integrated Deepwater System which would require an estimated \$9.6 billion acquisition program over 20 years beginning in FY2002. CRS Report 98-830, *Coast Guard Integrated Deepwater System: Background and Issues for Congress*, describes the state of the Coast Guard fleet, Coast Guard's plans and some of the issues associated with the deepwater program.

Everyday operations appear to challenge the agency now. To support current operational demands, the Coast Guard has had to shift funds from other priorities. At a December 6th House Transportation and Infrastructure, Subcommittee on Coast Guard and Navigation hearings, Members, the Secretary of Transportation, and the Commandant of the Coast Guard expressed concern over the Coast Guard's ability to balance all its responsibilities. Long-term strategic planning and budgeting appears necessary in light of what the Commandant calls the "new normalcy." Key to the Coast Guard's enhanced role in national security will be how its functions, and is funded, in the nation's new homeland security effort.

The provisions to transfer the Coast Guard to the proposed Department of Homeland Security have generated a key issue: how some non-security programs, such as search and rescue will fare in a new department having security as a top mission. The Senate report language on S. 2452 has expressed the Senate's intent that traditional Coast Guard activities be retained and continued. The House Transportation and Infrastructure Committee favors keeping the Coast Guard in the Department of Transportation and continuing support for non-security functions.