

# 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 is the lead federal agency for maritime homeland security, which includes port security. The Coast Guard's FY2004 budget request includes \$206 million for new maritime homeland security initiatives. The Coast Guard's role in homeland security was changed by the law establishing the new Department of Homeland Security (DHS) (H.R. 5005/P.L. 107-296), which 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, and by the Maritime Transportation Security Act of 2002 (S. 1214/P.L. 107-295). This report will be updated as events warrant.

### Background

**The Coast Guard's Role in Homeland Security.** The Coast Guard, the federal government's principal maritime law-enforcement agency, is a military service and a branch of the armed forces. On March 1, 2003, it will be transferred from the Department of Transportation (DoT) to the new Department of Homeland Security (DHS).<sup>1</sup> The Coast Guard is the lead federal agency for Maritime Homeland Security (DHS). The Coast Guard states that, as such,

the Coast Guard's mission, in conjunction with joint and interagency forces, is to protect the U.S. Maritime Domain and the U.S. Marine Transportation System and deny their use and exploitation by terrorists as a means for attacks on U.S. territory, population and critical infrastructure. The Coast Guard will prepare for, and in the event of an attack, conduct emergency response operations. When directed, the Coast Guard, as the supported or supporting commander, will conduct military homeland defense operations in its traditional role as a military service....

The Coast Guard has developed a MHLs Strategy that implements the maritime component of the President's [homeland security] plan. It addresses both event-driven

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<sup>1</sup> 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).

and prevention-based operations through the following strategic objectives: (1) Prevent terrorist attacks within and terrorist exploitation of the U.S. Maritime Domain. (2) Reduce America's vulnerability to terrorism within the U.S. Maritime Domain. (3) Protect U.S. population centers, critical infrastructure, maritime borders, ports, coastal approaches and boundaries and "seams" among them. (4) Protect the U.S. Marine Transportation System while preserving the freedom of maritime domain for legitimate pursuits. (5) Minimize the damage and recover from attacks that may occur within the U.S. Maritime Domain as either the Lead Federal Agency or a supporting agency.<sup>2</sup>

### **Homeland-Security Operations Immediately 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 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)<sup>3</sup> 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.

**Homeland Security Operations During FY2002.** During FY2002, Coast Guard homeland security activities included the following:

- Assigning escorts to protect vessels and critical infrastructure.
- Improving Maritime Domain Awareness (MDA) – the Coast Guard's knowledge of all activities and elements in the maritime domain – by establishing a National Movement Vessel Center and by continuing to enforce the requirement for 96-hour advance notice of arrival.
- Operating cutters, boats, aircraft, and Marine Safety staffs in harbors and coastal regions at heightened operational tempos.

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<sup>2</sup> U.S. Department of Transportation. Coast Guard. *United States Coast Guard FY2003 Report, Fiscal Year 2002 Performance Report [and] Fiscal Year 2004 Budget in Brief*. Washington, 2003. p. 6-7. Hereafter referred to as *Coast Guard FY2004 Budget in Brief*.

<sup>3</sup> 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.

- Delivering additional small boats and crews to strategic ports.
- Activating almost one-third of the Coast Guard's 8,000 reservists.
- Completing, for various ports, port security assessments that are aimed at reducing the vulnerability of strategic maritime infrastructure and in-port Navy ships.
- Activating 4 Marine Safety and Security Teams (MSSTs) that can be deployed to various ports to enhance port security as needed.
- Tracking and screening all high-interest vessels (HIVs) – ships that meet certain criteria that qualify them as worthy of close monitoring when in or near U.S. waters.
- Coordinating security operations with other federal and local agencies, and forging information-sharing arrangements with both them and local port stakeholders. This included participating in port security committees, multi-agency security exercises, and safety and security task forces, and working with the Customs Service in connection with that agency's Container Security Initiative (CSI).
- Drafting and proposing new International Maritime Organization (IMO) security measures.<sup>4</sup>

**FY2004 Homeland Security Initiatives.** The Coast Guard states that its proposed FY2004 budget contains \$206 million for new initiatives aimed at further enhancing maritime homeland security. Of this total, is \$34 million is for improved Maritime Domain Awareness, specifically (1) improved communication links for cutters and smaller assets; (2) a Universal Automated Identification System (UAIS) for large cutters that is consistent with IMO and domestic carriage requirements; and (3) a prototype Joint Harbor Operations Center (JHOC) staffed with Department of Defense personnel to provide surveillance and command and control capabilities for protecting critical infrastructure. The remaining \$172 million is to be used for:

- creating 6 additional Maritime Safety and Security Teams;
- creating 2 additional Port Security Units (PSUs) for domestic and overseas port-security operations;
- establishing new Coast Guard stations in Boston and Washington;
- adding 53 sea marshals for riding aboard commercial vessels;
- acquiring 9 coastal patrol boats;
- acquiring 8 medium port security response boats; and
- acquiring 43 small port security response boats.

**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

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<sup>4</sup> *Coast Guard FY2004 Budget in Brief*, p. 5.

Deepwater acquisition project for replacing aging cutters and aircraft.<sup>5</sup> 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.<sup>6</sup>

**Coast Guard Location Within Executive Branch.** Debate about the Coast Guard in 2002 centered to a large degree on whether the Coast Guard should be transferred to DHS, and if so, in what exact way. 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. The issue of where in the executive branch the Coast Guard should be located existed prior to September 11, 2001.<sup>7</sup> Following the terrorist attacks of September 11, 2001, but prior to the Administration's June 6, 2002 announcement, 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.

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

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<sup>5</sup> See CRS Report RS21019, *Coast Guard Deepwater Program: Background and Issues for Congress*, by Ronald O'Rourke. Washington, 2002. (Updated periodically) 6 p.

<sup>6</sup> For more on port security, see CRS Report 31733, *Port and Maritime Security: Background and Issues for Congress*, by John F. Frittelli. Washington, 2003. (Updated periodically) 27 p.

<sup>7</sup> Prior to September 11, 2001, 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.

directly related to homeland security, such as search and rescue, fisheries law enforcement, and marine environmental protection. The Coast Guard argued that it has always operated within parent departments whose core mission did not align directly with some of the Coast Guard's various missions, and that the Coast Guard would continue to pay full attention to all its missions, including its non-homeland security missions, following its transfer to DHS.

**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 was accomplished by Section 104 of S. 1214/P.L. 107-295 (see discussion below under Legislative Activity.)

## Issues for Congress

**Missions vs. Resources.** A key potential issue for the 108<sup>th</sup> Congress concerns the adequacy of Coast Guard resources for carrying out the Coast Guard's homeland security and non-homeland security missions. 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. Few observers appear to 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. Some observers are concerned that if the Coast Guard's resources are not increased sufficiently, it could compel the Coast Guard to reduce operations for homeland security missions, or non-homeland security missions, or both, below desired levels.

**Coordination With Other Agencies.** Another potential issue for Congress concerns coordination between the Coast Guard and other government agencies. DHS was created in part to improve coordination between the Coast Guard and other agencies involved in homeland security. One potential question for Congress is how effective DHS will be in achieving coordination between the Coast Guard and other civilian agencies involved in homeland security. Another concerns coordination between the Coast Guard and the Navy, which also has a role in maritime homeland security.<sup>8</sup>

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<sup>8</sup> 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.

## Legislative Activity in 2002

**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 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.