

124 Stat. 4319; Pub. L. 113–291, div. A, title IX, §901(h)(1)(C), (D), Dec. 19, 2014, 128 Stat. 3466, related to Assistant Secretary of Defense for Logistics and Materiel Readiness.

Section 138b, added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92–596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99–348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99–433, title I, §105, Oct. 1, 1986, 100 Stat. 997; Pub. L. 99–500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103–160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104–106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106–65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L. 107–314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111–23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111–383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112–239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867; Pub. L. 113–291, div. A, title IX, §901(h)(2)(C), Dec. 19, 2014, 128 Stat. 3466, related to Assistant Secretary of Defense for Research and Engineering.

**[§ 138c. Repealed. Pub. L. 113–291, div. A, title IX, §901(g)(2), Dec. 19, 2014, 128 Stat. 3466]**

Section, added Pub. L. 110–417, [div. A], title IX, §902(a), Oct. 14, 2008, 122 Stat. 4564, §139b; renumbered §138c and amended Pub. L. 111–383, div. A, title IX, §901(b)(7), (k)(1)(C), Jan. 7, 2011, 124 Stat. 4320, 4325; Pub. L. 112–81, div. A, title III, §311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 112–239, div. A, title X, §1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113–66, div. A, title III, §311, Dec. 26, 2013, 127 Stat. 728; Pub. L. 113–291, div. A, title IX, §901(g)(1)(B), (D), Dec. 19, 2014, 128 Stat. 3464, 3465, related to Assistant Secretary of Defense for Operational Energy Plans and Programs.

**[§ 138d. Repealed. Pub. L. 113–291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]**

Section, added Pub. L. 100–180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104–106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110–417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111–383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325, related to Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

**§ 139. Director of Operational Test and Evaluation**

(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(2) In this section:

(A) The term “operational test and evaluation” means—

(i) the field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and

(ii) the evaluation of the results of such test.

(B) The term “major defense acquisition program” means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title or that is designated as such a program by the Director for purposes of this section.

(b) The Director is the principal adviser to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering on operational test and evaluation in the Department of Defense and the principal operational test and evaluation official within the senior management of the Department of Defense. The Director shall—

(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of operational test and evaluation in the Department of Defense;

(2) provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;

(3) monitor and review all operational test and evaluation in the Department of Defense;

(4) coordinate operational testing conducted jointly by more than one military department or defense agency;

(5) review and make recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities and equipment, in the Department of Defense; and

(6) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.

(c) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Director shall consult closely with, but the Director and the Director’s staff are independent of, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and all other officers and entities of the Department of Defense responsible for acquisition.

(d) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.