TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART IV - SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 131 - PLANNING AND COORDINATION

§ 2229. Strategic policy on prepositioning of materiel and equipment

(a) Policy Required.— The Secretary of Defense shall maintain a strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment. Such policy shall take into account national security threats, strategic mobility, service requirements, and the requirements of the combatant commands.

(b) Limitation of Diversion of Prepositioned Materiel.— The Secretary of a military department may not divert materiel or equipment from prepositioned stocks except—

1. in accordance with a change made by the Secretary of Defense to the policy maintained under subsection (a); or
2. for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of this title.

(c) Congressional Notification.— The Secretary of Defense may not implement or change the policy required under subsection (a) until the Secretary submits to the congressional defense committees a report describing the policy or change to the policy.

(d) Annual Certification.—

1. Not later than the date of the submission of the President’s budget request for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees certification in writing that the prepositioned stocks of each of the military departments meet all operations plans, in both fill and readiness, that are in effect as of the date of the submission of the certification.

2. If, for any year, the Secretary cannot certify that any of the prepositioned stocks meet such operations plans, the Secretary shall include with the certification for that year a list of the operations plans affected, a description of any measures that have been taken to mitigate any risk associated with prepositioned stock shortfalls, and an anticipated timeframe for the replenishment of the stocks.

3. A certification under this subsection shall be in an unclassified form but may have a classified annex.

Footnotes

1 So in original. Probably should be “a certification”.


Amendments


Deadline for Establishment of Policy


“(1) Deadline.—Not later than six months after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall establish the strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment required under section 2229 of title 10, United States Code, as added by subsection (a).

“(2) Limitation on diversion of prepositioned materiel.—During the period beginning on the date of the enactment of this Act [Oct. 17, 2006] and ending on the date on which the Secretary of Defense submits the report required under section 2229 (c) of title 10, United States Code, on the policy referred to in paragraph (1), the Secretary of a
military department may not divert materiel or equipment from prepositioned stocks except for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of that title.”

**Improving Department of Defense Support for Civil Authorities**


“(a) Consultation.—In the development of concept plans for the Department of Defense for providing support to civil authorities, the Secretary of Defense may consult with the Secretary of Homeland Security and State governments.

“(b) Prepositioning of Department of Defense Assets.—The Secretary of Defense may provide for the prepositioning of prepackaged or preidentified basic response assets, such as medical supplies, food and water, and communications equipment, in order to improve the ability of the Department of Defense to rapidly provide support to civil authorities. The prepositioning of basic response assets shall be carried out in a manner consistent with Department of Defense concept plans for providing support to civil authorities and section 2229 of title 10, United States Code, as added by section 351.

“(c) Reimbursement.—To the extent required by section 1535 of title 31, United States Code, or other applicable law, the Secretary of Defense shall require that the Department of Defense be reimbursed for costs incurred by the Department in the prepositioning of basic response assets under subsection (b).

“(d) Military Readiness.—The Secretary of Defense shall ensure that the prepositioning of basic response assets under subsection (b) does not adversely affect the military preparedness of the United States.

“(e) Procedures and Guidelines.—The Secretary may develop procedures and guidelines applicable to the prepositioning of basic response assets under subsection (b).”