

PRIOR PROVISIONS

Prior sections 2274 to 2279 were repealed by Pub. L. 103-160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

Section 2274, act Aug. 10, 1956, ch. 1041, 70A Stat. 126, related to procurement for experimental purposes.

Section 2275, act Aug. 10, 1956, ch. 1041, 70A Stat. 126, related to award of contracts and review of decisions.

Section 2276, acts Aug. 10, 1956, ch. 1041, 70A Stat. 126; Sept. 7, 1962, Pub. L. 87-651, title I, §131, 76 Stat. 514, related to inspection and audit of plants and books of contractors and provided criminal penalties for violations.

Section 2277, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to availability of appropriations.

Section 2278, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to purchases of sample aircraft.

Section 2279, act Aug. 10, 1956, ch. 1041, 70A Stat. 127, related to restrictions on alien employees of contractors as to access to plans and specifications.

AMENDMENTS

2009—Pub. L. 111-84 amended section generally. Prior to amendment, section related to space surveillance network: pilot program for provision of satellite tracking support to entities outside United States Government.

2008—Subsec. (i). Pub. L. 110-417 substituted “September 30, 2010” for “September 30, 2009”.

2006—Subsec. (i). Pub. L. 109-364 substituted “may be conducted through September 30, 2009” for “shall be conducted during the three-year period beginning on a date specified by the Secretary of Defense, which date shall be not later than 180 days after the date of the enactment of this section”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title IX, §912(c), Oct. 28, 2009, 123 Stat. 2431, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2009, or the date of the enactment of this Act [Oct. 28, 2009], whichever is later.”

CHAPTER 136—PROVISIONS RELATING TO SPECIFIC PROGRAMS

Sec.	
2281.	Global Positioning System.
2282.	B-2 bomber: annual report.

AMENDMENTS

2000—Pub. L. 106-398, §1 [[div. A], title I, §131(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-29, added item 2282.

§ 2281. Global Positioning System

(a) SUSTAINMENT AND OPERATION FOR MILITARY PURPOSES.—The Secretary of Defense shall provide for the sustainment of the capabilities of the Global Positioning System (hereinafter in this section referred to as the “GPS”), and the operation of basic GPS services, that are beneficial for the national security interests of the United States. In doing so, the Secretary shall—

(1) develop appropriate measures for preventing hostile use of the GPS so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the GPS by the United States and its allies for military purposes; and

(2) ensure that United States armed forces have the capability to use the GPS effectively despite hostile attempts to prevent the use of the system by such forces.

(b) SUSTAINMENT AND OPERATION FOR CIVILIAN PURPOSES.—The Secretary of Defense shall pro-

vide for the sustainment and operation of the GPS Standard Positioning Service for peaceful civil, commercial, and scientific uses on a continuous worldwide basis free of direct user fees. In doing so, the Secretary—

(1) shall provide for the sustainment and operation of the GPS Standard Positioning Service in order to meet the performance requirements of the Federal Radionavigation Plan prepared jointly by the Secretary of Defense and the Secretary of Transportation pursuant to subsection (c);

(2) shall coordinate with the Secretary of Transportation regarding the development and implementation by the Government of augmentations to the basic GPS that achieve or enhance uses of the system in support of transportation;

(3) shall coordinate with the Secretary of Commerce, the United States Trade Representative, and other appropriate officials to facilitate the development of new and expanded civil and commercial uses for the GPS;

(4) shall develop measures for preventing hostile use of the GPS in a particular area without hindering peaceful civil use of the system elsewhere; and

(5) may not agree to any restriction on the Global Positioning System proposed by the head of a department or agency of the United States outside the Department of Defense in the exercise of that official’s regulatory authority that would adversely affect the military potential of the Global Positioning System.

(c) FEDERAL RADIONAVIGATION PLAN.—The Secretary of Defense and the Secretary of Transportation shall jointly prepare the Federal Radionavigation Plan. The plan shall be revised and updated not less often than every two years. The plan shall be prepared in accordance with the requirements applicable to such plan as first prepared pursuant to section 507 of the International Maritime Satellite Telecommunications Act¹ (47 U.S.C. 756). The plan, and any amendment to the plan, shall be published in the Federal Register.

(d) BIENNIAL REPORT.—(1) Not later than 30 days after the end of each even-numbered fiscal year, the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall submit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives a report on the Global Positioning System. The report shall include a discussion of the following matters:

(A) The operational status of the system.

(B) The capability of the system to satisfy effectively (i) the military requirements for the system that are current as of the date of the report, and (ii) the validated performance requirements of the Federal Radionavigation Plan in accordance with Office of Management and Budget Circular A-109.

¹ See References in Text note below.

(C) The status of cooperative activities undertaken by the United States with the governments of other countries concerning the capability of the system or any augmentation of the system to satisfy civil, commercial, scientific, and military requirements, including a discussion of the status and results of activities undertaken under any regional international agreement.

(D) Progress and challenges in establishing GPS as an international standard for consistency of navigational service.

(E) Progress and challenges in protecting GPS from jamming, disruption, and interference.

(F) Progress and challenges in developing the enhanced Global Positioning System required by section 218(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1951; 10 U.S.C. 2281 note).

(G) The effects of use of the system on national security, regional security, and the economic competitiveness of United States industry, including the Global Positioning System equipment and service industry and user industries.

(2) In preparing each report required under paragraph (1), the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall consult with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security.

(e) DEFINITIONS.—In this section:

(1) The term “basic GPS services” means the following components of the Global Positioning System that are operated and maintained by the Department of Defense:

(A) The constellation of satellites.

(B) The navigation payloads that produce the Global Positioning System signals.

(C) The ground stations, data links, and associated command and control facilities.

(2) The term “GPS Standard Positioning Service” means the civil and commercial service provided by the basic Global Positioning System as defined in the 1996 Federal Radionavigation Plan (published jointly by the Secretary of Defense and the Secretary of Transportation in July 1997).

(Added Pub. L. 105-85, div. A, title X, §1074(d)(1), Nov. 18, 1997, 111 Stat. 1909; amended Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title IX, §914, Nov. 24, 2003, 117 Stat. 1567; Pub. L. 111-84, div. A, title X, §1032, Oct. 28, 2009, 123 Stat. 2448.)

REFERENCES IN TEXT

Section 507 of the International Maritime Satellite Telecommunications Act, referred to in subsec. (c), is section 507 of Pub. L. 87-624 which was classified to section 756 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, prior to repeal by Pub. L. 103-414, title III, §304(b)(5), Oct. 25, 1994, 108 Stat. 4298.

AMENDMENTS

2009—Subsec. (d)(1). Pub. L. 111-84, §1032(a)(1), in introductory provisions, substituted “the Deputy Sec-

retary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing,” for “the Secretary of Defense” and “the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives” for “the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives”.

Subsec. (d)(1)(B)(ii). Pub. L. 111-84, §1032(b), inserted “validated” before “performance requirements” and “in accordance with Office of Management and Budget Circular A-109” after “Plan”.

Subsec. (d)(2). Pub. L. 111-84, §1032(a)(2), added par. (2) and struck out former par. (2), which read as follows: “In preparing the parts of each such report required under subparagraphs (C), (D), (E), (F), and (G) of paragraph (1), the Secretary of Defense shall consult with the Secretary of State, the Secretary of Commerce, and the Secretary of Transportation.”

2003—Subsec. (d)(1)(C). Pub. L. 108-136, §914(a)(1), (2), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: “The most recent determination by the President regarding continued use of the selective availability feature of the system and the expected date of any change or elimination of the use of that feature.”

Subsec. (d)(1)(D). Pub. L. 108-136, §914(a)(3), redesignated subpar. (E) as (D) and substituted “Progress and challenges in” for “Any progress made toward”. Former subpar. (D) redesignated (C).

Subsec. (d)(1)(E). Pub. L. 108-136, §914(a)(4), added subpar. (E). Former subpar. (E) redesignated (D).

Subsec. (d)(1)(F). Pub. L. 108-136, §914(a)(4), added subpar. (F) and struck out former subpar. (F) which read as follows: “Any progress made toward protecting GPS from disruption and interference.”

Subsec. (d)(2). Pub. L. 108-136, §914(b), inserted “(C),” after “under subparagraphs”.

1999—Subsec. (d)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

LIMITATION ON USE OF FUNDS FOR PURCHASING GLOBAL POSITIONING SYSTEM USER EQUIPMENT

Pub. L. 111-383, div. A, title IX, §913, Jan. 7, 2011, 124 Stat. 4328, provided that:

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated or otherwise made available by this Act or any other Act for the Department of Defense may be obligated or expended to purchase user equipment for the Global Positioning System during fiscal years after fiscal year 2017 unless the equipment is capable of receiving the military code (commonly known as the ‘M code’) from the Global Positioning System.

“(b) EXCEPTION.—The limitation under subsection (a) shall not apply with respect to the purchase of passenger vehicles or commercial vehicles in which Global Positioning System equipment is installed.

“(c) WAIVER.—The Secretary of Defense may waive the limitation under subsection (a) if the Secretary determines that—

“(1) suitable user equipment capable of receiving the military code from the Global Positioning System is not available; or

“(2) with respect to a purchase of user equipment, the Department of Defense does not require that user equipment to be capable of receiving the military code from the Global Positioning System.”

AUTHORIZATION OF INTERAGENCY SUPPORT FOR GLOBAL POSITIONING SYSTEM

Pub. L. 106-405, §8, Nov. 1, 2000, 114 Stat. 1753, as amended by Pub. L. 109-364, div. A, title IX, §911, Oct. 17, 2006, 120 Stat. 2354, provided that: “The use of multi-

agency funding and other forms of support is hereby authorized for the functions and activities of the following organizations established pursuant to the United States Space-Based Position, Navigation, and Timing Policy issued December 8, 2004 (and any successor organization, to the extent the successor organization performs the functions of the specified organization):

“(1) The interagency committee known as the National Space-Based Positioning, Navigation, and Timing Executive Committee.

“(2) The support office for the committee specified in paragraph (1) known as the National Space-Based Positioning, Navigation, and Timing Coordination Office.

“(3) The Federal advisory committee known as the National Space-Based Positioning, Navigation, and Timing Advisory Board.”

ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM

Pub. L. 105-261, div. A, title II, §218, Oct. 17, 1998, 112 Stat. 1951, provided that:

“(a) POLICY ON PRIORITY FOR DEVELOPMENT OF ENHANCED GPS SYSTEM.—The development of an enhanced Global Positioning System is an urgent national security priority.

“(b) DEVELOPMENT REQUIRED.—To fulfill the requirements described in section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 243) [set out as a note below] and section 2281 of title 10, United States Code, the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (a). The enhanced Global Positioning System shall include the following elements:

“(1) An evolved satellite system that includes increased signal power and other improvements such as regional-level directional signal enhancements.

“(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

“(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

“(c) SENSE OF CONGRESS REGARDING FUNDING.—It is the sense of Congress that—

“(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System in accordance with the priority declared in subsection (a); and

“(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

“(d) PLAN FOR DEVELOPMENT OF ENHANCED GLOBAL POSITIONING SYSTEM.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (b).

“(e) DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—[Amended section 152(b) of Pub. L. 103-160, set out as a note below.]

“(f) FUNDING FROM AUTHORIZED APPROPRIATIONS FOR FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under section 201(3) [112 Stat. 1946], \$44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program.”

SUSTAINMENT AND OPERATION OF GLOBAL POSITIONING SYSTEM

Section 1074(a), (b) of Pub. L. 105-85 provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Global Positioning System (consisting of a constellation of satellites and associated facilities capable of providing users on earth with a highly precise statement of their location on earth) makes sig-

nificant contributions to the attainment of the national security and foreign policy goals of the United States, the safety and efficiency of international transportation, and the economic growth, trade, and productivity of the United States.

“(2) The infrastructure for the Global Positioning System (including both space and ground segments of the infrastructure) is vital to the effectiveness of United States and allied military forces and to the protection of the national security interests of the United States.

“(3) In addition to having military uses, the Global Positioning System has essential civil, commercial, and scientific uses.

“(4) As a result of the increasing demand of civil, commercial, and scientific users of the Global Positioning System—

“(A) there has emerged in the United States a new commercial industry to provide Global Positioning System equipment and related services to the many and varied users of the system; and

“(B) there have been rapid technical advancements in Global Positioning System equipment and services that have contributed significantly to reductions in the cost of the Global Positioning System and increases in the technical capabilities and availability of the system for military uses.

“(5) It is in the national interest of the United States for the United States—

“(A) to support continuation of the multiple-use character of the Global Positioning System;

“(B) to promote broader acceptance and use of the Global Positioning System and the technological standards that facilitate expanded use of the system for civil purposes;

“(C) to coordinate with other countries to ensure (i) efficient management of the electromagnetic spectrum used by the Global Positioning System, and (ii) protection of that spectrum in order to prevent disruption of signals from the system and interference with that portion of the electromagnetic spectrum used by the system; and

“(D) to encourage open access in all international markets to the Global Positioning System and supporting equipment, services, and techniques.

“(b) INTERNATIONAL COOPERATION.—Congress urges the President to promote the security of the United States and its allies, the public safety, and commercial interests by taking the following steps:

“(1) Undertaking a coordinated effort within the executive branch to seek to establish the Global Positioning System, and augmentations to the system, as a worldwide resource.

“(2) Seeking to enter into international agreements to establish signal and service standards that protect the Global Positioning System from disruption and interference.

“(3) Undertaking efforts to eliminate any barriers to, and other restrictions of foreign governments on, peaceful uses of the Global Positioning System.

“(4) Requiring that any proposed international agreement involving nonmilitary use of the Global Positioning System or any augmentation to the system not be agreed to by the United States unless the proposed agreement has been reviewed by the Secretary of State, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce (acting as the Interagency Global Positioning System Executive Board established by Presidential Decision Directive NSTC-6, dated March 28, 1996).”

ACCESS TO GLOBAL POSITIONING SYSTEM

Pub. L. 104-106, div. A, title II, §279, Feb. 10, 1996, 110 Stat. 243, provided that:

“(a) CONDITIONAL PROHIBITION ON USE OF SELECTIVE AVAILABILITY FEATURE.—Except as provided in subsection (b), after May 1, 1996, the Secretary of Defense may not (through use of the feature known as ‘selective availability’) deny access of non-Department of Defense users to the full capabilities of the Global Positioning System.

“(b) PLAN.—Subsection (a) shall cease to apply upon submission by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of a plan for enhancement of the Global Positioning System that provides for—

“(1) development and acquisition of effective capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system, together with a specific date by which those capabilities could be operational; and

“(2) development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption, together with a specific date by which those receivers and other techniques could be operational with United States military forces.”

LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED

Pub. L. 103-160, div. A, title I, §152(b), Nov. 30, 1993, 107 Stat. 1578, as amended by Pub. L. 105-261, div. A, title II, §218(e), Oct. 17, 1998, 112 Stat. 1952; Pub. L. 109-163, div. A, title II, §260(a), Jan. 6, 2006, 119 Stat. 3185, provided that: “After September 30, 2007, funds may not be obligated to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver.”

[Pub. L. 109-163, div. A, title II, §260(b), Jan. 6, 2006, 119 Stat. 3186, provided that: “The amendment made by subsection (a) [amending section 152(b) of Pub. L. 103-160, set out above] shall be deemed to have taken effect at the close of September 30, 2005, and any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act [Jan. 6, 2006] to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified with respect to the provision of law specified in subsection (a).”]

§ 2282. B-2 bomber: annual report

Not later than March 1 of each year through 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the B-2 bomber aircraft. Each such report shall include the following:

(1) Identification of the average full-mission capable rate of B-2 aircraft for the preceding fiscal year and the Secretary’s overall assessment of the implications of that full-mission capable rate on mission accomplishment for the B-2 aircraft, together with the Secretary’s determination as to whether that rate is adequate for the accomplishment of each of the missions assigned to the B-2 aircraft as of the date of the assessment.

(2) An assessment of the technical capabilities of the B-2 aircraft and whether these capabilities are adequate to accomplish each of the missions assigned to that aircraft as of the date of the assessment.

(3) Identification of all ongoing and planned development of technologies to enhance the capabilities of that aircraft.

(4) Identification and assessment of additional technologies that would make that aircraft more capable or survivable against known and evolving threats.

(5) A fiscally phased program for each technology identified in paragraphs (3) and (4) for the budget year and the future-years defense program, based on the following three funding situations:

(A) The President’s current budget.

(B) The President’s current budget and the current Department of Defense unfunded priority list.

(C) The maximum executable funding for the B-2 aircraft given the requirement to maintain enough operationally ready aircraft to accomplish missions assigned to the B-2 aircraft.

(Added Pub. L. 106-398, §1 [[div. A], title I, §131(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-28; amended Pub. L. 108-136, div. A, title X, §1031(a)(14), Nov. 24, 2003, 117 Stat. 1597.)

AMENDMENTS

2003—Pub. L. 108-136 inserted “through 2008” after “March 1 of each year” in introductory provisions.

CHAPTER 137—PROCUREMENT GENERALLY

Sec.	
[2301.	Repealed.]
2302.	Definitions.
2302a.	Simplified acquisition threshold.
2302b.	Implementation of simplified acquisition procedures.
2302c.	Implementation of electronic commerce capability.
2302d.	Major system: definitional threshold amounts.
2303.	Applicability of chapter.
[2303a.	Repealed.]
2304.	Contracts: competition requirements.
2304a.	Task and delivery order contracts: general authority.
2304b.	Task order contracts: advisory and assistance services.
2304c.	Task and delivery order contracts: orders.
2304d.	Task and delivery order contracts: definitions.
2304e.	Contracts: prohibition on competition between Department of Defense and small businesses and certain other entities.
2305.	Contracts: planning, solicitation, evaluation, and award procedures.
2305a.	Design-build selection procedures.
2306.	Kinds of contracts.
2306a.	Cost or pricing data: truth in negotiations.
2306b.	Multiyear contracts: acquisition of property.
2306c.	Multiyear contracts: acquisition of services.
2307.	Contract financing.
2308.	Buy-to-budget acquisition: end items.
2309.	Allocation of appropriations.
2310.	Determinations and decisions.
2311.	Assignment and delegation of procurement functions and responsibilities.
2312.	Remission of liquidated damages.
2313.	Examination of records of contractor.
2314.	Laws inapplicable to agencies named in section 2303 of this title.
2315.	Law inapplicable to the procurement of automatic data processing equipment and services for certain defense purposes.
2316.	Disclosure of identity of contractor.
[2317.	Repealed.]
2318.	Advocates for competition.
2319.	Encouragement of new competitors.
2320.	Rights in technical data.
2321.	Validation of proprietary data restrictions.
[2322.	Repealed.]
2323.	Contract goal for small disadvantaged businesses and certain institutions of higher education.