

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. For FY2007, the Coast Guard is requesting a total of about \$4.5 billion for missions defined in The Homeland Security Act of 2002 (P.L. 107-296) as the Coast Guard's homeland security missions. The Coast Guard's homeland security operations pose several potential issues for Congress. This report will be updated as events warrant.

Background

The Coast Guard's Role in Homeland Security. The Coast Guard, which is a part of the Department of Homeland Security (DHS), is the lead federal agency for maritime homeland security. Section 888(a)(2) of The Homeland Security Act of 2002 (P.L. 107-296 of November 25, 2002), which established DHS, specifies five homeland security missions for the Coast Guard: (1) ports, waterways, and coastal security, (2) drug interdiction, (3) migrant interdiction, (4) defense readiness, and (5) other law enforcement.¹ The Coast Guard, in its proposed FY2007 budget, excludes drug interdiction and other law enforcement from its definition of its homeland security missions.²

Under the Ports and Waterways Safety Act of 1972 (P.L. 92-340) and the Maritime Transportation Security Act (MTSA) of 2002 (P.L. 107-295 of November 25, 2002), the Coast Guard has responsibility to protect vessels and harbors from subversive acts.³ With

¹ Section 888(a)(1) defines the Coast Guard's non-homeland security missions as (1) marine safety, (2) search and rescue, (3) aids to navigation, (4) living marine resources (fisheries law enforcement), (5) marine environmental protection, and (6) ice operations.

² U.S. Department of Homeland Security, *U.S. Coast Guard [FY]2007 Budget in Brief*. Washington, 2006. (February 2006) Table 1 on p. B-2.

³ For more on port security, see CRS Report RL31733, *Port and Maritime Security: Background* (continued...)

regard to port security, the Coast Guard is responsible for evaluating, boarding, and inspecting commercial ships approaching U.S. waters, countering terrorist threats in U.S. ports, and helping protect U.S. Navy ships in U.S. ports. A Coast Guard officer in each port area is the Captain of the Port (COTP), who is the lead federal official for security and safety of vessels and waterways in that area.

Homeland Security Missions In The Coast Guard Budget. Table 1 below shows FY2005-FY2007 funding for the Coast Guard's homeland security and non-homeland security missions.

Table 1. FY2005-FY2007 Funding For Homeland Security Missions
(FY2005 actual, FY2006 enacted, FY2007 requested; homeland security missions as defined in Section 888(a)(2) of Homeland Security Act of 2002 [P.L. 107-296])

| | PWCS ^a | Drug interdiction ^b | Migrant interdiction | Defense readiness | Other law enforcement ^b | Total |
|--|-------------------|--------------------------------|----------------------|-------------------|------------------------------------|-------|
| <i>Funding amounts (millions of dollars, rounded to nearest million)</i> | | | | | | |
| FY05 | 1,625 | 1,017 | 549 | 613 | 95 | 3,899 |
| FY06 | 1,735 | 1,211 | 462 | 616 | 144 | 4,168 |
| FY07 | 2,035 | 1,239 | 487 | 603 | 153 | 4,516 |
| <i>Percent of total Coast Guard budget</i> | | | | | | |
| FY05 | 21.0 | 13.2 | 7.1 | 7.9 | 1.2 | 50.4 |
| FY06 | 20.9 | 14.6 | 5.6 | 7.4 | 1.7 | 50.2 |
| FY07 | 24.2 | 14.7 | 5.8 | 7.2 | 1.8 | 53.6 |

Source: Prepared by CRS using data from U.S. Department of Homeland Security, *U.S. Coast Guard [FY]2007 Budget in Brief*. Washington, 2006. (February 2006) Table 1 on p. B-2. Figures may not add due to rounding.

a. Ports, waterways, and coastal security

b. The Coast Guard, in its proposed FY2007 budget, excludes drug interdiction and other law enforcement from its definition of its homeland security missions.

Issues for Congress

Potential issues for Congress concerning the Coast Guard's homeland security operations include, among others, the following:

- the sufficiency of Coast Guard funding, assets, and personnel levels for performing both homeland and non-homeland security missions;
- the division of the Coast Guard's budget between homeland security and non-homeland security missions;
- whether the Coast Guard is achieving sufficient interoperability and coordination with other DHS, federal, state, and local authorities involved in the maritime aspects of homeland security, including coordination of operations and coordination and sharing of intelligence;
- monitoring compliance with the facility and vessel security plans that the Coast Guard has reviewed and approved;

³ (...continued)

and *Issues for Congress*, by John F. Frittelli.

- how the Coast guard assesses security risks to various ports and prioritizes these risks for allocating port-security funding;
- completing foreign port security assessments;
- implementing a long-range vessel-tracking system required by MTTSA;
- implementing AIS;
- inland waterway security; and
- response plans for maritime security incidents.

A July 2006 report from the DHS Inspector General on Coast Guard mission performance in FY2005 stated:

Since FY 2001, more [Coast Guard] resource hours have been dedicated to homeland security missions than for non-homeland security missions. However, after an initial drop in FY 2002, non-homeland security resource hours have increased every period, and have now returned to within 3% of baseline levels.... The Coast Guard has been more successful in meeting goals for its traditional non-homeland security missions, meeting 22 of 28 goals (79%) where measurable goals and results existed, but still leaving room for improved performance. Not including the Ports, Waterways, and Coastal Security mission, by far the largest user of resource hours of any Coast Guard mission, the Coast Guard achieved only 26% of its homeland security goals (5 of 19).... Growth in total resource hours has leveled off. Since resource hours are based on the limited and finite number of available assets, the Coast Guard will be unable to increase total resource hours without the acquisition of additional aircraft, cutters, and boats. Consequently, the Coast Guard has a limited ability to respond to an extended crisis, and therefore must divert resources normally dedicated to other missions. To improve performance within their overall constraints, the Coast Guard must ensure that a comprehensive and fully defined performance management system is implemented, and that experienced and trained personnel are available to satisfy increased workload demands.⁴

In March 2005, the Government Accountability Office (GAO) testified that:

The Maritime Transportation Security Act of 2002 charged the Coast Guard with many maritime homeland security responsibilities, such as assessing port vulnerabilities and ensuring that vessels and port facilities have adequate security plans, and the Coast Guard has worked hard to meet these requirements. GAO's reviews of these efforts have disclosed some areas for attention as well, such as developing ways to ensure that security plans are carried out with vigilance. The Coast Guard has taken steps to deal with some of these areas, but opportunities for improvement remain. The Coast Guard has three efforts under way that hold promise for enhancing mission performance but also merit ongoing attention. One is a new coastal communication system. The fiscal year 2006 budget request includes \$101 million to move the system forward. A successful system would help almost all Coast Guard missions, but to develop it the Coast Guard must build more than 300 towers along the nation's coasts, some of them in environmentally sensitive areas. The second effort involves restructuring the Coast Guard's field units — tying resources and command authority closer together. This effort represents a major organizational change, and as such, it may be challenging to implement successfully. The third effort, enhancing readiness at the Coast Guard's stations for search and rescue and

⁴U.S. Department of Homeland Security, Office of Inspector General, *Annual Review of Mission Performance, United States Coast Guard (FY 2005)*, July 2006. (OIG-06-50) p. 1.

other missions, remains a work in process. The Deepwater program, which would receive \$966 million under the budget request, appears to merit the most ongoing attention. GAO reviews of this program have shown that the Coast Guard clearly needs new or upgraded assets, but the Coast Guard's contracting approach carries a number of inherent risks that, left unaddressed, could lead to spiraling costs and slipped schedules. The Coast Guard is taking some action in this regard, but GAO continues to regard this approach as carrying substantial risk. Some expansion of cost and slippage in schedule has already occurred.⁵

Legislative Activity in 2006

H.R. 889/P.L. 109-241 (Coast Guard and Maritime Transportation Act of 2006). Section 102 of the **conference report** (H.Rept. 109-413 of April 6, 2006) on H.R. 889 (P.L. 109-241 of July 12, 2006) authorizes an active-duty end strength of 45,500 for the Coast Guard for FY2006. **Section 201** extends the Coast Guard's vessel and anchorage movement authority to U.S. territorial waters out to 12 nautical miles from shore. **Section 202** permits the Coast to provide technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities. **Section 206** expands the Coast Guard's reserve recall authority. **Section 211** inserts a new phrase into 14 USC 3 so that it reads as follows (with the inserted phrase noted in italics): "Upon the declaration of war *if Congress so directs in the declaration* or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Homeland Security." **Section 213** requires the Coast Guard to report on "opportunities for cost savings and operational efficiencies that can be achieved through and the feasibility of colocating Coast Guard assets and personnel at facilities of other armed forces throughout the United States."

Section 305 amends 46 USC 70106 to permit Coast Guard maritime safety and security teams to be used for any Coast Guard mission. **Section 309** requires the Secretary of the department in which the Coast Guard is operating to establish a review process before administration law judges to consider an appeal of a denial of an application for a transportation security card. **Section 404** directs the Coast Guard to conduct a three-year pilot program for a long-range vessel tracking system, subject to the availability of appropriations. **Section 406** requires the Coast Guard to review and report on the adequacy of Coast Guard assets and facilities at certain locations for performing the Coast Guard's missions, and to review and report on the adequacy of Coast Guard end strength for performing the Coast Guard's missions. **Section 411** requires a report on the availability and effectiveness of software information technology systems for port security, the data evaluated by such systems, and the costs associated with implementing such technology at all Sector Command Centers, Joint Harbor Operations Centers, and strategic defense and energy dependent ports. **Section 419** authorizes a competitive grant to design, develop, and prototype a device that integrates a Class B Automatic Identification System (AIS) transponder with an Federal Communications Commission (FCC)-approved wireless maritime data device. The section also expresses the sense of

⁵ Government Accountability Office, *COAST GUARD[:] Observations on Agency Priorities in Fiscal Year 2006 Budget Request*, GAO-05-364T, Mar. 17, 2005.

the Senate that the FCC should quickly resolve the disposition of its rulemaking on the AIS and licensee use of AIS frequency bands.

H.R. 5681 (Coast Guard Authorization Act of 2006). As reported by the **House Transportation and Infrastructure Committee** (H.Rept. 109-614 of July 28, 2006), **Section 102** authorizes an active-duty end strength of 45,500 for the Coast Guard for FY2007. **Section 212** amends section 2 of title 14, United States Code, to direct the Coast Guard to enforce regulations ensuring the maritime safety of nuclear power facilities located adjacent to navigable waters of the United States not specifically delegated by law to some other executive department. H.Rept. 109-614 states:

Following the events of September 11th, the Coast Guard has been designated as the lead Federal agency with responsibilities for maritime homeland security. The Coast Guard has quickly incorporated these new missions with the Service's many traditional missions of search and rescue, illegal drug and migrant interdiction, icebreaking operations, oil spill response and prevention, maritime safety, marine environmental protection, and fisheries law enforcement. However, the addition of these new mission demands in combination with the Service's rapidly deteriorating fleet of vessels and aircraft is severely testing the Coast Guard's capabilities to carry out its many important missions....

The Committee will also continue to oversee the Coast Guard to ensure that the Service is achieving a balance between its traditional and homeland security missions.... It is imperative that the Service's non-homeland security functions remain priorities for the Coast Guard.... As a result of concerns that the service will not have the funding it needs for traditional missions, the Committee has placed a 'floor' on funding that will be used for marine safety programs and search and rescue.

The Committee continues to oppose the Administration's request to transfer a portion of the Coast Guard's Research, Development, Training and Evaluation ('RDT&E') funds from the Coast Guard budget to the Science and Technology Directorate of the Department of Homeland Security. The Administration proposed to fund the Coast Guard's Research and Development Center and the Service's non-homeland security research projects within the Service's budget; however, the funding for the Coast Guard's homeland security research programs has again been transferred to the Science and Technology Directorate with the Department of Homeland Security. Under Section 888 of the Homeland Security Act, the Coast Guard is to remain intact with all authorities, functions, and capabilities remaining under the authority of the Service. The Administration's proposal to remove RDT&E from the Coast Guard's control would violate Section 888. The Committee will continue to take steps to maintain the integrity of the Coast Guard as an independent entity within the Department.

The Committee is also concerned by the Coast Guard's lack of research and development programs to enhance the service's capabilities to carry its traditional missions. The Coast Guard's non-homeland security research and development budget has consistently decreased over the last five-year period; however the need to improve the Coast Guard's search and rescue, oil spill response and prevention, drug interdiction and maritime domain awareness missions has not decreased. The Administration has requested only \$900,000 for non-homeland security research and development programs for fiscal year 2007. The Committee recommends that the Coast Guard continue to carry out a robust research and development program to

support each of its many missions and to continue to develop new technologies and procedures to ensure the security and safety of lives and property at sea.

H.R. 5441/P.L. 109-295 (FY2007 DHS Appropriations Act). The House and Senate reports on H.R. 5441 recommended various changes to requested funding amounts for the Coast Guard, including items related to the Coast Guard's homeland security missions. The **House report** (H.Rept. 109-476 of May 22, 2006) stated:

The Committee recommends \$15,000,000 [for the Coast Guard] for port security inspections, \$15,000,000 above the President's budget request. Funding shall be allocated to two activities. First, this funding shall be used to double the amount of foreign port assessments, as required by MTSA. The Committee anticipates that, with these additional funds, the Coast Guard will be able to reduce the amount of time it will take to complete all foreign port assessments by half. Second, the funding will permit the Coast Guard to conduct unannounced inspections of domestic port facilities to ensure that they are maintaining agreed upon security levels. This funding is provided to strengthen the Department's overall port, container, and cargo security initiatives.... Currently, the Coast Guard does not gather complete ownership information as part of its facility and vessel security plans. The Committee directs the Coast Guard to amend these plans so that it may gather ownership information in addition to information about the immediate entity running the facility or vessel.

The **Senate report** (S.Rept. 109-273 of June 29, 2006) stated:

The Committee notes [DHS's] change in policy regarding the homeland security designation of the Coast Guard's drug interdiction mission. In previous budget submissions, the drug interdiction mission was considered to be a homeland security function. In the fiscal year 2007 budget submission, the administration classifies the mission as non-homeland security. The Committee challenges the logic behind this change in policy given recent intelligence which claims ties exist between terrorist financing and the illegal drug trade. The Committee does not concur with this change in policy and encourages the administration to re-visit this decision in the fiscal year 2008 budget request.

The report also states that "The Committee disagrees with the President's budget proposal to transfer a portion of the funding for Coast Guard research and development to the Science and Technology 'Research, Development, Acquisition, and Operations' account."

The conference report (H.Rept. 109-699 of September 28, 2006) states that it fully funds the Coast Guard's Operating Expenses (OE) account, "except \$5,986,000 is reduced from centrally managed accounts due to high unobligated balances and no funding is provided for the new Coast Guard headquarters at the St. Elizabeths campus. In addition, the conferees include \$15,000,000 for port security inspections to double the amount of foreign port assessments, to conduct unannounced inspections of domestic port facilities, and for additional port vulnerability and threat assessments, if necessary." (Page 142) The report also "direct[s the] Coast Guard to continue submitting quarterly mission hour emphasis and acquisition reports to the Committees on Appropriations consistent with the deadlines articulated under section 360 of Division I of Public Law 108-7." (Page 144)

For additional discussion of H.R. 5441/P.L. 109-295, see CRS Report RL33428, *Homeland Security Department: FY2007 Appropriations*, coordinated by Jennifer E. Lake and Blas Nuñez-Neto.