

# 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's FY2005 budget request includes \$101 million to begin implementing the Maritime Transportation Security Act (MTSA) of 2002. The House and Senate Appropriations Committees, in their reports (H.Rept. 108-541 of June 15, 2004 and S.Rept. 108-280 of June 17, 2004) on the FY2005 Department of Homeland Security (DHS) appropriations bill (H.R. 4567/S. 2537) both recommend fully funding this request. A key issue for Congress is whether the Coast Guard's resources are sufficient to adequately perform both its homeland and non-homeland security missions. 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),<sup>1</sup> is the lead federal agency for maritime homeland security. The Homeland Security Act of 2002 (P.L. 107-296) specifies five homeland security missions for the Coast Guard: (1) ports, waterways, and coastal security, (2) defense readiness, (3) drug interdiction, (4) migrant interdiction, and (5) other law enforcement, including foreign fishing vessel incursions.

With 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. 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), the Coast Guard has responsibility to protect vessels and harbors from subversive acts. The Coast Guard issued final rules implementing MTSA on October 22, 2003 (see 68 Fed. Reg. 60448).

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<sup>1</sup> The Coast Guard is a military service and a branch of the armed forces. It 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 DHS (14 USC 3).

During 2003, Coast Guard homeland security activities included the following: conducting more than 36,000 port security patrols, 3,600 air patrols, 8,000 security boardings, and 7,000 vessel escorts; maintaining more than 115 security zones; instituting and enhancing new initiatives such as sea marshals and Maritime Safety and Security Teams (MSSTs); and receiving more than 2.3 million volunteer hours from the Coast Guard Auxiliary.<sup>2</sup> Starting July 1, 2004, the Coast Guard is boarding every foreign-flagged vessel approaching U.S. ports to verify their compliance with new international maritime security regulations.<sup>3</sup> Although the Coast Guard is a key player in port security, other federal and local agencies, as well as industry, have important roles.<sup>4</sup>

**Homeland Security Initiatives in Proposed FY2005 Budget.** The Coast Guard states that the proposed FY2005 Coast Guard budget

includes \$101 million to begin implementing the Maritime Transportation Security Act of 2002 [P.L. 107-295]. It provides for crucial field resources to review, approve and verify implementation of over 10,000 domestic vessel, 5,000 domestic facility, and 48 domestic port security plans as well as verification of security plan implementation for 8,100 foreign vessels calling on U.S. ports. It provides for critical increases in intelligence capabilities to enhance Maritime Domain Awareness (MDA). MDA will provide comprehensive, timely and detailed visibility into events, conditions and trends in the maritime domain that will assist Coast Guard operational commanders in early detection of potential threats and optimizing allocation of operational assets. The budget request provides for new and expanded capabilities, including underwater threat detection for the highly successful Maritime Safety and Security Teams, which were fielded immediately after the attacks of September 11<sup>th</sup> to counter emerging maritime threats. Additionally, the request provides funding to implement a comprehensive Liquefied Natural Gas (LNG) deepwater port application processing program. Finally, the request provides for critical funding for the Deepwater, Rescue 21, Automatic Identification System and Response Boat-Medium Projects. These projects are all vital to recapitalize operational assets needed for America's maritime homeland security not just today, but for decades to come.<sup>5</sup>

The \$101 million to begin implementing MTSA 2002 includes funding for the following: about 500 personnel to approve plans for all aspects of maritime security,

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<sup>2</sup> U.S. Department of Homeland Security, Coast Guard, *United States Coast Guard Fiscal Year 2004 Report: Fiscal Year 2003 Performance Report [and] Fiscal Year 2004 Budget in Brief*, Washington, 2004, p. 3.

<sup>3</sup> The regulations were adopted in December 2002 by the International Maritime Organization (IMO) as a new chapter to the Safety of Life at Sea (SOLA) Convention entitled the International Ship and Port Facility Security (ISPS) Code. (Fed. Reg., Nov. 2, 2002, pp. 70110-70112.) The Code largely parallels requirements in MTSA. Signatories had until July 1, 2004 to implement the regulations, require each ship to have a security officer, alarm system, automatic identification system, access restrictions to the engine room and bridge, and way to check the identification of those aboard. (See Leslie Miller, Coast Guard to Board Each Foreign Ship, *Associated Press*, June 30, 2004.)

<sup>4</sup> For more on port security, see CRS Report RL31733, *Port and Maritime Security: Background and Issues for Congress*, by John F. Frittelli.

<sup>5</sup> *United States Coast Guard Fiscal Year 2004 Report*, op cit. p. 5.

ensure vessels and facilities are sustaining their security efforts, and perform port state control on foreign vessels; 14 personnel to process new deepwater port permit applications for natural gas; enhanced analytical and fusion capability for the Coast Guard's intelligence program; and underwater detection equipment for the MSSTs. Proposed funding for MDA includes \$4 million for Automatic Identification System (AIS) shore-side equipment, and \$2.2 million in operating expenses to coordinate all MDA activities, including AIS, Deepwater, and Rescue 21.<sup>6</sup>

**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. Some Coast Guard units had very high operational tempos. The service experienced difficulties in retaining sufficient numbers of experienced personnel and maintaining some of its aircraft at desired levels of readiness. Insufficient funding to operate Coast Guard assets to their full potential was a recurrent issue. And many of the service's cutters are old, expensive to operate and maintain, and not well suited for some of the missions they undertake. In the two years prior to September 11, 2001, Coast Guard leaders and supporters attempted repeatedly to draw attention to this missions-vs.-resources situation.

## Issues for Congress

**Missions vs. Resources.** A key issue for the 108<sup>th</sup> Congress concerns the adequacy of Coast Guard resources for carrying out the Coast Guard's homeland and non-homeland security missions. The terrorist attacks of September 11, 2001 increased Coast Guard requirements for homeland-security missions without obviously reducing requirements for other missions. After September 11, 2001, the Coast Guard significantly increased homeland security operations while reducing operations in other missions. A March 2004 General Accounting Office (GAO) report stated:

Since the September 11 terrorist attacks, the Coast Guard has experienced a 32 percent increase in its budget, a 9 percent increase in personnel, and major shifts in the hours in which its ships, boats, and aircraft are used in the agency's various programs. Hours these resources are used for most homeland security programs greatly exceed their pre-September 11 levels, in part because of an infusion of new boats, with the number of hours for the ports, waterways, and coastal security program up more than twelve-fold.... Conversely, with the exception of hours for ice operations, hours dedicated to each non — homeland security program remained below their pre-September 11 levels.....

The Coast Guard's performance results — measures used to track each program's annual progress — generally did not mirror the trends in resource use. Instead, results for programs GAO reviewed were generally stable or improved regardless of the resources applied, and nearly all of the programs that GAO reviewed met their performance targets — the goals they set out to achieve — in fiscal year 2003. Coast

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<sup>6</sup> Ibid, p. 13. For additional discussion of recent Coast Guard homeland security activities and proposed FY2005 initiatives, see Department of Homeland Security, Statement of Admiral Thomas H. Collins, Commandant, U.S. Coast Guard, Robert C. Bonner, Commissioner, Customs and Border Protection, [and] Admiral David M. Stone, Acting Administrator, Transportation Security Administration, on Maritime Security Status Before the Senate Committee on Commerce, Science, and Transportation, Mar. 24, 2004.

Guard officials said that various factors besides resources, such as increased operating efficiencies or unexpected events, also affected performance results, but they have limited information for assessing the impact of these factors. Initial steps have been taken to better develop this capability, but many are in early stages, and the Coast Guard does not have a time frame for completing the work or assurance that they will result in a systematic approach for assessing the results.<sup>7</sup>

On April 7, 2004, the GAO testified that:

Resource usage for Coast Guard assets — its cutters, boats, and aircraft — was up almost 40 percent from the pre-September 11th baseline. Homeland security programs, such as the ports, waterways, and coastal security program, have been more likely to see increases in usage, while non-homeland security programs, such as living marine resources, remain below pre-September 11th levels. Although resource usage changed substantially for many of these programs, performance results generally improved or remained largely the same. The stable or improved performance results were attributed mainly to operational efficiencies (e.g., improved technology, improved tactics, stronger partnerships, and improved intelligence). However, the Coast Guard has limited data and no systematic approach to explain or account for the effects of these factors. Without such an approach and supporting data to link its resources and performance results, the agency may be missing further opportunities to increase productivity and efficiency to ensure best use of its funds.<sup>8</sup>

A September 2003 report by the RAND Corporation states that fully performing the Coast Guard's post-September 11, 2001 missions will require expanding the Coast Guard's Deepwater acquisition program well beyond its currently planned levels.<sup>9</sup>

**Port and Vessel Security Plans.** A second potential issue for Congress concerns port and vessel security plans that were required to be submitted to the Coast Guard by December 31, 2003. Of 3,200 port installations and 8,500 U.S.-flagged vessels, as many as 300 port installations and 700 vessels missed the deadline.<sup>10</sup> The security plans were to be implemented by July 1, 2004. A June 2004 GAO report stated:

Owners and operators have made progress in developing security plans for their port facilities and vessels. However, the extent to which the Coast Guard will have reviewed and approved the approximately 12,300 individual plans by July 1, 2004, varies considerably. About 5,900 plans were being developed under an option allowing owners and operators to self-certify that they would develop and implement plans by July 1, using industry-developed, Coast Guard-approved standards and templates. These individual plans will not be reviewed before July 1 unless owners or operators choose to submit them for review. The remaining 6,400 plans went through a review process established by the Coast Guard. Every plan required revisions, some of which were significant. As of June 2004 — 1 month before the

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<sup>7</sup> U.S. General Accounting Office, *Coast Guard: Relationship between Resources Used and Results Achieved Needs to Be Clearer*, GAO-04-432, Mar. 2004.

<sup>8</sup> U.S. General Accounting Office, *Coast Guard: Key Management and Budget Challenges for Fiscal Year 2005 and Beyond*, GAO-04-636T, Apr. 2004.

<sup>9</sup> For more on the Deepwater program and the RAND report, see CRS Report RS21019, *Coast Guard Deepwater Program: Background and Issues for Congress*, by Ronald O'Rourke.

<sup>10</sup> "Coast Guard Frustrated in Bid To Bar Terrorists," *Baltimore Sun*, Feb. 8, 2004.

deadline for implementation — more than half of the 6,400 plans were still in process. The Coast Guard took steps to speed up the process and to allow facilities and vessels to continue operating with less than full plan approval after July 1, as long as the Coast Guard was satisfied with their progress.

The Coast Guard's strategy for monitoring and overseeing security plan implementation will face numerous challenges. Whether the Coast Guard will be able to conduct timely on-site compliance inspections of all facilities and vessels is uncertain because questions remain about whether the Coast Guard will have enough inspectors; a training program sufficient to overcome major differences in experience levels; and adequate guidance to help inspectors conduct thorough, consistent reviews. Another challenge is to ensure inspections reflect assessments of the normal course of business at facilities and aboard vessels.<sup>11</sup>

**Coordination With Other Agencies.** A third potential issue for Congress is how effective DHS has been in achieving coordination between the Coast Guard and other civilian agencies involved in homeland security,<sup>12</sup> and between the Coast Guard and the Navy, which also has a role in maritime homeland security.<sup>13</sup>

**Automatic Identification System (AIS).** A fourth potential issue for Congress concerns AIS — a vessel-tracking system that the Coast Guard wants to implement as a key part of its strategy for achieving MDA. Questions include the availability of a radio frequency needed for AIS and whether the system as currently planned will adequately cover all categories of ships that might pose a threat to U.S. homeland security.<sup>14</sup>

## Legislative Activity in 2004

**FY2005 DHS Appropriations Bill (H.R. 4567/S. 2537).** The House and Senate Appropriations Committees, in their reports (H.Rept. 108-541 of June 15, 2004 and S.Rept. 108-280 of June 17, 2004) on the FY2005 DHS appropriations bill (H.R. 4567/S. 2537) both recommend fully funding the Coast Guard's request for \$101 million to begin implementing the Maritime Transportation Security Act (MTSA) of 2002, key provisions of which are to be implemented by July 1, 2004. The House included a provision (Section 516) requiring the Coast Guard to provide, at the time it submits its budget, a list of approved but unfunded priorities and the funding needed for each priority. (The Army, Air Force, Navy, and Marine Corps submit similar reports each year to the committees that oversee the Department of Defense budget.) The House report stated:

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<sup>11</sup> U.S. General Accounting Office, *Maritime Security: Substantial Work Remains to Translate New Planning Requirements into Effective Port Security*, GAO-04-838, June 2004.

<sup>12</sup> For an article discussing this issue, see Jeremy Torobin, "Double Vision: Officials See Progress, Critics See Holes, in Shipping Security," *CQ Homeland Security — Border Security*, Mar. 29, 2004.

<sup>13</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.

<sup>14</sup> For an article discussing this issue, see "Coast Guard Frustrated in Bid To Bar Terrorists," *Baltimore Sun*, Feb. 8, 2004.

The Committee fully funds the budget request to aggressively implement the Maritime Transportation Security Act (MTSA) of 2002, including 791 new personnel (FTPs) to implement and enforce security plans, and for underwater detection equipment for the maritime safety and security teams. The Committee expects that, when these new personnel are hired and trained, they will replace approximately 450 reservists currently doing this work.

The Committee is concerned that the Coast Guard intends to rely on foreign governments to review foreign vessel security plans. The Committee understands that the Coast Guard may not even require that these security plans be translated into English. Vessels flagged in Panama, Liberia, the Bahamas, and Cyprus represent 45 percent of all vessels entering United States ports. If the Coast Guard does not review the vessel security plans required by MTSA, these plans have no independent U.S. verification. Therefore, the Committee directs the Coast Guard to review all vessel security plans. The Coast Guard shall report to the House Appropriations Committee by October 15, 2004 on the results of its reviews and on the level of resources needed to thoroughly conduct such reviews in the future. (Page 54)

The report also stated:

The aerial surveillance of our harbors, ports, and contiguous waterways represents an urgent homeland security responsibility of the Coast Guard. While the Coast Guard has fixed-wing aircraft to perform long-range surveillance activities, currently there is a void in their medium to short-range aerial surveillance assets, limiting the Coast Guard's ability to cost-effectively perform its maritime domain awareness mission. The Deepwater program does not anticipate procuring aircraft devoted to maritime domain awareness until 2016. The Committee strongly believes that this void must be addressed now. Therefore, the Committee directs the Coast Guard to procure, test and evaluate a covert, multi-sensor, surveillance aircraft to perform maritime domain awareness missions. (Page 59)

The Senate report stated:

Based on the Coast Guard's most recent quarterly report to the Committee on mission hours, Coast Guard hours dedicated to traditional, non-homeland security missions, remain significantly below levels prior to September 11, 2001. However, in most cases, the Coast Guard continues to meet or exceed performance goals in those areas. The Committee is concerned with a recent General Accounting Office assessment that the Coast Guard has not developed an approach to link resources and performance results and that without such an approach, the Coast Guard may not be using funds in the most efficient manner to maximize productivity. The Commandant is expected to submit a report to the Committee, within 90 days of enactment of this Act, on plans to develop a system that will provide an accurate representation of the costs necessary to meet performance goals. The report shall include the concept of the system; a timeline for implementation, including milestones and completion dates; and how this system will enable the Coast Guard to tie funding levels to performance results....

The Coast Guard has indicated that the next Maritime Safety and Security Team [MSST] shall be located at the Port of Huntington, West Virginia. The Committee expects funding for this MSST to be included in the President's fiscal year 2006 budget submission. (Page 45)