

# CRS Report for Congress

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

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### Summary

In response to the terrorist attacks of September 11, 2001, the Coast Guard significantly increased homeland-security operations to protect U.S. ports and waterways from potential maritime terrorist threats. The Coast Guard accomplished this in part by diverting resources from other missions. Increased requirements for homeland-security operations after September 11 appear to have added to a pre-existing tension between Coast Guard mission responsibilities and available resources. The Coast Guard's new homeland-security operations raise potential issues for Congress regarding the adequacy of Coast Guard assets and funding, the Coast Guard's legal authorities, the Coast Guard's location within the executive branch, and coordination between the Coast Guard and other agencies. 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 the Department of Transportation (DoT).<sup>1</sup> It has about 36,000 active-duty uniformed personnel, 8,000 reserve personnel, about 6,000 civilian personnel, and an annual budget of about \$5 billion.<sup>2</sup> It performs a wide 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.** In response to the terrorist attacks of September 11, 2001, the Coast Guard took several initial actions to

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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 DoT (14 USC 3).

<sup>2</sup> U.S. Department of Transportation. *2002 Budget in Brief*, U.S. Department of Transportation. Washington, 2001. p. 35, 37.

strengthen protection of U.S. ports and waterways from potential maritime terrorist threats. Coast Guard cutters and aircraft were diverted from more distant operating areas, such as the North Atlantic, the Caribbean, and the Eastern Pacific, to patrol U.S. ports and coastal waters. The Coast Guard Captain of the Port for New York/New Jersey temporarily closed local waterways to all traffic and coordinated the evacuation by water of hundreds of thousands of people from Manhattan. Additional Coast Guard patrol craft were assigned to the Potomac River and Chesapeake Bay to protect the Washington, DC, area against potential attack. The Coast Guard also exercised its authority to establish and enforce naval protection zones (security zones) to protect Navy ships and bases.

Following these initial responses, the Coast Guard took several follow-on actions to create what is the largest port-security operation since World War II. The Coast Guard activated 4 of its 6 Port Security Units (PSUs)<sup>3</sup> and assigned them to help protect the ports of New York, Boston, Seattle, and Los Angeles/Long Beach. 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. Coast Guard sea marshals began boarding and riding inbound commercial ships during transits of San Francisco Bay. And, agents from the Coast Guard Investigative Service were assigned to commercial aircraft as sky marshals to support the Federal Aviation Administration's (FAA's) immediate needs for such personnel.

To help implement these actions, the Coast Guard initially activated 2,600 of its 8,000 reservists. The Coast Guard is working to reduce this figure to about 2,000, which would be an easier level 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 less than 5% of all Coast Guard operations prior to September 11, increased to 56% by October 9. The diversion of Coast Guard ships, aircraft and personnel to these operations, however, significantly reduced the Coast Guard's ability to perform other missions. As of October 9, 2001, alien migrant interception and recreational boating safety operations were completely eliminated, fisheries-enforcement operations were almost completely eliminated, counter-drug operations were reduced substantially, and aids to navigation operations were also reduced.

**Resources vs. Missions Prior to September 11.** Even before September 11, the Coast Guard appeared hard-pressed to perform all its various missions at desired levels with available assets and resources. Many of the Coast Guard'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 Coast Guard has experienced difficulties in recent years in retaining sufficient numbers of experienced personnel and maintaining some of its aircraft at desired levels of readiness.

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<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.

Prior to September 11, 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.<sup>4</sup> 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 management and stewardship of resources by the Government Performance Project of *Government Executive* magazine.<sup>5</sup>

Prior to September 11, Coast Guard leaders and others, through speeches and articles, attempted repeatedly to draw attention to this missions-vs.-resources situation. They noted, among other points, that, the Coast Guard today is smaller than it was several years ago, even though Coast Guard responsibilities have expanded considerably over the last quarter-century 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 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. They have noted, for example, that of the 6 million loaded commercial cargo containers that enter the United States each year (an average of about 16,400 per day), less than 2% are currently inspected to verify their contents – and even this figure includes some containers that aren't inspected until after they are loaded onto trucks and are transported on the nation's highways to destinations on the other side of the country. Several congressional hearings dedicated partly or entirely to the issue of port security have been held since September 11.

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, however, also have important roles to play in port security. The Customs Service, for example, is the agency that 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. Conversely, some Coast Guard homeland-security operations, such as those directed to maintain security of the nation's shore areas and inland waterways, go beyond the issue of port security, strictly defined.

## Issues for Congress

**Missions vs. Resources.** The terrorist attacks of September 11 have increased Coast Guard requirements for the homeland-security mission without obviously reducing

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<sup>4</sup> See CRS Report RS21019, *Coast Guard Deepwater program: background and issues for Congress*, by Ronald O'Rourke. Washington, 2001. (Updated periodically) 6 p.

<sup>5</sup> 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.

requirements for other, pre-September 11 missions. (Some observers go further, arguing that September 11 has, 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 others since September 11 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 mission requirements. The issue appears to center more on the question of the size of the increase that will be needed. Coast Guard officials estimate that the service's FY2003 budget request will be \$900 million to \$1 billion higher than the FY2002 budget and plan to seek congressional approval to add 5,000 to 6,000 active-duty personnel and 4,000 reservists to the force over a three-year period starting in FY2003.<sup>6</sup>

**Legal Authorities.** Coast Guard officials state that their legal authorities are quite broad and are generally sufficient for conducting post-September 11 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.

**Location Within Executive Branch.** A third potential issue for Congress that existed prior to September 11, but which may have taken on greater prominence since then, is whether the Coast Guard should remain in DoT or be transferred to another federal department or agency, such as the Department of Defense (DoD) or a new, Cabinet-level homeland security agency. 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, have proposed transferring the service to DoD. Other observers, noting the Coast Guard's homeland-security operations, have proposed incorporating the Coast Guard into a new Cabinet-level homeland security agency.

Prior to September 11, 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, DoD, the Department of Justice, or a new homeland security agency, and that consequently there was no overwhelming case for transferring the Coast Guard from DoT to some other parent department. Since September 11, Coast Guard officials have argued that given the Coast Guard's current focus on conducting operations in response to September 11, now would not be a good time to transfer the Coast Guard to another parent department.

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<sup>6</sup> Frank, Thomas. Coast Guard Windfall. *Long Island Newsday*, January 22, 2002.

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

**Coordination With Navy.** On September 21, 1998, the Coast Guard and Navy issued a joint policy statement on a new “national fleet” concept under which the Coast Guard and Navy will seek to coordinate more closely in various areas, including ship acquisition, research and development, concepts of operations, logistics, training, exercises, and deployments. An updated version of this document is now being prepared.

Some supporters of the national fleet concept – particularly those who believe the two services have taken only modest steps since 1998 to implement it – believe that the post-September 11 expansion of the Coast Guard’s homeland security mission will provide an important new opportunity for the two services to begin implementing the national fleet concept more fully. DoD’s 2001 Quadrennial Defense Review, issued 19 days after the September 11 terrorist attacks, states: “Preparing forces for homeland security may require changes in force structure and organization.... It is clear that U.S. forces, including the United States Coast Guard, require more effective means, methods, and organizations to perform these missions. As part of this examination, DoD will review the establishment of a new unified combatant commander [for homeland security] to help address complex inter-agency issues and provide a single military commander to focus military support.”<sup>7</sup>

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. In addition, Navy officials are aware that if the Coast Guard’s funding requirements for homeland security are insufficient, Navy assets could be diverted to fill the gap, which would detract from the Navy’s primary focus of maintaining forward deployments of naval forces in overseas operating areas.

**Coordination with Other Agencies.** The Coast Guard has established working relationships with other federal, state, and local agencies (including port authorities), and with Canadian agencies, that can 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, this coordination will need to be improved, particularly in terms of preparing port-security plans and sharing information about potential maritime homeland security threats. For example, Coast Guard officials would like the INS database on foreign individuals of concern to be computerized (much 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.

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

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<sup>7</sup> U.S. Department of Defense. *Quadrennial Defense Review Report*. Washington, 2001. (September 30, 2001) p. 19.

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 107<sup>th</sup> Congress

Numerous bills recently, currently, or soon to be before the 107<sup>th</sup> 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 (to be submitted to Congress in early 2002); and **P.L. 107-117 (H.R. 3338)**, the FY2002 defense appropriations bill, which contains a section (Division B) appropriating FY2002 funds for emergency expenses to respond to the September 11 terrorist attacks (including funds for the Coast Guard);
- **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; and **P.L. 107-108 (H.R. 2883)**, the FY2002 Intelligence Authorization Act;
- **bills relating to homeland security generally**, including **H.R. 1158**, a bill to establish the National Homeland Security Agency; **H.R. 2960**, a bill to require inspection of all cargo on commercial trucks and vessels entering the United States; **H.R. 3026**, a bill to establish the Office of Homeland Security; **H.R. 3078/S. 1449**, a bill to establish the National Office for Combating Terrorism; **S. 1462**, a bill to establish the Federal Emergency Transportation Administration; and **S. 1534**, a bill to establish a Department of National Homeland Security; and
- **bills affecting policies for Coast Guard personnel**, including the FY2003 defense authorization act to be submitted to Congress in February 2002.

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.