

(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.)

#### § 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 subsection (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 re-

turn 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 homeport 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) 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.)

## Editorial Notes

### AMENDMENTS

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 types and amounts of hazardous wastes that are required to be removed by the contractor from the vessel, or that are expected to be generated, during the performance of work under the contract, with such identification by the Navy to be in a form sufficient to enable the contractor to comply with Federal and State laws and regulations on the removal, handling, storage, transportation, or disposal of hazardous waste.

(2) COMPENSATION.—A provision specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

(3) STATEMENT OF WORK.—A provision specifying the responsibilities of the Navy and of the contractor, respectively, for the removal (including the handling, storage, transportation, and disposal) of hazardous wastes.

(4) ACCOUNTABILITY FOR HAZARDOUS WASTES.—(A) A provision specifying the following:

(i) In any case in which the Navy is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the Navy pursuant to applicable law.

(ii) In any case in which the contractor is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the contractor pursuant to applicable law.

(iii) In any case in which both the Navy and the contractor are generators of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear both a generator identification number issued to the Navy and a generator identification number issued to the contractor pursuant to applicable law.

(B) A determination under this paragraph of whether the Navy is a generator, a contractor is a generator, or both the Navy and a contractor are generators, shall be made in the same manner provided under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) and regulations promulgated under that subtitle.

(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

(1) the contractor, during the performance of work under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

(2) those hazardous wastes originated on, or resulted from material furnished by the Government for, the naval vessel on which the work is being performed.

(c) REMOVAL OF WASTES.—The Secretary of the Navy shall remove known hazardous wastes from a vessel before the vessel’s arrival at a con-