



# It's The Law: Maintenance Related Statutes

The Intent  
The Law  
Service Reporting

DoD Sustainment Series  
August 16, 2022



# 10 USC Chapter 146 Major Maintenance Statutes



- 2460. Definition of depot-level maintenance and repair.**
- 2464. Core logistics capabilities.**
- 2466. Limitations on the performance of depot level maintenance of materiel. (50-50)**
  
- 2472. Prohibition on management of depot employees by end strength.**
- 2474. Centers of Industrial and Technical Excellence designation; Public-Private Partnerships.**
- 2476. Minimum capital investment for certain depots.**



# The Current Intent 10 USC Chapter 146



- 1. Provide an efficient, ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization national defense contingency situations, and other emergency requirements (2460, 2464, 2466, 2472)**
- 2. Government depots remain viable through reinvestment in depot infrastructure, equipment, and process improvement in direct support of depot operations (Partnering statutes, 2466, 2476)**

**The remaining statutes.....enable these two intentions**



# DoDD 5025.1

## DoD Issuances Program

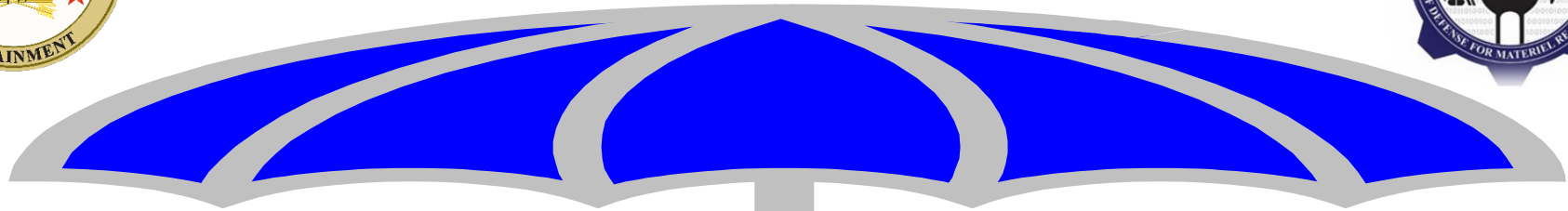


- **Law**
  - Authorized and appropriated by Congress
  - Signed by President into Law
- **DoD Directive**
  - provide policy required or authorized by statute, the President, or the Secretary of Defense to initiate, govern, or regulate actions or conduct by the DoD Components.
- **DoD Instruction**
  - implement policy, or prescribe a uniform method or delineate a specific plan of action for carrying out the policy, or provide directions or details for operating a program or activity; and assign responsibilities



# Maintenance of Military Materiel

## DoDD 4151.18



- § 2460. Definition of depot-level maintenance and repair.
- § 2464. Core logistics capabilities.
- § 2466. Limitations on the performance of depot level maintenance of materiel. (50-50)
- § 2474. Centers of Industrial and Technical Excellence designation; Public-Private Partnerships.
- § 2476. Minimum capital investment for certain depots.

### **Responses to National Defense**

### **Depot Viability and efficiency**

### **Supporting National Defense and/or Depot Viability**

- § 2461. Public-private competition required before conversion to contractor performance
- § 2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions
- § 2463. Guidelines and procedures for use of civilian employees to perform Department of Defense functions
- § 2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition
- § 2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies
- § 2472. Prohibition on management of depot employees by end strength
- § 2475. Consolidation, restructuring, or reengineering of organizations, functions, or activities: notification requirements



# Definition of Depot-Level Maintenance and Repair 10 U.S.C. § 2460



## Depot-level maintenance and repair is:

1. **Materiel maintenance or repair that;**
2. **Requires overhauling, upgrading, or rebuilding;**
3. **Parts, assemblies, or subassemblies.**

**And**

4. **Testing and reclamation of equipment as necessary for such materiel maintenance or repair.**

### ➤ **Depot-level maintenance and repair includes:**

- **All aspects of software maintenance classified by the DoD as maintenance and repair**
- **Interim contractor support and contractor logistics support (and similar contractor support) if such support is for depot-level maintenance and repair services**

### ➤ **Regardless of the source of funds**

### ➤ **Regardless of the location performed**

### ➤ **Exceptions:**

- **Procurement of major modifications or upgrades designed to improve performance**
- **Nuclear refueling or defueling of an aircraft carrier and any concurrent complex overhaul**
- **Procurement of parts for safety modification**



# Core Logistics Capabilities

## 10 U.S.C. § 2464



**The DoD shall maintain a core logistics capability that is:**

- **Government-owned and Government-operated;**
  - Including Government personnel and Government-owned and Government operated equipment and facilities
- **To ensure a ready and controlled source of technical competence and resources;**
- **Necessary to ensure effective and timely response to:**
  - A mobilization;
  - National defense contingency situations; and
  - Other emergency requirements
- **The Secretary of Defense shall identify:**
  - The core logistics capabilities; and
  - The workload required to maintain those capabilities (= core logistics workload)
- **Core logistics capability shall include those capabilities necessary to maintain and repair weapon systems and other military equipment necessary to enable the armed forces to fulfill the strategic and operational contingency plans prepared by the CJCS.**



# Core Logistics Capabilities 10 U.S.C. § 2464 (cont.)



- **Core logistics workload = workload necessary to maintain core logistics capability**
- **The Secretary of Defense shall require the performance of core logistics workloads necessary to maintain these core logistics capabilities:**
  - **At Government-owned, Government-operated facilities of the DoD (including Military Department facilities);**
  - **Shall assign such facilities sufficient workload to ensure cost efficiency and technical competence;**
  - **While preserving surge and reconstitution capabilities necessary to support strategic and contingency plans.**
- **Core logistics capability exceptions:**
  - **Special access programs**
  - **Nuclear aircraft carriers**
  - **Commercial Items (justified and reported to Congress)**





# Core Logistics Capabilities 10 U.S.C. § 2464 (cont.)



## ➤ **Biennial Core Report: each even-numbered year:**

- **Report, each even numbered year, identifying, for each of the armed forces, for the Fiscal Year (FY) after the FY during which the report is submitted, the following:**
  - **Core depot-level maintenance and repair capability requirements and projected sustaining workloads (by work breakdown structure (WBS) in direct labor hours (DLHs)**
  - **Workloads necessary to sustain core logistics capability requirements**
  - **Rationale for any and all shortfalls and a plan to correct or mitigate the effects of such shortfalls**
  - **Progress made on implementing mitigation plans developed for the previous reporting period**
  - **The actual workload executed for the previous reporting period**
  - **Any special interest item and an explanation for such designation**
  
- **As of December 31, 2021, the biennial core report is no longer required to be submitted to Congress**
  - **Section 1061(b)(1) and (c)(45) of the National Defense Authorization Act for FY 2017 (P.L. 114-238)**



## ➤ Percentage Limitation (aka, “the 50-50 rule”):

- Not more than 50 percent;
  - Of the funds made available to a Military Department or a Defense Agency;
  - For depot-level maintenance and repair workload;
  - May be used to contract for performance by non-Federal Government personnel.
  - No longer requires an annual report to Congress!
    - Section 1061(b)(1) and (c)(46) of the National Defense Authorization Act for FY 2017
- Any funds made available for depot-level maintenance and repair workload that are not used for contracts shall be used for the performance of depot-level maintenance and repair workload by DoD employees.
- SecDef may waive this limitation for reasons of national security.
  - Waiver authority may not be delegated.



## Three statutes governing the 50-50 rule:

- **10 U.S.C. § 2460, Definition of depot-level maintenance and repair**
  - Defines what is included and what is excluded from “depot-level maintenance and repair”
- **10 U.S.C. § 2466, Limitation on the performance of depot-level maintenance of materiel**
  - Establishes the 50 percent limit on contracting for depot maintenance by a Military Department or Defense Agency
- **10 U.S.C. § 2474(f), Centers of Industrial and Technical Excellence: designation; public-private partnerships**
  - Amounts expended for contractor performance of depot-level maintenance and repair workload at a Center of Industrial and Technical Excellence (CITE) are not counted for purposes of the 50 percent limitation (in 10 U.S.C. § 2466);
  - If the contractor personnel performing the depot-level maintenance and repair are provided by private industry or other entities pursuant to a public-private partnership.



# Service Reporting 2464 (Core)



- **Core Reporting Procedures in Depot Maintenance Core Capabilities Determination Process (DoDI 4151.20)**
- **DoD Policy**
  - **The core capability requirements determination process described in this issuance is used to identify required core capabilities and the workloads necessary to effectively sustain those capabilities.**
  - **The required core capabilities and depot maintenance workloads necessary to sustain those capabilities will be calculated by Military Services and then aggregated to determine the overall DoD core requirements.**
- **Core Reporting by Service Includes**
  - **Systems in the CJCS Strategic and Contingency Plans - how many platforms/weapons systems.**
  - **Peacetime Depot Level Hours (DLH) for platforms/weapon systems in CJCS Plans**
  - **Secondary Repairable DLHs for platforms/wea[on systems**
  - **Adjust for Surge Contingency Requirement and On Hand DLR Resources.**
  - **Interservice workloads accomplished for other services and sent to other services**
  - **Identify Redundant Requirements - Adjust the size of core capability requirement to an amount deemed sufficient to assure adequate depot maintenance support for strategic or contingency operations.**
  - **Total Adjusted Core Requirement**
  - **Core Sustaining Workload Determination - Total Public Sector Depot Maintenance Workload - this includes all interservice workloads, in and out.**
  - **Core Sustaining Workload Overages or Shortfalls**
  - **Estimated Cost of Workloads to Sustain Core Capability Requirement**



# Service Reporting

## 2466 (50-50)



- **All Costs for depot maintenance as defined in §2460 - limited to military materiel, including software that is integral to the operation of military materiel.**
  - **Reporting applies to all depot maintenance support requirements, regardless of the source or sponsor of the program.**
    - **Gather costs from Working Capital Fund (maintenance activities)**
    - **Program Offices that managed Depot maintenance Contracts (ICS/CLS/PBL/etc.)**
  - **Reporting applies to all funding sources and all customers budgeted or managed by the Military Department or Defense Agency.**
    - **Funding from other services is counted in their report**
  - **Reporting applies to all locations performing depot-level maintenance and repair (i.e., all maintenance and repair tasks designated or coded as depot-level that are performed in field or other non-depot locations).**
  - **Costs include all factors of production. Direct costs, indirect costs and overhead**
  - **Costs for acquisition of modifications and upgrades are excluded; however, installation of excluded modifications and upgrades is included when the installation is considered a depot-level service.**
- **Military Departments and Defense Agencies to validate the data submitted for the annual report to Congress required by title 10 U.S.C., section 2466, using internal audit agencies.**



# Service Reporting

## 2466 Partnering Exclusion



### ➤ Exclusion for CITE Partnering

- **Section 2474(f) of title 10, U.S. Code, excludes certain expenditures from the percentage limitations in section 2466(a). The section 2747(f) exclusion applies to the**
  - **The depot maintenance activity where the workload was performed must have been designated a Center of Industrial and Technical Excellence.**
  - **The workload must be pursuant to a public-private partnership for depot maintenance.**
  - **The workload must be performed by non-Federal Government personnel provided by private industry or other entities outside the Department of Defense.**
  - **Exclusions annotated in the report to congress**



# Questions