



U.S. House of Representatives
Committee on Transportation and Infrastructure

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June 27, 2007

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SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Committee on Transportation and Infrastructure Staff

SUBJECT: Committee on Transportation and Infrastructure Markup of H.R. 2830, the Coast Guard Authorization Act of 2007, H.R. 2722, the Integrated Deepwater Program Reform Act, H.R. 2775, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize funding for emergency management performance grants, and for other purposes, H.R. 781, to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam", H. Res. 375, honoring United Parcel Service and its 100 years of commitment and leadership in the United States, General Services Administration Lease Resolutions, and other matters cleared for consideration.

PURPOSE OF MARKUP

On Thursday, June 28, 2007, at 12:00 p.m., in Room 2167 Rayburn House Office Building, the Committee on Transportation and Infrastructure will mark up H.R. 2830, the Coast Guard Authorization Act of 2007, H.R. 2722, the Integrated Deepwater Program Reform Act, H.R. 2775, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize funding for emergency management performance grants, and for other purposes, H.R. 781, to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam", H. Res. 375, honoring United Parcel Service and its 100 years of commitment and leadership in the United States, General Services Administration Lease Resolutions, and other matters cleared for consideration.

H.R. 2830, THE COAST GUARD AUTHORIZATION ACT OF 2007

Background

The Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure safety of life and property at sea; to protect the marine environment; to carry out domestic and international icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

Title I – Authorization

For the operating and maintenance account, the bill authorizes \$5,965,742,000 for the Coast Guard for fiscal year 2008, including an additional \$59,000,000 to maintain funding for marine safety and search and rescue funding. This operating and maintenance authorization is \$71,447,000 more than requested in the Administration's fiscal year 2008 budget request of \$5,894,295,000.

For acquisition, construction, and improvements, the bill authorizes \$1,005,768,000, including \$836,866,000 for the Integrated Deepwater Systems Program and \$44,597,000 for shore facilities and aids to navigation.

The bill authorizes an end-of-year military strength level of 45,500 active-duty personnel for fiscal years 2008.

The bill authorizes and transfers the Bridge Administration program to the U.S. Department of Transportation.

Title II – Coast Guard

The bill will permanently increase the Coast Guard's allowable number of officers from 6,200 to 6,700. A temporary increase was previously granted to accommodate the service's needs related to its increased homeland security role following the 9/11 terrorist attacks.

The bill provides that Coast Guard personnel who work in support of a declaration of a major disaster or emergency by the President will be able retain up to a total of 90 days of leave when not used by the end of the fiscal year. Currently, personnel can only retain 60 days of leave and lose any leave in excess of that amount if it is not used by the end of the fiscal year. This provision would alleviate the potential unfairness of personnel losing leave time while engaged in emergency work.

The bill reauthorizes the leadership structure of Coast Guard by eliminating 2 Area Commands and creating functional directorates.

Title III – Shipping and Navigation

The bill authorizes the Coast Guard to ensure that commercial fishing vessels comply with established regulations, establishes a training program for the operators of commercial fishing vessels, and requires that new fishing vessels be constructed and maintained to specific standards.

The bill authorizes the Coast Guard to establish a Safety Management System for domestic passenger vessels similar to the existing requirement for passenger vessels on foreign voyages.

Sections 321 through 328 authorize the Secretary and the Coast Guard to make improvements to merchant mariner licensing and document programs.

Title IV – Miscellaneous Provisions

The bill authorizes the Coast Guard to convey a Coast Guard boat house on Nantucket Island to the local municipality; to convey the Coast Guard Cutter STORIS to a local museum and education center in Alaska; to exchange a parcel of land in Florida; and to repeal an archaic salvage provision.

Title V – Ballast Water

The bill establishes ballast water treatment standards that are based on the “International Convention for the Control and Management of Ships Ballast Water & Sediments”. Compared to the Convention standards, the bill’s treatment standards are more stringent and the phase-in schedule is accelerated. In addition, the bill requires the treatment standards to be adjusted every three years based on the best available technology.

To stop the spread of infectious disease in inland waters such as the Great Lakes, the bill permits the Secretary of Agriculture to request that the Coast Guard require ballast water treatment systems for vessels not already required to have such systems.

The bill also preempts States from prescribing ballast water discharge standards that are different from the Federal Government’s standards. However, the bill allows States to inspect and enforce the Federal ballast water treatment standards established in the bill.

The bill requires the Coast Guard to submit a report to Congress on other vessel-related pathways for invasive species, such as hulls and anchors of ships.

The bill requires the President to establish a National Rapid Response Plan to address the introduction of invasive species in U.S. waters. Modeled on provisions of the Oil Pollution Act of 1990, the bill creates a Federal on-scene coordinator who will make all response decisions in consultation with other Federal and State agencies.

Prior Legislative and Oversight Activities

On March 8, 2007, the Subcommittee on Coast Guard and Maritime Transportation held a hearing on the Administration's FY 2008 budget requests and legislative proposal. The Subcommittee also received testimony from the Coast Guard, the Inspector General of the Department of Homeland Security, and the Government Accountability Office on the Deepwater Acquisition Program.

On April 25, 2007, the Subcommittee on Coast Guard and Maritime Transportation held a hearing on commercial fishing safety.

On June 22, 2007, Chairman Oberstar introduced H.R. 2830, the "Coast Guard Authorization Act of 2007".

On June 26, 2007, the Subcommittee on Coast Guard and Maritime Transportation met in open session to consider H.R. 2830 and adopted a manager's amendment to the bill. The Subcommittee favorably recommended H.R. 2830, as amended, to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

Specific information on amendments to be offered to H.R. 2830 is not available at this time.

H.R. 2722, THE INTEGRATED DEEPWATER PROGRAM REFORM ACT

Background

The Deepwater program is a series of procurements intended to renew the Coast Guard's fleet of cutters and aircraft. Currently expected to cost \$24 billion and to require 25 years to complete, the program encompasses 91 cutters, 124 small surface craft, and 244 new or converted aircraft, including both helicopters and fixed-wing airplanes. The procurements conducted under Deepwater are intended to create a "system of systems" -- meaning a suite of assets that are fully integrated and feature inter-operable command/control/communication systems called C4ISR.

The Deepwater program began its initial planning stages in the 1990s. On June 25, 2002, the Coast Guard awarded the Deepwater program to a consortium comprised of Lockheed Martin and Northrop Grumman and now identified as the Integrated Coast Guard Systems (ICGS). The contract awarded in 2002 was an indefinite delivery, indefinite quantity contract with a five-year baseline ending in 2007. The contract included five potential additional award terms of up to five years each (in other words, the contract could be extended for as long as 25 years). During a hearing conducted by the Subcommittee on Coast Guard and Maritime Transportation on June 12, the Commandant of the Coast Guard, Admiral Thad Allen, announced that a new award term would be decided shortly but that no delivery task orders issued under the award term would exceed 18 months in duration.

Significant problems have been encountered in procurements conducted under Deepwater, including the failure of the effort to lengthen 110-foot patrol boats to 123-feet, failure of the first design for the new Fast Response Cutter, and failure of the initial design effort of the vertical unmanned aerial vehicle. Most recently, the Department of Homeland Security's Office of the Inspector General ("OIG") found that the hull fatigue life on the National Security Cutter ("NSC"), the most expensive asset to be procured under the Deepwater contract, may not meet the requirements of the Deepwater contract.

In February 2007, the Defense Acquisition University ("DAU") issued a report requested by the Coast Guard providing findings and recommendations to the Program Executive Officer for improvement of this program. In summary, this report finds that a need to quickly recapitalize the Coast Guard with a broad portfolio of new and complex assets led the Coast Guard to use the "system of systems" strategy. However, this is a complicated strategy to implement and the DAU finds that the Coast Guard's implementation of the strategy has been challenged by the following factors:

- The scope and complexity of design changes that were necessary to respond to the threats presented by the events of 9/11 and that were added after many key engineering milestones had already been crossed;
- Funding provided at levels below those assumed when the ICGS contract was signed in 2002;
- Use of a contract structure inappropriate to the changing missions and requirements of the program and to the major systems integration tasks that were required;
- Industry emphasis on work sharing among joint venture partners that minimized the use of other U.S. industry and existing Coast Guard infrastructure;
- Insufficient numbers of Coast Guard acquisition personnel and insufficient experience in major systems acquisition; and
- Lack of a management model and processes sufficient for the management and oversight of the major systems acquisitions to be made under Deepwater.

The DAU report indicates that these factors threaten to prevent the Coast Guard from being able to complete all of the acquisitions planned under Deepwater within the planned \$24 billion budget and suggests that changes in acquisitions requirements or adjustments to the budget may be needed. The DAU study also recommends specific changes in the Coast Guard's acquisition strategy and the structure and management of the Deepwater contract.

In direct response to the problems examined in the hearings on Deepwater conducted by the Committee on Transportation and Infrastructure and the Subcommittee on Coast Guard and Maritime Transportation and the reports issued on this procurement by the DAU, the OIG, and the Government Accountability Office, H.R. 2722 creates within the Coast Guard the acquisitions management systems and personnel that the Coast Guard needs to effectively manage the Deepwater program, to prepare to serve as the lead systems integrator, and to ensure that all assets produced under Deepwater meet the highest quality standards.

H.R. 2722, the Integrated Deepwater Program Reform Act

H.R. 2722, as amended, prohibits the use of a private firm as a lead systems integrator beginning on the earlier of October 1, 2011, or the date on which the Secretary of Homeland Security certifies to the Committee that the Coast Guard has sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner. The OIG indicates that the Coast Guard needs the time to develop the internal capacity to assume the role of lead systems integrator and needs the time to chart a balanced course as it moves this function away from the private sector ICGS team to its in-house team.

H.R. 2722 requires the use of full and open competition for procurements conducted under Deepwater except when it is in the best interests of the Federal Government to use a different procurement method. The bill also sets forth a number of specific provisions that are to be included in any future contracts, delivery orders, or task orders issued under Deepwater, including requirements subjecting designs to certain technical reviews and mandating the development of independent cost estimates. Further, the bill requires that when assets are procured that require TEMPEST certification, the contracts for such procurements must cite the Navy TEMPEST standards then in use. Finally, the bill requires that all contracts include provisions guaranteeing that the OIG has the right to privately interview all contractor personnel working on Deepwater.

H.R. 2722 requires the appointment of a civilian as Chief Acquisitions Officer reporting directly to the Coast Guard Commandant. The bill also specifies a number of authorities reserved to the Chief Acquisitions Officer and functions to be performed by that position.

H.R. 2722 sets new standards for the testing and certification of assets procured under Deepwater. The bill requires all cutters other than the NSCs to be classed by the American Bureau of Shipping and requires the design and construction of NSCs 3 through 8 to be certified by an independent third party to be able to be underway for at least 185 days per year for 30 years. Similarly, the bill requires that all aircraft be certified by an independent third party and requires all TEMPEST certifications to be performed by an independent third party.

H.R. 2722 requires the Coast Guard to submit to Congress a number of reports on the NSC, including reports detailing cost increases experienced during the acquisition of the NSCs and a report on options under consideration by the Coast Guard to strengthen the hulls of NSCs 1 and 2. Further, the bill requires the submission of reports on assessments conducted by the Navy on the design to be used to strengthen the hulls of NSCs 1 and 2 and on the design changes incorporated into NSCs 3 through 8.

Finally, the bill requires the submission of a number of reports on the Deepwater program, including the following:

- a justification for why a total of 8 NSCs is the appropriate number to meet the Coast Guard's operational needs;
- a report on the impact that deployment of the NSCs without vertical unmanned aerial vehicles will have on the amount of patrol coverage the NSCs can provide;

- a report on the total number of change orders created under the Deepwater contract;
- comparisons of the cost of purchasing assets through ICGS or directly from a vendor;
- reports on specific cost overruns and schedule delays encountered under Deepwater;
- a report on how the Coast Guard will develop acquisitions expertise among its personnel; and
- an annual report on the percentage of total Deepwater funding paid to small businesses and minority-owned businesses.

Prior Legislative and Oversight Activities

The Subcommittee on Coast Guard and Maritime Transportation has held three hearings on the Deepwater acquisition during the 110th Congress. The first hearing was held on January 30, 2007, and reviewed implementation of the entire Deepwater contract to date. A second hearing was held on March 8, 2007, to examine the Coast Guard's fiscal year 2008 budget. During that hearing, the Subcommittee received testimony on Deepwater from both the OIG and the Government Accountability Office. Most recently, the Subcommittee held a hearing on June 12 to receive testimony from Commandant Allen regarding the steps that the Coast Guard has taken since January 2007 to strengthen the management of Deepwater. During that hearing, the Subcommittee also received testimony from the Department of Homeland Security Inspector General Richard Skinner regarding the systems that need to be put in place to create acquisitions expertise within the Coast Guard as well as the OIG's continuing concerns with the hull fatigue life of the NSC.

The Full Committee on Transportation and Infrastructure held an Investigation hearing entitled "Compliance with the Requirements of the Deepwater Contract" on April 18, 2007. This hearing investigated the failure of the 123-foot patrol boat procurement undertaken as part of Deepwater.

On June 14, 2007, Subcommittee Chairman Cummings introduced H.R. 2722, the "Integrated Deepwater Program Reform Act".

On June 26, 2007, the Subcommittee on Coast Guard and Maritime Transportation met in open session to consider H.R. 2722 and adopted several amendments to the bill. The Subcommittee favorably recommended H.R. 2722, as amended, to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

Specific information on amendments to be offered to H.R. 2722 is not available at this time.

H.R. 2775, TO AMEND THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT TO AUTHORIZE FUNDING FOR EMERGENCY MANAGEMENT PERFORMANCE GRANTS, AND FOR OTHER PURPOSES

Background

The Emergency Management Performance Grant (“EMPG”) program is the Federal Government’s principle program to build the capability of state and local governments to prepare for, respond to, recover from, and mitigate all hazards. Administered by the Federal Emergency Management Agency (“FEMA”), this grant program has been in existence, under different names, since the 1950s and derives its authority from the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”).

EMPG has a long, successful history of fostering preparedness capabilities at the state and local level. The program requires a non-Federal share of 50 percent, but state and local governments overmatch Federal funds by approximately \$96 million each year. This cost share is specifically designed to require state and local governments to contribute their resources to building strong emergency management capabilities.

EMPG receives a small fraction of what the Federal Government spends on terrorism-specific programs. In April, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the Federal Government’s programs related to preparedness for all hazards. At that hearing, Members of the Subcommittee learned that in FY 2006, EMPG received only a small fraction – about 10 percent – of the funding allocated to terrorism preparedness programs.

The program has historically relied on an indefinite authorization for appropriations in Title VI of the Stafford Act. In the 109th Congress, the Post-Katrina Emergency Management Reform Act, Title VI of Public Law 109-295, authorized appropriations of \$375 million for the EMPG program for FY 2008.

H.R. 2775, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize funding for emergency management performance grants

Section 1 of the bill codifies the EMPG program as an amendment to the Stafford Act. The bill specifies that the Federal share of the cost of an activity carried out using funds made available under the EMPG program shall not exceed 50 percent, consistent with current program implementation. This section authorizes \$1.35 billion for Fiscal Years 2009 through 2011 for the Administrator of FEMA to continue to implement the EMPG program.

Section 2 of the bill amends an existing provision in Section 614 of the Stafford Act, concerning the Federal share for construction of Emergency Operations Centers (“EOCs”). This would allow the Federal Government to pay for up to 75 percent of the construction of State or local EOCs. While construction of new EOCs is an eligible activity under EMPG, this change would also apply to other EOCs already constructed under the authority of Title VI of the Stafford Act.

Prior Legislative and Oversight Activity

In the 110th Congress, the Subcommittee on Economic Development, Public Buildings, and Emergency Management has had several hearings on FEMA, including a hearing on April 26, 2007, on “FEMA’s Preparedness and Response to All Hazards”. EMPG was discussed widely at that hearing by both Members and witnesses. EMPG has not been previously addressed by the Committee in legislation in the 110th Congress. In the 109th Congress, the Post-Katrina Emergency Management Reform Act, Title VI of Public Law 109-295 authorized appropriations of \$375 million for the EMPG program for FY 2008.

Amendments

An amendment in the nature of a substitute is expected.

H.R. 781, TO REDESIGNATE LOCK AND DAM NO. 5 OF THE MCCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM NEAR REDFIELD, ARKANSAS, AUTHORIZED BY THE RIVERS AND HARBORS ACT APPROVED JULY 24, 1946, AS THE “COLONEL CHARLES D. MAYNARD LOCK AND DAM

Background

H.R. 781 redesignates Lock and Dam No. 5 on the McClellan-Kerr Arkansas River Navigation System (MKARNS) near Redfield, Arkansas as the “Colonel Charles D. Maynard Lock and Dam”.

The headwaters for the Arkansas River are in the Rocky Mountains near Leadville, Colorado. The river flows southeastward 1,396 miles through Colorado, Kansas, Oklahoma, and Arkansas to join the Mississippi River 599 miles above Head of Passes, Louisiana. The MKARNS provides navigation, hydroelectric power, flood control, water supply, sediment control, recreation, and fish and wildlife propagation improvements in the Arkansas River Basin. The MKARNS provides a navigation channel 9 feet deep and 444.8 miles long. The waterway is canalized throughout its length by 17 locks and dams with a total life of 420 feet.

Lock and Dam No. 5 is located on Navigation Mile 86.3. Construction began in March 1965 and the lock and dam were placed in operation in December 1968. The initial construction cost was \$28,700,000 and tow haulage equipment was installed in June 1993. In FY 2006, 8,852,422 tons of commodities traveled through Lock and Dam No. 5. The total number of lockage conducted during FY 2006 was 2,110. Pool 5 has two developed parks which in FY 2006 experienced public visitation exceeding 0.8 million visitor hours.

Colonel Charles D. Maynard graduated from the United States Military Academy at West Point in 1941, after which he was commissioned in the Coast Artillery and later transferred to the Corps of Engineers. He served in New Guinea and the Philippines during World War II. He also received graduate degrees from Harvard University, Rensselaer Polytechnic University, George Washington University, and Rutgers University.

Colonel Maynard was the District Engineer of the Little Rock Engineer District, where he directed planning, design, and construction of 13 locks and dams of the MKARNS. At the time, this was the largest civil works project ever undertaken by the Corps of Engineers. He was the official host for President John F. Kennedy in October 1963 for the official dedication of Greers Ferry Dam.

Colonel Maynard was a leader in both professional and community organizations. He served as Chairman and President of the Water Resources Association of America, Chairman of the Arkansas Waterways Commission, and President of the Arkansas Basin Association. Colonel Maynard was also the U.S. Savings Bond Coordinator for Arkansas, President of the Little Rock Chamber of Commerce, Campaign Chairman for the United Way of Pulaski County, President of the Pulaski County Cancer Society, and Chairman Emeritus of Central Arkansas Radiation Treatment Center.

Colonel Maynard passed away in October 2005.

Prior Legislative and Oversight Activities

On January 31, 2007, Representative Mike Ross introduced H.R. 781. This bill has not been introduced in a previous Congress.

Amendments

No amendments are expected at this time.

H. RES. 375, HONORING UNITED PARCEL SERVICE AND ITS 100 YEARS OF COMMITMENT AND LEADERSHIP IN THE UNITED STATES

Background

H. Res. 375 honors United Parcel Service (“UPS”) on its 100 years of commitment and leadership in the United States.

Since its founding by James “Jim” Casey and Claude Ryan in 1907, UPS has grown from a two-person, foot-and-bike message delivery firm into a 427,000-plus employee global transportation and logistics corporation that connects the flow of goods, funds, and information to more than 200 countries. As the world’s largest package delivery service, UPS moves nearly 15 million packages through its network each business day.

H. Res. 375 also recognizes UPS for the numerous awards the company has received for its outstanding business practices, values and commitment to social responsibility and diversity, and contributions to charitable organizations. It also recognizes UPS for receiving the U.S. Environmental Protection Agency’s Clean Air Excellence Award, which cited UPS’ alternative fuel program under which the UPS “Green Fleet” recently passed the 100 million mile mark.

Prior Legislative and Oversight Activities

On May 3, 2007, Representative Westmoreland introduced H. Res. 375. This resolution has not been introduced in a previous Congress.

Amendments

An amendment in the nature of a substitute is expected.

GENERAL SERVICES ADMINISTRATION LEASE RESOLUTIONS

Background

The General Services Administration (“GSA”) FY 2008 total lease package provides more than \$114 million for leases for federal agencies across the U.S. The FBI has the largest number of leases (six leases) before the Committee for consideration, each for more than 20 years. The total FY 2008 lease package includes approximately three million square feet. The lease package also includes leases for the Internal Revenue Service, the Department of Education, the Department of Health and Human Services, the Department of Interior, the Nuclear Regulatory Commission, the Department of Homeland Security, and the National Nuclear Security Administration. The FY 2008 GSA lease resolutions contain a proviso directing GSA to properly ensure the delineated areas for the procurement are the same as the delineated areas contained in the prospectus. A second proviso requires GSA, to the maximum extent practicable, to include minimum performance requirements for energy efficiency and renewable energy when leasing space for Federal agencies.

Prior Legislative and Oversight Activity

Each fiscal year, the Committee on Transportation and Infrastructure considers GSA Capital Investment and Leasing Program Resolutions.

On May 10, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on GSA’s Fiscal Year 2008 Capital Investment and Leasing Program.

Amendments

No amendments are expected at this time.