

CRS Report for Congress

Received through the CRS Web

Homeland Security: Coast Guard Legislation in the 107th Congress

Martin R. Lee
Specialist in Environmental Policy
Resources, Science, and Industry Division

Summary

The 107th Congress approved a port security and Coast Guard FY2002-FY2003 authorization bill, P.L. 107-295 (S. 1214). It included elements of several earlier bills addressing Coast Guard authorization, personnel, maritime improvement, and port security issues.

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, P.L. 107-206 (H.R. 4775), increases current appropriations by \$528 million. On July 26, the Senate Committee on Appropriations approved S. 2808 (S.Rept. 107-224), providing for \$6.1 billion in discretionary FY2003 budget authority for the agency. On October 7, 2002, the House Appropriations Committee approved H.R. 5559 (H.Rept. 107-722), providing \$6.1 billion. Under continuing resolutions, the Coast Guard has been funded at FY2002 levels since October 1.

P.L. 107-296 (H.R. 5710) transfers the Coast Guard to the new Department of Homeland Security.

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

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

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 H.R. 3507, which would have authorized Coast Guard programs at \$5.9 billion for FY2002, the same authorization levels adopted in S. 1214 on June 4 by the House. A similar Senate bill, S. 951, would have authorize \$5.2 billion, and was reported October 31 by the Senate Committee on Commerce, Science, and Transportation (S.Rept. 107-89). P.L. 107-295 (S. 1214)² authorizes \$5.9 billion in FY2002 and \$6.0 billion in FY2003 for all Coast Guard programs.

Operations and Maintenance. H.R. 3507 and S. 1214 as passed by the House would have authorized Coast Guard operation and maintenance activities at \$4.2 billion for FY2002—\$623 million of this was authorized to be available for domestic maritime homeland security. S. 951 would have authorized this account at \$3.6 billion and does not specify an allocation for domestic maritime security. P.L. 107-295 (S. 1214) authorizes \$4.2 billion for FY2002, including \$623 million for Homeland Security activities. For FY2003, \$4.3 billion is authorized and there is no specific authorized amount for Homeland Security.

Acquisition, Construction, Improvements. For Coast Guard acquisition activities, construction and capital improvements, P.L. 107-295 (S. 1214) authorizes \$717.8 million, including \$58.5 million, for FY2002 and \$725 million for FY2004, levels similar to those in House-passed H.R. 3507.

Other Portions of the Authorization. H.R. 3507 and S. 1214 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. 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. As

¹ For a discussion of FY2002 appropriations, see CRS Report RL31308, *Appropriations for FY2003: Department of Transportation and Related Agencies*.

² In passing it, the House added the FY2002 authorization language of House-passed 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.

approved, S. 1214 did not specify authorizations for these categories, except for authorizing 44,000 active duty personnel in FY2002 and 45,500 in FY2003.

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. Another FY2002 supplemental, H.R. 4775, cleared for the President, would also increase current appropriations by \$528 million.

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 discretionary budget authority of \$5.9 billion for Coast Guard funding in FY2003. Compared to the \$5.0 billion appropriated in FY2002, the FY2003 request would be \$862 million, or 17% more. Planned increases of \$733 million for operating expenses and \$92 million for acquisitions account for most of the proposed increase. On July 26, the Senate Committee on Appropriations approved S. 2808 (S.Rept. 107-224), providing for \$6.1 billion for the agency; on October 7, the House Appropriations Committee recommended \$6.1 billion in H.R. 5559 (H.Rept. 107-722). 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 \$4.2 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; the Senate Appropriations Committee approved this amount. The House Committee recommended \$4.3 billion. This includes \$340.0 million in defense-related funding. Another major component of the request is allocated to acquisition, construction, and improvement. The Administration sought and the Senate and House Appropriations Committees approved, \$725.0 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 sought, and the Appropriations Committees approved, \$17.3 million. No funds are requested for altering bridges; the Senate Committee approved \$14 million and the House Committee \$17 million. The \$23.1 million approved in the Senate action for research and development would be slightly more than current year funding. The House Committee recommended \$21.0 million.

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; the Lieberman substitute to S. 2452, Section 131; and the Administration's proposal, H.R. 5005 Section 402, reported July 19 by House Select Committee on Homeland Security and passed July 26, would have transferred the agency to a new department and place it under a border and transportation security undersecretary or directorate. P.L. 107-296 (H.R. 5710), similar to these earlier bills, was enacted in the last days of the 107th Congress. (See also CRS Report RS21125, *Homeland Security: Coast Guard Operations—Background and Issues for Congress*.)

Some Members of Congress and others were concerned that certain non-security functions such as boating safety, search and rescue, and fishing regulation would receive a low priority under a transfer. In making its legislative recommendations on H.R. 5005, the House Committee on 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. A Brookings Institute study recommended that the Coast Guard be included in a scaled down Homeland Security Department. In passing H.R. 5005, the House included the provisions to transfer the Coast Guard.

P.L. 107-296 (H.R. 5710) requires in Sections 103(c) and 888(g) that the Commandant of the Coast Guard report directly to the DHS Secretary. Section 888(b) would transfer all Coast Guard authorities, functions, personnel, and assets. The Administration's proposal would have placed it under the proposed Border and Transportation Security division, although that proposal included language that would preserve the Coast Guard as a distinct entity in the new department and mandated that the Coast Guard Commandant report directly to the Secretary of Homeland Security. The House Committee on 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. Notwithstanding, the Select Committee-reported and House-passed H.R. 5005 would have transferred the Coast Guard in its entirety as a distinct entity to the proposed DHS, like the Administration's plan. The Lieberman substitute to Senate bill (S. 2452), as approved by the Committee on Governmental Affairs on July 25, 2002, would transfer the Coast Guard to a Border and Transportation Security directorate of the proposed DHS. Like H.R. 5005 and H.R. 5710, it would have required the Commandant to report directly to the Secretary of Homeland Security (and not to the head of the directorate).

Similar to the language in the Lieberman Substitute, P.L. 107-296 (H.R. 5710) defines in Section 888 the "non-homeland security" and "homeland security" missions of the Coast Guard, and requires that its missions and functions remain intact after the transfer. It further prohibits substantially or significantly reducing those missions or the Agency's capabilities to perform them.³ These provisions were also similar to the Lieberman Substitute language as well as a provision directing certain research funds to

³ Under Section 888(e)(2), this requirement can be temporarily waived if the Secretary certifies to Congress that a waiver is necessary.

the Coast Guard. H.R. 5710 would also require a feasibility analysis of accelerating the Integrated Deepwater System program from the planned 20-year period to a 10-year period.

Other Legislation

The 107th Congress acted on several pieces of legislation, elements of which were included in the enacted version of S. 1214. These included 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 vessels to notify the Coast Guard before entering the territorial sea, whereas they are currently required to notify before approaching a port. Another bill, the 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 included certain housing and various safety provisions. The Senate Commerce Committee also 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 border security and 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. 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 generated a key issue: how some non-security programs, such as search and rescue would fare in a new department having security as a top mission. The Stevens-Collins Amendment to S. 2452 and H.R. 5710, as enacted, contained numerous provisions to address this issue.