

“(d) SUBMISSION OF REPORTS.—The reports under subsections (b) and (c) shall be submitted to Congress not later than March 1, 1990.

“(e) DEFINITION.—For purposes of this section, the term ‘concurrency’ means the degree of overlap between the development and production processes of an acquisition program.”

§ 2400. Low-rate initial production of new systems

(a) DETERMINATION OF QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.—(1) In the course of the development of a major system, the determination of what quantity of articles of that system should be procured for low-rate initial production (including the quantity to be procured for preproduction verification articles) shall be made—

(A) when the milestone B decision with respect to that system is made; and

(B) by the official of the Department of Defense who makes that decision.

(2) In this section, the term “milestone B decision” means the decision to approve the system development and demonstration of a major system by the official of the Department of Defense designated to have the authority to make that decision.

(3) Any increase from a quantity determined under paragraph (1) may only be made with the approval of the official making the determination.

(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone B decision.

(5) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone B decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity. For purposes of this paragraph, the term “SAR” means a Selected Acquisition Report submitted under section 2432 of this title.

(b) LOW-RATE INITIAL PRODUCTION OF WEAPON SYSTEMS.—Except as provided in subsection (c), low-rate initial production with respect to a new system is production of the system in the minimum quantity necessary—

(1) to provide production-configured or representative articles for operational tests pursuant to section 2399 of this title;

(2) to establish an initial production base for the system; and

(3) to permit an orderly increase in the production rate for the system sufficient to lead to full-rate production upon the successful completion of operational testing.

(c) LOW-RATE INITIAL PRODUCTION OF NAVAL VESSEL AND SATELLITE PROGRAMS.—With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (1) preserves the mobilization production base for that system, and (2) is feasible, as determined pursuant to regulations prescribed by the Secretary of Defense.

(Added Pub. L. 101-189, div. A, title VIII, § 803(a), Nov. 29, 1989, 103 Stat. 1487; amended Pub. L. 103-355, title III, § 3015, Oct. 13, 1994, 108 Stat. 3332; Pub. L. 104-106, div. A, title X, § 1062(d), div. D, title XLIII, § 4321(b)(13), Feb. 10, 1996, 110 Stat. 444, 673; Pub. L. 107-107, div. A, title VIII, § 821(c), Dec. 28, 2001, 115 Stat. 1182.)

PRIOR PROVISIONS

A prior section 2400 was renumbered section 2534 of this title.

AMENDMENTS

2001—Subsec. (a)(1)(A). Pub. L. 107-107, § 821(c)(1), substituted “milestone B” for “milestone II”.

Subsec. (a)(2). Pub. L. 107-107 substituted “milestone B” for “milestone II” and “system development and demonstration” for “engineering and manufacturing development”.

Subsec. (a)(4), (5). Pub. L. 107-107, § 821(c)(1), substituted “milestone B” for “milestone II”.

1996—Subsec. (a)(5). Pub. L. 104-106, § 4321(b)(13), substituted “this paragraph” for “the preceding sentence”.

Subsec. (c). Pub. L. 104-106, § 1062(d), struck out “(1)” before “With respect to”, redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and struck out former par. (2) which read as follows: “For each naval vessel program and military satellite program, the Secretary of Defense shall submit to Congress a report providing—

“(A) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity;

“(B) a test and evaluation master plan for that program; and

“(C) an acquisition strategy for that program that has been approved by the Secretary, to include the procurement objectives in terms of total quantity of articles to be procured and annual production rates.”

1994—Subsec. (a)(2). Pub. L. 103-355, § 3015(1), substituted “this section” for “paragraph (1)” and “engineering and manufacturing development” for “full-scale engineering development”.

Subsec. (a)(4). Pub. L. 103-355, § 3015(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (a)(5). Pub. L. 103-355, § 3015(2), redesignated par. (4) as (5) and inserted after first sentence “If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity.”

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(13) of Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2302 of this title.

§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles

(a)(1) The Secretary of a military department may make a contract for the lease of a vessel, aircraft, or combat vehicle or for the provision of a service through use by a contractor of a vessel, aircraft, or combat vehicle only as provided in subsection (b) if—

(A) the contract will be a long-term lease or charter; or

(B) the terms of the contract provide for a substantial termination liability on the part of the United States.

(2) The Secretary of a military department may make a contract that is an agreement to