

Subsec. (c)(4). Pub. L. 100-26, §7(a)(9)(C), substituted “the decision by an appropriate official of the Department of Defense approving” for “approval by an appropriate official of the Department of Defense for”.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(1)(A) of Pub. L. 100-26 applicable as if included in Pub. L. 99-661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100-26, set out as a note under section 776 of this title.

#### PERFORMANCE REVIEW PROCESS

Pub. L. 106-65, div. A, title IX, §913(b), Oct. 5, 1999, 113 Stat. 720, provided that: “Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of Defense shall develop an appropriate performance review process for rating the quality and relevance of work performed by the Department of Defense laboratories. The process shall include customer evaluation and peer review by Department of Defense personnel and appropriate experts from outside the Department of Defense. The process shall provide for rating all laboratories of the Army, Navy, and Air Force on a consistent basis.”

#### COORDINATION OF HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT

Pub. L. 100-180, div. A, title II, §218(b)(2), Dec. 4, 1987, 101 Stat. 1053, as amended by Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: “The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

“(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

“(B) ensure that such research and development—

“(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Institute of Standards and Technology, and the National Aeronautics and Space Administration; and

“(ii) complements rather than duplicates such activities.”

#### COORDINATION OF RESEARCH ACTIVITIES OF DEPARTMENT OF DEFENSE

Pub. L. 99-661, div. A, title II, §234(a), (b), Nov. 14, 1986, 100 Stat. 3848, provided that:

“(a) PURPOSE.—The purpose of this section is to strengthen coordination among Department of Defense research facilities and other organizations in the Department of Defense.

“(b) FINDINGS.—The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary—

“(1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems; and

“(2) to avoid unnecessary and costly duplication of research staffs and projects.”

### § 2365. Global Research Watch Program

(a) PROGRAM.—The Assistant Secretary of Defense for Research and Engineering shall carry out a Global Research Watch program in accordance with this section.

(b) PROGRAM GOALS.—The goals of the program are as follows:

(1) To monitor and analyze the basic and applied research activities and capabilities of

foreign nations and private sector persons in areas of military interest, including allies and competitors.

(2) To provide standards for comparison and comparative analysis of research capabilities of foreign nations and private sector persons in relation to the research capabilities of the United States.

(3) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

(4) To identify areas where significant opportunities for cooperative research may exist.

(5) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

(6) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

(c) FOCUS OF PROGRAM.—The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.

(d) COORDINATION.—(1) The Assistant Secretary shall coordinate the program with the international cooperation and analysis activities of the military departments and Defense Agencies.

(2) The Secretaries of the military departments and the directors of the Defense Agencies shall provide the Assistant Secretary of Defense for Research and Engineering such assistance as the Assistant Secretary may require for purposes of the program.

(3)(A) Funds available to a military department for a fiscal year for monitoring or analyzing the research activities and capabilities of foreign nations may not be obligated or expended until the Assistant Secretary certifies to the Under Secretary of Defense for Acquisition, Technology, and Logistics that the Secretary of such military department has provided the assistance required under paragraph (2).

(B) The limitation in subparagraph (A) shall not be construed to alter or effect the availability to a military department of funds for intelligence activities.

(e) CLASSIFICATION OF DATABASE INFORMATION.—Information in electronic databases of the Global Research Watch program shall be maintained in unclassified form and, as determined necessary by the Assistant Secretary, in classified form in such databases.

(f) TERMINATION.—The requirement to carry out the program under this section shall terminate on September 30, 2025.

(Added Pub. L. 108-136, div. A, title II, §231(a), Nov. 24, 2003, 117 Stat. 1421; amended Pub. L. 109-364, div. A, title II, §232, Oct. 17, 2006, 120 Stat. 2134; Pub. L. 111-84, div. A, title II, §211, Oct. 28, 2009, 123 Stat. 2225; Pub. L. 111-383, div. A, title IX, §901(j)(3), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112-239, div. A, title X, §1076(c)(2)(B), Jan. 2, 2013, 126 Stat. 1950; Pub. L. 114-92, div. A, title II, §215, Nov. 25, 2015, 129 Stat. 769.)

#### PRIOR PROVISIONS

A prior section 2365, added Pub. L. 99-500, §101(c) [title X, §909(a)(1), formerly §909(a)], Oct. 18, 1986, 100

Stat. 1783–82, 1783–142, and Pub. L. 99–591, §101(c) [title X, §909(a)(1), formerly §909(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–142, redesignated §909(a)(1), Pub. L. 100–26, §4(b), Apr. 21, 1987, 101 Stat. 274; Pub. L. 99–661, div. A, title IX, formerly title IV, §909(a)(1), Nov. 14, 1986, 100 Stat. 3921, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, §5(3)(A), Apr. 21, 1987, 101 Stat. 274; Pub. L. 100–456, div. A, title VIII, §802, Sept. 29, 1988, 102 Stat. 2008, required use of competitive prototype program strategy in development of major weapons systems, prior to repeal by Pub. L. 102–484, div. A, title VIII, §821(c)(1), Oct. 23, 1992, 106 Stat. 2460.

#### AMENDMENTS

2015—Subsec. (b)(1), (2). Pub. L. 114–92, §215(1), inserted “and private sector persons” after “foreign nations”.

Subsec. (f). Pub. L. 114–92, §215(2), substituted “September 30, 2025” for “September 30, 2015”.

2013—Subsec. (a). Pub. L. 112–239, §1076(c)(2)(B)(i), inserted “of Defense for Research and Engineering” after “The Assistant Secretary”.

Subsec. (d)(3)(A). Pub. L. 112–239, §1076(c)(2)(B)(ii), substituted “Assistant Secretary” for “Director”.

2011—Subsec. (a). Pub. L. 111–383, §901(j)(3)(A), substituted “Assistant Secretary” for “Director of Defense Research and Engineering”.

Subsec. (d)(1). Pub. L. 111–383, §901(j)(3)(B), substituted “Assistant Secretary” for “Director”.

Subsec. (d)(2). Pub. L. 111–383, §901(j)(3)(C), substituted “Assistant Secretary of Defense for Research and Engineering” for “Director of Defense Research and Engineering” and “Assistant Secretary may” for “Director may”.

Subsec. (e). Pub. L. 111–383, §901(j)(3)(D), substituted “Assistant Secretary” for “Director”.

2009—Subsec. (d)(3). Pub. L. 111–84, §211(a), added par. (3).

Subsec. (f). Pub. L. 111–84, §211(b), substituted “2015” for “2011”.

2006—Subsec. (f). Pub. L. 109–364 substituted “2011” for “2006”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

### § 2366. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production

(a) REQUIREMENTS.—(1) The Secretary of Defense shall provide that—

(A) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection; and

(B) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection.

(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until—

(A) in the case of a product improvement to a covered system, realistic survivability testing is completed in accordance with this section; and

(B) in the case of a product improvement to a major munitions program or a missile program, realistic lethality testing is completed in accordance with this section.

(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program (including a covered product improvement program) to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile (or in the product modification or upgrade to the system, munition, or missile) before proceeding beyond low-rate initial production.

(2) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

(c) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary determines that live-fire testing of such system or program would be unreasonably expensive and impractical and submits a certification of that determination to Congress—

(A) before Milestone B approval for the system or program; or

(B) in the case of a system or program initiated at—

(i) Milestone B, as soon as is practicable after the Milestone B approval; or

(ii) Milestone C, as soon as is practicable after the Milestone C approval.

(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and sub-assemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters system development and demonstration, that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.

(3) The Secretary shall include with any certification under paragraph (1) or (2) a report explaining how the Secretary plans to evaluate the survivability or the lethality of the system or program and assessing possible alternatives to realistic survivability testing of the system or program.

(4) In time of war or mobilization, the President may suspend the operation of any provision of this section.

(d) REPORTING TO CONGRESS.—(1) At the conclusion of survivability or lethality testing under subsection (a), the Secretary of Defense shall submit a report on the testing to the con-