

CRS Report for Congress

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Homeland Security: Coast Guard Operations – Background and Issues for Congress

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Summary

The Coast Guard's role in homeland security, including port security, has been changed by two bills passed during the final days of the 107th Congress. The bill to establish a new Department of Homeland Security (DHS) (H.R. 5005/P.L. 107-296) transfers the Coast Guard from the Department of Transportation (DoT) to DHS and protects the Coast Guard's missions, including its non-homeland security missions. The Maritime Transportation Security Act of 2002 (S. 1214/P.L. 107-295) contains several provisions relating to the Coast Guard's role in seaport and maritime homeland security. This report will be updated as events warrant.

Background

The Coast Guard in Brief. The Coast Guard, the federal government's principal maritime law-enforcement agency, is a military service and a branch of the armed forces that until recently operated within DoT.¹ The Coast Guard in 2002 had about 37,000 active-duty uniformed personnel, about 6,000 civilian personnel, about 8,000 reserve uniformed personnel. Its FY2002 budget was \$5.702 billion. It performs a variety of missions that it groups into five fundamental roles – maritime security, maritime safety, maritime mobility, protection of natural resources, and national defense.

Homeland-Security Operations After September 11, 2001. In response to the terrorist attacks of September 11, 2001, the Coast Guard took actions to create the largest port-security operation since World War II. Coast Guard cutters and aircraft were diverted from more distant operating areas to patrol U.S. ports and coastal waters. The Coast Guard established and enforced security zones to protect Navy ships and bases. Coast Guard personnel began boarding and inspecting inbound vessels, escorting cruise ships into and out of port, and escorting oil tankers into and out of Valdez, Alaska. The Coast Guard instituted new regulations requiring inbound ships to provide 96-hour (as

¹ The Coast Guard is to operate as a service within the Navy upon declaration of war or when the President directs, until the President by executive order transfers it back to its peacetime parent department (14 USC 3).

opposed to the previous 24-hour) advance notice of arrival, to provide more time to board and inspect vessels. Four of the Coast Guard's 6 Port Security Units (PSUs)² were activated and assigned to help protect ports. And Coast Guard sea marshals began boarding and riding inbound commercial ships.

The expansion of Coast Guard homeland-security operations led to a major reshuffling of the service's mission priorities. Port-security operations, which had accounted for about 1%-2% of all Coast Guard operations prior to September 11, 2001 increased to 56% of all operations by October 9, 2001. To accommodate this expansion, significant reductions were made to operations in other missions. As part of its effort to move toward what Coast Guard officials call the "new normalcy" in Coast Guard operations (i.e., the service's new, post-September 11, 2001 status quo), the Coast Guard is reducing its port-security operations toward a goal of 20%-25% of all operations.

Resources vs. Missions Prior to September 11, 2001. Even before September 11, 2001, the Coast Guard appeared hard-pressed to perform all its missions at desired levels with available assets and resources. Many of the service's cutters are old, expensive to operate and maintain, and not well suited for some of the missions they undertake. Some Coast Guard units have very high operational tempos. The service has experienced difficulties in recent years in retaining sufficient numbers of experienced personnel and maintaining some of its aircraft at desired levels of readiness. Prior to September 11, 2001 insufficient funding to operate Coast Guard assets to their full potential was a recurrent issue, and some observers expressed concerns or doubts about the Coast Guard's ability to finance key equipment modernization programs, such as its Deepwater acquisition project for replacing aging cutters and aircraft.³ Prior to September 11, 2001, Coast Guard leaders and supporters attempted repeatedly to draw attention to this missions-vs.-resources situation. They noted that the Coast Guard today is smaller than it was several years ago, even though its responsibilities have expanded considerably over the last 25 years as a result of substantial growth in mission areas such as counter-drug operations, alien interception, pollution prevention, and fisheries enforcement.

Port Security. Following the September 11, 2001 terrorist attacks, policymakers have expressed strong concern for the security of the nation's seaports, for which only modest security procedures were in place prior to September 11, 2001. Although the Coast Guard is a key player in maintaining port security, other federal and local agencies have important roles to play in port security. Thus, while Coast Guard homeland-security operations focus to a large degree on port security, the issue of port security encompasses more than the Coast Guard.⁴

² The PSUs are staffed mostly by Coast Guard reservists and have been used in recent years to protect U.S. Navy ships overseas. At the time that the 4 PSUs were activated to protect U.S. ports, a fifth PSU was guarding U.S. Navy ships overseas, and the sixth had recently returned from such a deployment.

³ See CRS Report RS21019, *Coast Guard Deepwater Program: Background and Issues for Congress*, by Ronald O'Rourke. Washington, 2002. (Updated periodically) 6 p.

⁴ For more on the topic of port security, see CRS Report RS21079, *Maritime Security: Overview of Issues*, by John Frittelli, and CRS Report RL31424, *Maritime and Port Security: A Comparison of Major Provisions of S. 1214 and H.R. 3983*, by John Frittelli.

FY2003 Budget Request. The Coast Guard's FY2003 budget request included a 5-element program to improve the security of the nation's ports, waterways and maritime borders. The five elements, with requested funding for new initiatives with each element (funded mostly from the OE account), are as follows:

- ! **Building Maritime Domain Awareness**, including efforts to increase intelligence in ports, improve information about ship passengers, crews, and cargoes, and establish intelligence fusion centers. (\$69.4 million)
- ! **Ensuring controlled movement of high-interest vessels**, including increased boarding and escort operations. (\$18 million)
- ! **Enhancing presence and response operations**, including increased harbor patrols and visibility. (\$47.5 million)
- ! **Protecting critical infrastructure and enhancing Coast Guard force protection**, including patrols and random inspections. (\$37.7 million)
- ! **Increasing domestic and international outreach**, including working with local authorities to prepare vessel and waterfront security plans, preparing Coast Guard anti-terrorism contingency plans, and working with the International Maritime Organization on international maritime security actions. (\$23.8 million)

In addition, the Coast Guard for FY2003 requested an increase in active-duty end strength of 1,400 to 1,500 personnel, on top of an increase of 700 to 800 personnel for FY2002, for a total increase across the two years of about 2,200 active-duty personnel. The FY2003 budget also requested increasing the Coast Guard reserve end strength to 9,000 (a 1,000-person increase).

Issues for Congress

Location of Coast Guard Within Executive Branch. The Administration's proposal to create a new DHS, announced on June 6, 2002, included a proposal to transfer the Coast Guard from DoT to DHS. The Administration's proposal mirrored some other bills introduced in Congress prior to June 6, 2002, that would transfer the Coast Guard into a new department for homeland security. Whether to transfer the Coast Guard to DHS became one of the more significant items of congressional debate on the merits of the Administration's homeland security reorganization proposal.

Debate prior to September 11, 2001. The issue of where in the executive branch the Coast Guard should be located existed prior to September 11, 2001. During this period, some Coast Guard supporters, noting the Coast Guard's national defense mission and that Coast Guard programs currently must compete for limited DoT funding against highly popular highway and transit projects, had proposed transferring the service to DoD. Other observers, noting the Coast Guard's homeland-security operations, had proposed incorporating the service into a new department for homeland security. Coast Guard leaders argued that since the Coast Guard's operations are part transportation-related, part law-enforcement-related, and part defense-related, the Coast Guard will not fit perfectly into any parent department, whether that be DoT, the Department of Justice, DoD, or a new homeland security department, and thus there was no overwhelming case for transferring the Coast Guard from DoT to some other parent department.

Debate between September 11, 2001, and June 6, 2002. After September 11, 2001, but prior to the Administration's June 6, 2002 announcement of its proposal to create DHS, Coast Guard officials argued that the Coast Guard's increased focus on conducting expanded homeland security operations argued against the idea of transferring the Coast Guard to another parent department because such a transfer could disrupt Coast Guard homeland security operations at a critical time.

Debate after June 6, 2002. Following the Administration's announcement of its homeland security reorganization plan, Coast Guard officials supported the proposal to transfer the Coast Guard to DHS, stating that the Coast Guard is a logical component of the proposed Department. Some Members of Congress expressed concern that transferring the Coast Guard to DHS could lead to a reduced focus on important Coast Guard missions not directly related to homeland security, such as search and rescue, fisheries law enforcement, and marine environmental protection. One option for addressing this concern would be to leave the Coast Guard in DoT. Another would be to divide the Coast Guard into two parts – one focused on missions relating maritime homeland security, which would be transferred to DHS, the other focused on non-homeland-security missions, which would remain in DoT. The Coast Guard argued that

To maximize the Coast Guard's effectiveness in the new Department, it is essential that the Coast Guard remain intact[;] retain essential attributes as a military, multi-mission, and maritime service[; and] retain the full range of Coast Guard missions. Nearly forty percent of the Coast Guard's current operating budget is directly related to the core missions of the proposed Department and the remainder of our missions contribute indirectly to the overall security and economic viability of the nation.... Our full range of missions, all critical to the nation, would continue to serve America in a robust way under President Bush's approval.... The greatest danger to any Coast Guard mission would be to fracture the Coast Guard. Our multi-mission assets are critical to each of our five fundamental roles.... These roles overlap, as Maritime Security and Maritime Safety are two sides to the same coin of protecting Americans. The same cutters, boats, aircrafts [sic], and personnel that maintain Maritime Mobility also provide Maritime Safety and Security as well as Protect our National Resources. The Coast Guard has always met its full set of responsibilities, regardless of Departmental location.⁵

Missions vs. Resources. The terrorist attacks of September 11, 2001 increased Coast Guard requirements for the homeland-security mission without obviously reducing requirements for other, pre-September 11, 2001 missions. (Some observers go further, arguing that September 11, 2001, if anything, strengthened requirements for Coast Guard counter-drug and alien migrant interception operations, since terrorists can use drug profits to finance their activities and might try to enter the United States illegally by ship.) There appear to be few observers who oppose the general notion that the Coast Guard's resources will need to be increased to bring them into better alignment with the service's post-September 11, 2001 mission requirements. The issue appears to center more on the question of the size of the increase that will be needed.

⁵ Department of Transportation, United States Coast Guard, Statement of Admiral Thomas Collins, Commandant of the Coast Guard, on Proposal to Create the Department of Homeland Security Before the Subcommittee on Crime, Terrorism & Homeland Security, U.S. House of Representatives, July 9, 2002.

Legal Authorities. Coast Guard officials state that their legal authorities are quite broad and are generally sufficient for conducting post-September 11, 2001 homeland-security responsibilities. One change that the Coast Guard sought in 2002 was an expansion of its authority to enforce rules and regulations for controlling vessels in U.S. territorial waters so that the authority extends to U.S. waters up to 12 miles from shore (the current definition of U.S. territorial waters, adopted in 1988), rather than its current statutory authority, which extends out only to 3 miles from shore (the pre-1988 definition of U.S. territorial waters). (This is accomplished by Section 104 of S. 1214; see discussion below under Legislative Activity.)

Coordination With Other Agencies. A fourth potential issue for Congress is coordination between the Coast Guard and other government agencies.

Coordination With Navy. The emerging homeland security operational concepts of the Coast Guard and Navy both view the Coast Guard as the primary service for maritime homeland-security operations, with the Navy supporting the Coast Guard, if needed, in specific areas where Coast Guard capabilities are very limited, such as air defense or antisubmarine warfare.⁶ Are the Coast Guard and Navy taking adequate steps to coordinate their homeland security operations? Have the two services reached agreement on their respective responsibilities for maritime homeland security, and on command relationships, doctrine, and tactics for such operations? Are the two services conducting sufficient joint training in this area? Are Navy and Coast Guard systems sufficiently interoperable to reach desired levels of coordination?

Coordination with Other Agencies. DHS was created in part to improve coordination between the Coast Guard and other agencies involved in homeland security. One issue for Congress is how effective DHS will be in achieving this goal. The Coast Guard also supports the creation of a fully networked information environment among interested agencies to help achieve and maintain what the Coast Guard calls “maritime domain awareness” (MDA). In essence, MDA refers to having a continuous understanding of commercial shipping on a global basis, so that commercial ships of potential concern can be identified at their foreign ports of origin, long before they begin to approach the United States. Coast Guard officials argue that maritime homeland security can be significantly increased if MDA can be implemented to establish a de facto forward line of defense in overseas ports of origin.

Legislative Activity

H.R. 5005/P.L. 107-296. H.R. 5005, the bill establishing DHS, was passed by the Senate on November 19, 2002 and by the House on November 22, 2002, and was signed into law as P.L. 107-296 on November 25, 2002. Section 888 transfers to DHS “the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity” within DHS; preserves the Coast Guard’s missions, including its non-homeland security missions, along with the assets needed to perform those missions; stipulates that the Commandant of the Coast Guard will report directly to the Secretary

⁶ For more on Navy homeland security operations, see CRS Report RS21230, *Homeland Security: Navy Operations – Background and Issues for Congress*, by Ronald O’Rourke. Washington, 2002. (Updated periodically) 6 p.

of DHS; and directs DHS to submit a report on the feasibility and potential implications accelerating procurement of the Coast Guard's new Deepwater assets from 20 years to 10 years. Section 307(c)(3) reserves 10 percent of certain research and development funding to be spent by the DHS through FY2005 for developing maritime security capabilities intended to minimize the possibility that Coast Guard assets would be diverted from non-homeland security missions to maritime security missions.

S. 1214/P.L. 107-295. The conference report (H.Rept. 107-777 of November 13, 2002) on the Maritime Transportation Security Act of 2002 (S. 1214) was passed by the Senate and the House on November 14, 2002, and was signed into law as P.L. 107-295 on November 25, 2002. The law contains several provisions relating to the Coast Guard's role in maritime homeland security. Sec. 102 directs the establishment of procedures for coordinating the activities of Coast Guard maritime safety and security teams as part of a National Maritime Transportation Plan for deterring and responding to a transportation security incident; requires the designation of a Coast Guard officials as local-area Federal Maritime Security Coordinators, who shall develop and submit Area Maritime Transportation Security Plans; directs the Secretary of DHS to establish Coast Guard maritime safety and security teams; and makes costs for additional Coast Guard personnel eligible for coverage under a DHS grant program for financing maritime security enhancements.

Section 104 of the law extends the territorial waters of the United States (and corresponding Coast Guard legal authorities) to the 12-mile limit established by presidential proclamation in 1988. Section 105 permits the president to suspend Coast Guard end-strength limitations in time of war or national emergency. Section 107 provides for the assignment of Coast Guard personnel to act as sea marshals. Section 110 requires the Coast Guard, in conjunction with the Navy, to submit a report in early 2004 on the life-cycle costs and benefits of creating a Center for Coastal and Maritime Security. Section 113 provides for the Coast Guard to be consulted during the preparation of a revised port security planning guide. Section 341 authorizes DHS to accept from the Department of Defense up to 7 Cyclone (PC-1) class 170-foot patrol boats for use by the Coast Guard primarily for expanded drug-interdiction duties. Section 348 requires DHS to submit a report on Coast Guard expenditures by mission area before and after September 11, 2001, and annual funding amounts and personnel levels required to fulfill pre- and post-September 11, 2001 Coast Guard responsibilities. Section 348 also requires the Commandant of the Coast Guard to submit a report on targets for each Coast Guard mission for FY2003, FY2004, and FY2005, and the specific steps needed to achieve those targets. Section 426 requires the Secretary of DHS to submit an annual report, prepared in conjunction with the Commandant of the Coast Guard, on the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities. Section 502 authorizes FY2003 appropriations for the Coast Guard. Section 503 authorizes an increase in the Coast Guard's active-duty end strength to 45,500 for FY2003.