

(1)(A) maintaining the battle force ship in a reduced operating status is not feasible;

(B) maintaining the ship with reduced capability is not feasible;

(C) maintaining the ship as a Navy Reserve unit is not feasible;

(D) transferring the ship to the Coast Guard is not feasible; and

(E) maintaining the ship is not required to support the most recent national defense strategy required by section 113(g) of this title; and

(2) includes an explanation of—

(A) the options assessed and the rationale for the determinations under subparagraphs (A) through (D) of paragraph (1); and

(B) the rationale for the determination under subparagraph (E) of such paragraph.

(d) FORM.—A certification submitted under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section:

(1) The term “battle force ship” means the following:

(A) A commissioned United States Ship warship capable of contributing to combat operations.

(B) A United States Naval Ship that contributes directly to Navy warfighting or support missions.

(2) The term “expected service life” means the number of years a naval vessel is expected to be in service.

(Added Pub. L. 117–81, div. A, title X, §1014(a), Dec. 27, 2021, 135 Stat. 1894; amended Pub. L. 117–263, div. A, title X, §1024(a), Dec. 23, 2022, 136 Stat. 2764.)

Editorial Notes

AMENDMENTS

2022—Subsec. (b)(1). Pub. L. 117–263, §1024(a)(1), inserted “by not later than three days after the date on which the President submits the budget materials under section 1105(a) of title 31 for the fiscal year in which such waiver is sought” after “such ship”.

Subsec. (b)(2). Pub. L. 117–263, §1024(a)(2), substituted “the National Defense Authorization Act for such fiscal year is enacted” for “such certification was submitted”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title X, §1024(b), Dec. 23, 2022, 136 Stat. 2764, provided that: “The amendments made by subsection (a) [amending this section] do not apply to a battle force ship (as such term is defined in section 8678a(e)(1) of title 10, United States Code) that is proposed to be decommissioned or inactivated during fiscal year 2023.”

§ 8679. Construction of vessels in foreign shipyards: prohibition

(a) PROHIBITION.—Except as provided in subsection (b), no vessel to be constructed for any of the armed forces, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard.

(b) PRESIDENTIAL WAIVER FOR NATIONAL SECURITY INTEREST.—(1) The President may authorize

exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.

(c) EXCEPTION FOR INFLATABLE BOATS.—An inflatable boat or a rigid inflatable boat, as defined by the Secretary of the Navy, is not a vessel for the purpose of the restriction in subsection (a).

(Added Pub. L. 103–160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1710, §7309; renumbered §8679, Pub. L. 115–232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232 renumbered section 7309 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

Executive Documents

DELEGATION OF AUTHORITY

For delegation of authority of President under subsec. (b) of this section, see section 3 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

§ 8680. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS UNDER JURISDICTION OF THE SECRETARY OF THE NAVY WITH HOMEPORT IN UNITED STATES OR GUAM.—(1) A naval vessel the homeport of which is in the United States or Guam may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam.

(2)(A) Notwithstanding paragraph (1) and subject to subparagraph (B), in the case of a naval vessel classified as a Littoral Combat Ship and operating on deployment, corrective and preventive maintenance or repair (whether intermediate or depot level) and facilities maintenance may be performed on the vessel—

(i) in a foreign shipyard;

(ii) at a facility outside of a foreign shipyard; or

(iii) at any other facility convenient to the vessel.

(B)(i)(I) Corrective and preventive maintenance or repair may be performed on a vessel as described in subparagraph (A) if the work is performed by United States Government personnel or United States contractor personnel.

(II) Notwithstanding subclause (I), foreign workers may be used to perform corrective and

preventive maintenance or repair on a vessel as described in subparagraph (A) only if the Secretary of the Navy determines that travel by United States Government personnel or United States contractor personnel to perform the corrective or preventive maintenance or repair is not advisable for health or safety reasons. The Secretary of the Navy may not delegate the authority to make a determination under this subclause.

(III) Not later than 30 days after making a determination under subclause (II), the Secretary of the Navy shall submit to the congressional defense committees written notification of the determination. The notification shall include the reasons why travel by United States personnel is not advisable for health or safety reasons, the location where the corrective and preventive maintenance or repair will be performed, and the approximate duration of the corrective and preventive maintenance or repair.

(ii) Facilities maintenance may be performed by a foreign contractor on a vessel as described in subparagraph (A) only as approved by the Secretary of the Navy.

(C) In this paragraph:

(i) The term “corrective and preventive maintenance or repair” means—

(I) maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(II) scheduled maintenance or repair actions to prevent or discover functional failures.

(ii) The term “facilities maintenance” means—

(I) the effort required to provide house-keeping services throughout the ship;

(II) the effort required to perform coating maintenance and repair to exterior and interior surfaces due to normal environmental conditions; and

(III) the effort required to clean mechanical spaces, mission zones, and topside spaces.

(3) Notwithstanding paragraph (1), a naval vessel described in paragraph (1) may be repaired in a shipyard outside the United States or Guam if the repairs are—

(A) voyage repairs; or

(B) necessary to correct damage sustained due to hostile actions or interventions.

(b) VESSEL CHANGING HOMEPORTS.—(1) In the case of a naval vessel the homeport of which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.

(2) In the case of a naval vessel the homeport of which is in the United States (or a territory of the United States), the Secretary of the Navy shall during the 15-month period preceding the planned reassignment of the vessel to a home-

port not in the United States (or a territory of the United States) perform in the United States (or a territory of the United States) any work for the overhaul, repair, or maintenance of the vessel that is scheduled—

(A) to begin during the 15-month period; and

(B) to be for a period of more than six months.

(c) REPAIR AND REFURBISHMENT OF CERTAIN SUBMARINES.—(1) Notwithstanding any other provision of this section, and subject to paragraph (2), the President shall determine the appropriate public or private shipyard in the United States, Australia, or the United Kingdom to perform any repair or refurbishment of a United States submarine involved in submarine security activities between the United States, Australia, and the United Kingdom.

(2)(A) The President may determine under paragraph (1) that repair or refurbishment described in such paragraph may be performed in Australia or the United Kingdom only if—

(i) such repair or refurbishment will facilitate the development of repair or refurbishment capabilities in the United Kingdom or Australia;

(ii) such repair or refurbishment will be for a United States submarine that is operating forward outside of the United States; or

(iii) the Secretary of Defense certifies to Congress that performing such repair or refurbishment at a shipyard in Australia or the United Kingdom is required due to an exigent threat to the national security interests of the United States.

(B) In making a determination under subparagraph (A), the President shall consider any effects of such determination on the capacity and capability of shipyards in the United States.

(C) Not later than 15 days after the date on which the Secretary of Defense makes a certification under subparagraph (A)(iii), the Secretary shall brief the congressional defense committees on—

(i) the threat that requires the use of a shipyard in Australia or the United Kingdom; and

(ii) opportunities to mitigate the future potential need to leverage foreign shipyards.

(3) Repair or refurbishment described in paragraph (1) may be carried out by personnel and contractors of the United States, the United Kingdom, or Australia in accordance with the international arrangements governing the submarine security activities described in such paragraph.

(d) REPORT.—(1) The Secretary of the Navy shall submit to Congress each year, at the time that the President’s budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States or Guam (in this section referred to as a “foreign shipyard”) during the fiscal year preceding the fiscal year in which the report is submitted.

(2) The report shall include the percentage of the annual ship repair budget of the Navy that was spent on repair of covered naval vessels in foreign shipyards during the fiscal year covered by the report.

(3) Except as provided in paragraph (4), the report also shall include the following with respect to each covered naval vessel:

(A) The justification under law and operational justification for the repair in a foreign shipyard.

(B) The name and class of vessel repaired.

(C) The category of repair and whether the repair qualified as voyage repair as defined in Commander Military Sealift Command Instruction 4700.15C (September 13, 2007) or Joint Fleet Maintenance Manual (Commander Fleet Forces Command Instruction 4790.3 Revision A, Change 7), Volume III. Scheduled availabilities are to be considered as a composite and reported as a single entity without individual repair and maintenance items listed separately.

(D) The shipyard where the repair work was carried out.

(E) The number of days the vessel was in port for repair.

(F) The cost of the repair and the amount (if any) that the cost of the repair was less than or greater than the cost of the repair provided for in the contract.

(G) The schedule for repair, the amount of work accomplished (stated in terms of work days), whether the repair was accomplished on schedule, and, if not so accomplished, the reason for the schedule over-run.

(H) The homeport or location of the vessel prior to its voyage for repair.

(I) Whether the repair was performed under a contract awarded through the use of competitive procedures or procedures other than competitive procedures.

(4) In the case of a covered vessel described in subparagraph (C) of paragraph (5), the report shall not be required to include the information described in subparagraphs (A), (E), (F), (G), and (I) of paragraph (3).

(5) In this subsection, the term “covered naval vessel” means any of the following:

(A) A naval vessel.

(B) Any other vessel under the jurisdiction of the Secretary of the Navy.

(C) A vessel not described in subparagraph (A) or (B) that is operated pursuant to a contract entered into by the Secretary of the Navy and the Maritime Administration or the United States Transportation Command in support of Department of Defense operations.

(Added and amended Pub. L. 103-160, div. A, title III, §367, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1632, 1710, §7310; Pub. L. 104-106, div. A, title X, §1017, Feb. 10, 1996, 110 Stat. 425; Pub. L. 109-364, div. A, title X, §1014, Oct. 17, 2006, 120 Stat. 2376; Pub. L. 110-417, [div. A], title X, §1012, Oct. 14, 2008, 122 Stat. 4584; Pub. L. 112-239, div. A, title III, §344, Jan. 2, 2013, 126 Stat. 1700; Pub. L. 115-91, div. A, title X, §1023, Dec. 12, 2017, 131 Stat. 1548; renumbered §8680, Pub. L. 115-232, div. A, title VIII, §807(d)(2), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116-92, div. A, title X, §1035, Dec. 20, 2019, 133 Stat. 1583; Pub. L. 116-283, div. A, title X, §§1025, 1081(a)(45), Jan. 1, 2021, 134 Stat. 3843, 3873; Pub. L. 118-31, div. A, title XIII, §1352(g), Dec. 22, 2023, 137 Stat. 517.)

Editorial Notes

AMENDMENTS

2023—Subsecs. (c), (d). Pub. L. 118-31 added subsec. (c) and redesignated former subsec. (c) as (d).

2021—Subsec. (a)(1). Pub. L. 116-283, §1025(a)(1), struck out “, other than in the case of voyage repairs” after “outside the United States or Guam”.

Subsec. (a)(2)(B)(i). Pub. L. 116-283, §1025(b), designated existing provisions as subcl. (I) and added subcls. (II) and (III).

Subsec. (a)(2)(C)(ii). Pub. L. 116-283, §§1025(c), 1081(a)(45), amended introductory provisions identically, striking out period after “means—”.

Subsec. (a)(3). Pub. L. 116-283, §1025(a)(2), added par. (3).

2019—Subsec. (a)(2)(C)(ii). Pub. L. 116-92, §1035(1), substituted “means—” for “means preservation or corrosion control efforts and cleaning services” and added subcls. (I) to (III).

Subsec. (a)(2)(D). Pub. L. 116-92, §1035(2), struck out subpar. (D) which read as follows: “This paragraph shall expire on September 30, 2020.”

2018—Pub. L. 115-232 renumbered section 7310 of this title as this section.

2017—Subsec. (a). Pub. L. 115-91 inserted “Under Jurisdiction of the Secretary of the Navy” after “Vessels” in heading, designated existing provisions as par. (1), substituted “A naval vessel” for “A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy)”, and added par. (2).

2013—Subsec. (c)(3). Pub. L. 112-239, §344(1)(A), substituted “Except as provided in paragraph (4), the report” for “The report” in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 112-239, §344(1)(B), inserted “and operational justification” after “justification under law”.

Subsec. (c)(4). Pub. L. 112-239, §344(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 112-239, §344(2), redesignated par. (4) as (5).

Subsec. (c)(5)(C). Pub. L. 112-239, §344(4), added subpar. (C).

2008—Subsec. (c). Pub. L. 110-417 added subsec. (c).

2006—Subsec. (a). Pub. L. 109-364 inserted “or Guam” after “United States” in heading and after “in the United States” in text.

1996—Subsec. (a). Pub. L. 104-106 inserted “or Guam” after “outside the United States”.

1993—Subsec. (b). Pub. L. 103-160, §367, amended subsec. (b) generally, designating existing provisions as par. (1) and adding par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

§ 8681. Repair or maintenance of naval vessels: handling of hazardous waste

(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that each contract entered into for work on a naval vessel (other than new construction) includes the following provisions:

(1) IDENTIFICATION OF HAZARDOUS WASTES.—A provision in which the Navy identifies the