

(5) AIRCRAFT AIRWORTHINESS.—The Commandant shall cause all aircraft and aircraft engines acquired by the Coast Guard to be assessed for airworthiness by an independent third party with expertise in aircraft and aircraft engine certification before final acceptance.

(Added Pub. L. 111–281, title IV, § 402(a), Oct. 15, 2010, 124 Stat. 2944, § 573; amended Pub. L. 112–213, title II, § 210(c)(2)(B), Dec. 20, 2012, 126 Stat. 1551; Pub. L. 115–232, div. C, title XXXV, § 3522, Aug. 13, 2018, 132 Stat. 2314; renumbered § 1133 and amended Pub. L. 115–282, title I, §§ 108(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4208, 4240.)

Editorial Notes

REFERENCES IN TEXT

Section 1132(d)(1), referred to in subsec. (b)(1), was, prior to amendment of this section by Pub. L. 115–282, a reference to section 572(d)(1) of this title, which was redesignated section 572(f)(1) of this title by Pub. L. 114–120, title II, § 204(a)(1), Feb. 8, 2016, 130 Stat. 34. Section 572 of this title was renumbered section 1132 of this title by Pub. L. 115–282, title I, § 108(b)(2), Dec. 4, 2018, 132 Stat. 4208.

The date of enactment of the Coast Guard Authorization Act of 2010, referred to in subsec. (c)(3)(A), is the date of enactment of Pub. L. 111–281, which was approved Oct. 15, 2010.

AMENDMENTS

2018—Pub. L. 115–282, § 108(b), renumbered section 573 of this title as this section.

Subsec. (a). Pub. L. 115–282, § 123(b)(2), in introductory provisions, substituted “section 1131(a)(2)” for “section 571(a)(2)” and “section 1132(a)(1)” for “section 572(a)(1)”.

Subsec. (b)(1). Pub. L. 115–282, § 123(b)(2), substituted “section 1132(d)(1)” for “section 572(d)(1)”.

Subsec. (b)(3). Pub. L. 115–232, § 3522(1), substituted “ensure that independent third parties and Government employees that identify safety concerns” for “require that safety concerns identified” and “Coast Guard communicate such concerns as” for “Coast Guard shall be communicated as”.

Subsec. (b)(4). Pub. L. 115–232, § 3522(2), substituted “The Commandant shall ensure that any safety concerns that have been communicated under paragraph (3) for an acquisition program or project are reported” for “Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant”.

Subsec. (b)(5). Pub. L. 115–232, § 3522(3)(A), added introductory provisions and struck out former introductory provisions which read as follows: “If operational test and evaluation of a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—”.

Subsec. (b)(5)(A). Pub. L. 115–232, § 3522(3)(B), inserted “the Commandant, through the Assistant Commandant for Capability, shall” before “notify”.

Subsec. (b)(5)(B). Pub. L. 115–232, § 3522(3)(C), substituted “the Deputy Commandant for Mission Support shall notify the Commandant and the Deputy Commandant for Operations of the safety concern within 50 days after the notification required under subparagraph (A), and include in such notification” for “notify the Chief Acquisition Officer and include in such notification” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 115–232, § 3522(4)(A), struck out “and that are delivered after the date of enactment of the Coast Guard Authorization Act of 2010” after “TEMPEST certification”.

Subsec. (c)(5). Pub. L. 115–232, § 3522(4)(B), struck out “and delivered after the date of enactment of the Coast Guard Authorization Act of 2010” after “acquired by the Coast Guard”.

2012—Subsec. (c)(3)(B). Pub. L. 112–213 struck out subpar. (B). Text read as follows: “Not later than December 31, 2011, and biennially thereafter, the Commandant shall provide a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate identifying which, if any, Coast Guard cutters that have been issued a certificate of classification by the American Bureau of Shipping have not been maintained in class and detailing the reasons why they have not been maintained in class.”

Statutory Notes and Related Subsidiaries

NATIONAL SECURITY CUTTERS

Pub. L. 115–282, title III, § 311(f), Dec. 4, 2018, 132 Stat. 4249, provided that: “The Secretary of the department in which the Coast Guard is operating is authorized to enter into a multiyear contract for the procurement of a tenth, eleventh, and twelfth National Security Cutter and associated government-furnished equipment.”

Pub. L. 115–282, title VIII, § 818(a), Dec. 4, 2018, 132 Stat. 4307, provided that: “The Commandant of the Coast Guard may not certify an eighth National Security Cutter as Ready for Operations before the date on which the Commandant provides to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(1) a notification of a new standard method for tracking operational employment of Coast Guard major cutters that does not include time during which such a cutter is away from its homeport for maintenance or repair; and

“(2) a report analyzing cost and performance for different approaches to achieving varied levels of operational employment using the standard method required by paragraph (1) that, at a minimum—

“(A) compares over a 30-year period the average annualized baseline cost and performances for a certified National Security Cutter that operated for 185 days away from homeport or an equivalent alternative measure of operational tempo—

“(i) against the cost of a 15 percent increase in days away from homeport or an equivalent alternative measure of operational tempo for a National Security Cutter; and

“(ii) against the cost of the acquisition and operation of an additional National Security Cutter; and

“(B) examines the optimal level of operational employment of National Security Cutters to balance National Security Cutter cost and mission performance.”

§ 1134. Acquisition, production, deployment, and support

(a) IN GENERAL.—The Commandant shall—

(1) ensure there is a stable and efficient production and support capability to develop an asset or capability for the Coast Guard;

(2) conduct follow-on testing to confirm and monitor performance and correct deficiencies; and

(3) conduct acceptance tests and trials prior to the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

(b) ELEMENTS.—The Commandant shall—

(1) execute production contracts;

(2) ensure that delivered assets and capabilities meet operational cost and schedules re-

quirements established in the acquisition program baseline;

(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the assets or capabilities; and

(4) prepare an acquisition project or program transition plan to enter into programmatic sustainment, operations, and support.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2947, §574; renumbered §1134, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 574 of this title as this section.

§ 1135. Acquisition program baseline breach

(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

(b) CONTENT.—The report submitted under subsection (a) shall include—

(1) a detailed description of the breach and an explanation of its cause;

(2) the projected impact to performance, cost, and schedule;

(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

(4) the updated acquisition schedule and the complete history of changes to the original schedule;

(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

(7) a description of how progress in the remediation plan will be measured and monitored.

(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written determination, with a supporting explanation, of whether—

(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

(2) there are no alternatives to such capability or asset or capability or asset class that will provide equal or greater capability in both a more cost-effective and timely manner;

(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

(d) NOTICE TO CONGRESS WITH RESPECT TO BREACH OF CONTRACT.—Not later than 48 hours after the Commandant becomes aware that a major acquisition contract cannot be carried out under the terms specified in the contract, the Commandant shall provide a written notification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) a description of the terms of the contract that cannot be met; and

(2) an assessment of whether the applicable contract officer has issued a cease and desist order to the contractor based on the breach of such terms of the contract.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2947, §575; amended Pub. L. 115-232, div. C, title XXXV, §3533(g), Aug. 13, 2018, 132 Stat. 2321; renumbered §1135, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208; Pub. L. 116-283, div. G, title LVXXXII [LXXXII], §8221(b), Jan. 1, 2021, 134 Stat. 4657.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d). Pub. L. 116-283 added subsec. (d).

2018—Pub. L. 115-282 renumbered section 575 of this title as this section.

Subsec. (c). Pub. L. 115-232, in introductory provisions, substituted “determination, with a supporting explanation, of whether” for “certification, with a supporting explanation, that”.

§ 1136. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16¹ of the Office of Federal Procurement Policy

¹ See References in Text note below.