

CRS Report for Congress

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

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Summary

The Administration's proposal, announced June 6, 2002, to create a new Department of Homeland Security (DHLS) would, if implemented, transfer the Coast Guard from the Department of Transportation (DoT) to DHLS. The Coast Guard, with about 43,600 full-time uniformed and civilian personnel, would be the largest federal agency absorbed into DHLS. The Administration's proposal mirrors other bills introduced in Congress prior to June 6, 2002 that would transfer the Coast Guard into a new department or agency for homeland security. In addition to the issue of the Coast Guard's location in the executive branch, the Coast Guard's homeland security operations, particularly after September 11, 2001, raise other potential issues for Congress. 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 normally operates within DoT.¹ It has about 37,000 active-duty uniformed personnel, about 6,000 civilian personnel, about 8,000 reserve uniformed personnel, and an FY2002 budget of \$5.702 billion. It performs a variety of missions that it groups into four major roles – maritime law enforcement, maritime safety, marine environmental protection, and national defense. The Coast Guard and its predecessor agencies have participated in every major U.S. conflict since the War of 1812.

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.

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 DoT (14 USC 3).

Four of the Coast Guard's 6 Port Security Units (PSUs)² were activated and assigned to help protect ports. 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. And Coast Guard sea marshals began boarding and riding inbound commercial ships during transits of San Francisco Bay.

To help implement these actions, the Coast Guard initially activated 2,600 of its 8,000 reservists. The Coast Guard has since reduced this figure to about 1,600, which is easier for the Coast Guard to sustain on a rotational basis over the long run.

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 mission, including alien migrant interception, recreational boating safety, fisheries-enforcement, counter-drug operations, and aids to navigation. As part of its effort to move toward what Coast Guard officials call the "new normalcy" in Coast Guard operations (i.e., the new, post-September 11, 2001 status quo for the service), the Coast Guard is reducing its port-security operations toward a goal of 20%-25% of all operations. This reduction will permit the Coast Guard to return assets to other Coast Guard missions, but performance of other missions in some cases may remain below pre-September 11, 2001 levels.

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 – the Coast Guard has received seven emergency supplemental appropriations in the past 10 years. Operations of some ships and aircraft had to be reduced by 10% for part of FY2001 due to lack of sufficient funding for operations. Some observers have 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 Inefficient use of available resources by the Coast Guard does not appear to be a significant contributor to the problem – the Coast Guard in March 2000 received an excellent review for financial

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.

management and stewardship of resources by the Government Performance Project of *Government Executive* magazine.⁴

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 361 ports, for which only modest security procedures were in place prior to September 11, 2001. Several congressional hearings dedicated partly or entirely to the issue of port security have been held since September 11, 2001. Although the Coast Guard is a key player in maintaining port security, particularly in terms of boarding and inspecting incoming commercial ships, other federal and local agencies have important roles to play in port security. The Customs Service, for example, inspects cargo containers, and local port authorities participate in maintaining security perimeters around port facilities. 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.

FY2003 budget request. The Coast Guard's requested budget for FY2003 is \$7.275 billion – a \$1.573-billion, or 27.6%, increase over the FY2002 enacted figure. This increase, however, includes a first-time \$736-million retirement fund accrual payment that the Office of Management and Budget is requiring the Coast Guard and many other executive branch agencies to begin paying in FY2003. Subtracting out this first-time payment, the “apples-to-apples” increase from the FY2002 enacted figure to the FY2003 requested figure is \$837 million, or 14.7%. Within this \$837-million requested increase, the Coast Guard's Operating Expenses (OE) account is to increase by \$733 million, or 18.8%, while the service's Acquisition, Construction and Improvements (AC&I) account is to increase by \$91.9 million, or 14.3%.

The Coast Guard says that its FY2003 budget request includes 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)

⁴ Laurent, Anne. Measuring Up. *Government Executive*, March 2000: 10-15, and The Curse of Can-Do. op cit, p. 41-42, 44, 46-49. See also Lunney, Kellie. Making the Case. *Government Executive*, April 2001: 105-106.

- **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 is requesting 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 requests increasing the Coast Guard reserve end strength to 9,000 (a 1,000-person increase).

Issues for Congress

Location Within Executive Branch. The Administration's proposal, announced June 6, 2002, to create a new DHLS would, if implemented, transfer the Coast Guard from DoT to DHLS. The Coast Guard would be the largest federal agency absorbed into DHLS and would account for about 25.8% of all DHLS personnel. The Administration's proposal mirrors other bills introduced in Congress prior to June 6, 2002 that would transfer the Coast Guard into a new department or agency for homeland security.

The Administration's proposal puts additional emphasis on the issue of where in the executive branch the Coast Guard should be located. This question existed prior to September 11, 2001 but took on greater prominence afterward. 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 or agency for homeland security agency.

Prior to September 11, 2001, 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 that consequently there was no overwhelming case for transferring the Coast Guard from DoT to some other parent department. After September 11, 2001, but prior to the Administration's June 6, 2002 announcement of its proposal to create DHLS, Coast Guard officials had argued that given the Coast Guard's current focus on conducting expanded homeland operations, now would not be a good time to transfer the Coast Guard to another parent department. One potential issue for Congress is whether transferring the Coast Guard from DoT to DHLS might temporarily disrupt the Coast Guard's homeland security (or other) operations. Another is how the transfer might affect, over the longer run, the Coast Guard's focus on, and resources for performing, maritime law enforcement, maritime safety, and marine environmental protection missions that do not relate directly to homeland security.

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.) Coast Guard leaders and supporters since September 11, 2001 have argued that the Coast Guard's budget needs to be increased at least to the point where it can make full use of its existing ships and aircraft, and perhaps further, so as to finance an increase in size. 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.

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 is seeking would expand 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 change would be made by Section 119 of S. 1214/H.R. 3437, the Port and Maritime Security Act of 2001, which passed the Senate on December 20, 2001.

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 concepts of operations 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.⁵ Are the Coast Guard and Navy taking adequate steps to coordinate their homeland security operations? What steps have the Navy and Coast Guard taken, or are planning to take, to improve coordination in maritime 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. The Coast Guard has longstanding working relationships with other federal, state, and local agencies (including port authorities), and with Canadian agencies, that contribute to maritime homeland security, including the Customs Service, the Immigration and Naturalization Service (INS), and U.S. intelligence agencies. Coast Guard officials state, however, that after September 11, 2001, this coordination will need to be improved. For example, Coast Guard officials would like the INS database on foreign individuals of concern to be computerized (much

⁵ 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 it currently is in paper form only), so that Coast Guard officers can access it electronically when inspecting crew manifests of ships they have boarded. The Administration's proposal to create DHLS is intended in part to improve coordination between the Coast Guard and other federal civilian agencies. One issue for Congress is how well the Administration's proposed organization for DHLS would achieve this goal.

More broadly, the Coast Guard 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. Maritime homeland security, Coast Guard officials argue, can be significantly increased if MDA can be implemented to establish a de facto forward line of defense in overseas ports of origin.

Legislation in the 107th Congress

Numerous bills recently or currently before the 107th Congress relate to the Coast Guard's homeland-security operations. Among these are the following:

- **bills authorizing Coast Guard programs**, including **H.R. 1699/S. 951**, the Coast Guard Authorization Act for FY2002; and **H.R. 1099**, the Coast Guard Personnel and Maritime Safety Act of 2001;
- **bills appropriating funds for Coast Guard programs**, including the FY2003 DoT and related agencies appropriations bill, which makes regular appropriations for Coast Guard programs for FY2003; and the FY2002 supplemental appropriations bill (**H.R. 4775/S. 2551**);
- **bills to create a new homeland security department or agency**, such as **S. 2452**, **H.R. 4660**, **H.R. 3026**, **H.R. 3078/S. 1449**, **S. 1462**, and **S. 1534**; and
- **bills relating to port security and terrorism**, including **S. 1214/H.R. 3437**, the Port and Maritime Security Act of 2001, which passed the Senate on December 20, 2001; **H.R. 3432**, a bill to require that the Coast Guard Sea Marshal program be carried out in 20 U.S. ports most vulnerable to terrorist attack by a commercial vessel, and to authorize additional personnel and funds for such program; **S. 1429**, the Airport and Seaport Terrorism Prevention Act; **S. 1559**; the Transparent Sea Act of 2001; **S. 1587**, the Port Threat and Security Act; **S. 1678**; the Maritime Security Advancement Act; **H.R. 2960**, a bill to require inspection of all cargo on commercial trucks and vessels entering the United States; and
- **bills affecting policies for Coast Guard personnel**, including the FY2003 defense authorization act (**H.R. 4546/S. 2514**).

Coast Guard officials, in their discussions of homeland-security operations, sometimes mention S. 1214/H.R. 3437, the Port and Maritime Security Act of 2001, as a bill that would, in their view, specifically address a variety of homeland-security issues of direct or indirect interest to the Coast Guard.