



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Bill Shuster
Chairman

Mathew M. Sturges
Staff Director

March 2, 2018

Peter A. DeFazio
Ranking Member

Katherine W. Dedrick
Democratic Staff Director

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Coast Guard and Maritime Transportation
FROM: Staff, Subcommittee on Coast Guard and Maritime Transportation
RE: Hearing on “Implementation of Coast Guard Programs”

PURPOSE

The Subcommittee on Coast Guard and Maritime Transportation will hold a hearing on Wednesday, March 7, 2018, at 2:00 p.m., in 2167 Rayburn House Office Building to examine the implementation of certain Coast Guard Programs. The Subcommittee will also examine a new report investigating the cost implications of building fishing vessels to classification standards. Witnesses from the United States Coast Guard (Coast Guard or Service) and the Government Accountability Office (GAO) will testify.

BACKGROUND

This hearing builds upon the Subcommittee’s previous hearings focused on the Service’s mission performance and long-term planning for the acquisition of major systems. Those hearings included extensive reviews of Coast Guard acquisition programs, as well as reviews of the Service’s workforce composition and shoreside infrastructure needs. Additionally, prior hearings examined the Coast Guard’s operational planning and its development of objective goals and metrics to track and measure performance. This hearing furthers the Subcommittee’s ongoing oversight of these important Coast Guard activities. In addition, the hearing will allow the Subcommittee to further long-standing efforts to improve maritime safety in the fishing industry by receiving input on the implications of policy changes made in 2010 and 2012 affecting the construction of commercial fishing vessels.

Performance Information Transparency and Monitoring

The Coast Guard has 11 statutory missions (6 U.S.C. § 648): marine safety; search and rescue; aids to navigation; living marine resources (fisheries law enforcement); marine environmental protection; ice operations; ports, waterways and coastal security; drug interdiction; migrant interdiction; defense readiness, and other law enforcement. As required by the *Coast Guard Authorization Act of 2015* (P.L. 114-120), the GAO recently completed a report entitled *Actions Needed to Enhance Performance Information Transparency and Monitoring* ([GAO-18-13](#)), addressing whether the Coast Guard’s annual performance goals and reported

performance information accurately reflects the extent to which the Service is accomplishing its mission responsibilities. GAO found the following:

- Goals representing five of the 11 missions do not fully address all related mission activities, and developing new or adjusting existing goals could better convey the Coast Guard’s performance.
- The Coast Guard does not sufficiently report its performance goals and actual performance in publicly available documents, limiting congressional and public awareness of the Service’s ability to meet its missions.

The Coast Guard is a complex organization and accurately capturing performance across all of its missions is a complicated endeavor. Nevertheless, it is critical that the Service establish performance measures that address all mission activities and that actual performance be reported accurately and routinely to Congress and the public.

Five-Year Capital Investment Plan

Coast Guard mission requirements often require capital investment in assets and equipment (e.g., vessels, aircraft, shore infrastructure, information technologies, etc.), which should be reflected in its Capital Investment Plan (CIP). Section 2902 of title 14, United States Code, requires the Commandant of the Coast Guard to submit a CIP to the Committee on Transportation and Infrastructure each year in conjunction with the Administration’s respective budget request. The CIP identifies projected funding levels over the next five fiscal years for each major acquisition, as well as estimated timelines and total costs to complete each such acquisition (note: a “major acquisition program” means an ongoing acquisition with a life-cycle cost estimate greater than or equal to \$300 million). The purpose of the CIP is to ensure Congress has adequate information to conduct proper oversight of the Service’s capital budget, acquisition plans, mission needs, and readiness to conduct operations in future years.

The Commandant has testified before the Subcommittee that the Service requires \$2 billion per year in Acquisition, Construction and Improvement funds to meet the operational needs of the Service. The CIP does not provide for that level of investment. The Commandant has testified that the Service needs new cutters and aircraft, yet the CIP does not include funding to deliver new assets in a timely manner to replace aged legacy assets. Likewise, the Service consistently speaks of a major funding shortfall to build and repair shore infrastructure (the current shore infrastructure backlog is estimated at over \$1.6 billion), yet the Coast Guard regularly requests only nominal funding for shore infrastructure projects (e.g., only \$10 million requested in fiscal year (FY) 2018). Because the CIP does not accurately reflect current mission requirements, Congress is left to set priorities for the Coast Guard without appropriate administrative guidance.

The GAO has criticized Coast Guard CIPs for failing to accurately reflect cost and schedule impacts from funding shortfalls. The 2014 GAO report entitled *Better Information on Performance and Funding Needed to Address Shortfalls* ([GAO-14-450](#)), recommended that the Coast Guard be required to regularly update the estimated timelines and total costs to complete

each acquisition based upon actual appropriations provided by Congress, as opposed to projected funding levels. The Coast Guard continues to under-deliver in these areas.

The Coast Guard submitted the FY 2018-2022 CIP on October 24, 2017, over five months after it should have been submitted with the President's budget. Even though Congress annually has withheld \$85 million of operational funding until the CIP is received, the Coast Guard has failed to meet the deadline each year since the requirement was first implemented in FY 2013. In addition to being late, the CIP was less than helpful, as most of the Life Cycle Cost Estimates (LCCEs) that form the basis for the acquisition project cost estimates and schedules are outdated. The information provided does not align with reality. Without updates to the LCCEs, Congress is unable to analyze the over \$7.6 billion in funding the Coast Guard plans to request in FY 2018 to FY 2022.

The following is a partial list of CIP deficiencies regarding the Coast Guard's major acquisition programs:

- National Security Cutter (NSC): The estimates, projections, and schedules are based on an LCCE completed in September 2014, despite the Coast Guard being appropriated funding for construction of a ninth NSC in December 2015 and awarding the construction contract for it in December 2016, and then receiving appropriations for long lead time materials for a tenth NSC in May 2017. The CIP, however, does not account for the impacts of adding additional vessels to the NSC fleet or of the \$735 million appropriated for that purpose.
- Offshore Patrol Cutter (OPC): The estimates, projections, and schedules provided in the CIP are based on an LCCE from March 2012, even though the Coast Guard awarded the OPC Phase I construction contract in 2016. The CIP does not take into account the actual known production costs and schedules.
- Fast Response Cutter (FRC): The estimates, projections, and schedules are based on an LCCE from February 2015, despite awarding the FRC Phase II construction contract in February 2016. The CIP does not incorporate the most recent cost and schedule information.
- HC-130J Aircraft: The estimates, projections, and schedules are based on an LCCE from November 2011, despite major changes to the program in the past six years. The CIP does not acknowledge the transfer of Coast Guard HC-130H aircraft to the Forest Service and the Coast Guard's receipt of HC-27J aircraft from the Air Force. Similarly, the CIP also fails to account for appropriations provided for several HC-130J aircraft which were not requested in the President's budget or accounted for in initial planning documents.

Between FY 2013 and FY 2017, Congress appropriated over \$2 billion more for acquisitions than the Coast Guard requested to meet emerging needs and appropriately position the Service to meet all mission demands.

The Coast Guard's failure to ensure CIP investment levels accurately reflect mission requirements and to adjust acquisition documentation to reflect reality leaves Congress without reliable input and data on which to base future appropriations and perform proper oversight.

Commercial Fishing Vessel Classification

Commercial fishing vessels are uninspected vessels under U.S. law, meaning the Coast Guard generally does not have the authority to inspect the vessels during construction or maintenance. Since 1988, pursuant to the *Commercial Fishing Industry Vessel Safety Act of 1988* (P.L. 100-424), commercial fish processing vessels have been required to be built and maintained to classification society standards. Such standards include the use of a naval architect and a classification society surveyor; the use of classification society approved materials by the shipyard; and the classification society assessing vessel stability, assigning a loading mark, and issuing loading directions to the owner. A vessel built to these standards receives a certificate indicating compliance with classification standards.

The *Coast Guard Authorization Acts of 2010* (P.L. 111-281) and *2012* (P.L. 112-213) expanded the class requirements to catcher vessels and fish tender vessels. These Acts also directed the Coast Guard to develop an Alternate Safety Compliance Program (ASCP) for commercial fishing vessels between 50-79 feet, built before July 1, 2013, and 25 years or older. To date, the Coast Guard has not issued guidance or regulations for either the class or alternate safety compliance requirements. Instead, in 2016, the Coast Guard developed an Enhanced Oversight Program, using existing policy and authorities, focused on older non-classed fishing vessels that may have an increased risk of vessel and crew loss.

The *Coast Guard Authorization Act of 2015* established an additional safety compliance program for new-build vessels (at least 50 feet overall in length, and not more than 79 feet overall in length). Program requirements stipulate that:

- (1) The vessel is designed by an individual licensed by a state as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.
- (2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.
- (3) The vessel—
 - (A) completes a stability test performed by a qualified individual;
 - (B) has written stability and loading instructions from a qualified individual that are provided to the owner or operator; and
 - (C) has an assigned loading mark.
- (4) The vessel is not substantially altered without the review and approval of an individual licensed by a state as a naval architect or marine engineer before the beginning of such substantial alteration.

(5) The vessel undergoes a condition survey at least twice in five years, not to exceed three years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.

(6) The vessel undergoes an out-of-water survey at least once every five years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.

Despite that requirement, the Coast Guard has not issued any guidance or regulations to implement this new ASCP. While the use of ASCPs provides greater flexibility and potential cost savings to owners of smaller commercial fishing vessels, the lack of regulatory action or issuance of guidance to implement these programs contributes to confusion among the owners of commercial fishing vessels and the shipbuilding industry. The Coast Guard is working through the regulatory process to update its existing regulations to address the classification requirements of the 2010, 2012, and 2015 Acts. The commercial fishing industry has raised concerns about the cost of building and maintaining fishing vessels to class. The Coast Guard hopes to complete this more formal policy by December 31, 2018.

The *Coast Guard Authorization of 2015* required GAO to review commercial fishing vessel safety, including the costs and benefits of classing commercial fishing vessels. The report entitled *Commercial Fishing Vessels: More Information Needed to Improve Classification Implementation* ([GAO-18-16](#)), notes that there was only a very small data set of six fishing vessels (four were fish processors already required to be built to class since 1988) that have been built under the classification system since 2013. The report recommends that the Coast Guard work with the National Institute for Occupational Health and Safety, the National Marine Fisheries Service, and other federal agencies to collect reliable data on the number of active U.S. commercial fishing vessel and the fisheries in which they operate, as well as key vessel characteristics, including, but are not limited to, vessel age and length. It recommends that the data collected be used to assess commercial fishing vessel accidents, injuries, and fatalities. GAO also recommends that the Coast Guard develop regulations or guidance to address questions concerning the classification and the ASCP approaches to the design, construction, and maintenance of fishing vessels.

WITNESS LIST

Rear Admiral Linda Fagan
Deputy Commandant for Operations, Policy, and Capabilities
United States Coast Guard

Mr. Nathan Anderson
Acting Director
Homeland Security and Justice
Government Accountability Office