

**Statutory Notes and Related Subsidiaries**

## ISSUANCE OF INSTRUCTION OR DIRECTIVE

Pub. L. 114–328, div. A, title X, §1065(b), Dec. 23, 2016, 130 Stat. 2410, provided that: “The Secretary of Defense shall—

“(1) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], issue a Department of Defense Instruction or a Department of Defense Directive to carry out section 488(a) of title 10, United States Code, as amended by subsection (a); and

“(2) upon the date of the issuance of the instruction or directive issued under paragraph (1), submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] such instruction or directive.”

**[§ 489. Repealed. Pub. L. 113–291, div. A, title III, § 331(a), Dec. 19, 2014, 128 Stat. 3344]**

Section, added Pub. L. 108–375, div. A, title X, §1033(a), Oct. 28, 2004, 118 Stat. 2047, related to annual report on Department of Defense operation and financial support for military museums.

**[§ 490. Repealed. Pub. L. 112–81, div. A, title X, § 1061(10)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, added Pub. L. 110–181, div. A, title IX, §912(a), Jan. 28, 2008, 122 Stat. 280; amended Pub. L. 111–84, div. A, title X, §1073(a)(6), Oct. 28, 2009, 123 Stat. 2472, related to management of space cadre personnel and submission of a biennial report.

**[§ 490a. Renumbered § 492]****CHAPTER 24—NUCLEAR POSTURE**

Sec.

- 491. Nuclear weapons employment strategy of the United States: reports on modification of strategy.
- 492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system.
- 492a. Annual report on the plan for the nuclear weapons stockpile, nuclear weapons complex, nuclear weapons delivery systems, and nuclear weapons command and control system.
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- 499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces.
- 499b. Participation in United States Strategic Command strategic deterrence exercises.

**Editorial Notes**

## AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVI, §1631, Dec. 27, 2021, 135 Stat. 2089, added item 499b.

2019—Pub. L. 116–92, div. A, title XVI, §1665(c)(2), Dec. 20, 2019, 133 Stat. 1774, added item 492a.

2017—Pub. L. 115–91, div. A, title XVI, §§1651(b), 1652(b), Dec. 12, 2017, 131 Stat. 1757, 1758, added items 499 and 499a.

2013—Pub. L. 113–66, div. A, title X, §1051(b)(2), Dec. 26, 2013, 127 Stat. 859, added item 497a.

Pub. L. 112–239, div. A, title X, §§1031(b)(1), (3)(C)(i), 1033(b)(2)(A), 1035(b), 1036(b), 1037(b)(2), 1038(b), Jan. 2, 2013, 126 Stat. 1918, 1919, 1921, 1924, 1925, 1927, added chapter heading and items 491 to 498.

**§ 491. Nuclear weapons employment strategy of the United States: reports on modification of strategy**

(a) REPORTS.—By not later than 60 days before the date on which the President implements a nuclear weapons employment strategy of the United States that differs from the nuclear weapons employment strategy of the United States then in force, the President shall submit to Congress a report setting forth the following:

(1) A description of the modifications to the nuclear weapons employment strategy, plans, and options of the United States made by the strategy so issued.

(2) An assessment of effects of such modification for the nuclear posture of the United States.

(3) The implication of such changes on the flexibility and resilience of the strategic forces of the United States and the ability of such forces to support the goals of the United States with respect to nuclear deterrence, extended deterrence, assurance, and defense.

(4) The extent to which such modifications include an increased reliance on conventional or non-nuclear global strike capabilities or missile defenses of the United States.

(b) ANNUAL BRIEFINGS.—Not later than March 15 of each year, the Secretary of Defense shall provide to the congressional defense committees a briefing regarding the nuclear weapons employment strategy, plans, and options of the United States.

(c) REPORTS ON 2010 NUCLEAR POSTURE REVIEW IMPLEMENTATION STUDY DECISIONS.—During each of fiscal years 2012 through 2021, not later than 60 days before the date on which the President carries out the results of the decisions made pursuant to the 2010 Nuclear Posture Review Implementation Study that would alter the nuclear weapons employment strategy, guidance, plans, or options of the United States, the President shall—

(1) ensure that the annual report required under section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is transmitted to Congress, if so required;

(2) ensure that the report required under section 494(a)(2)(A) of this title is transmitted to Congress, if so required under such section; and

(3) transmit to the congressional defense committees a report providing the high-, medium-, and low- confidence assessments of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) as to whether the United States will have significant warning of a stra-

tegic surprise or breakout caused by foreign nuclear weapons developments.

(Added Pub. L. 112–81, div. A, title X, § 1046(b)(1), Dec. 31, 2011, 125 Stat. 1579; amended Pub. L. 112–239, div. A, title X, §§ 1031(a), 1032, Jan. 2, 2013, 126 Stat. 1917, 1919; Pub. L. 113–66, div. A, title X, § 1052(b), Dec. 26, 2013, 127 Stat. 861; Pub. L. 113–291, div. A, title X, § 1071(c)(10), Dec. 19, 2014, 128 Stat. 3509.)

### Editorial Notes

#### CODIFICATION

Section was formerly part of chapter 23 of this title, prior to being transferred to this chapter by Pub. L. 112–239, § 1031(a)(1).

#### REFERENCES IN TEXT

Section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012, referred to in subsec. (c)(1), is section 1043(a)(1) of title X of Pub. L. 112–81, div. A, Dec. 31, 2011, 125 Stat. 1579, which is not classified to the Code.

#### AMENDMENTS

2014—Subsec. (c)(3). Pub. L. 113–291 substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))”.

2013—Pub. L. 112–239, § 1031(a)(2)(A)–(D), inserted “weapons” after “Nuclear” in section catchline, substituted “nuclear weapons employment strategy” for “nuclear employment strategy” in two places in introductory provisions and “to the nuclear weapons employment strategy, plans, and options of” for “to nuclear employment strategy of” in par. (1), and added par. (4).

Subsec. (a). Pub. L. 112–239, § 1032(a), substituted “By not later than 60 days before the date on which the President implements” for “On the date on which the President issues” in introductory provisions.

Pub. L. 112–239, § 1031(a)(2)(E), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 112–239, § 1031(a)(2)(F), added subsec. (b).

Subsec. (c). Pub. L. 113–66, § 1052(b), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows:

“(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system of the United States that is reported to the Secretary of Defense or the Nuclear Weapons Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

“(2) In this subsection, the term ‘anomaly’ means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.”

Pub. L. 112–239, § 1031(a)(2)(F), added subsec. (c).

Subsec. (d). Pub. L. 113–66, § 1052(b)(2), redesignated subsec. (d) as (c).

Pub. L. 112–239, § 1032(b), added subsec. (d).

### Statutory Notes and Related Subsidiaries

#### PLAN TO TRAIN OFFICERS IN NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS

Pub. L. 115–232, div. A, title XVI, § 1668, Aug. 13, 2018, 132 Stat. 2156, provided that:

“(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of the Air Force, the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the Commander of the United States Strategic Command, shall develop a plan to train, educate, manage, and track officers of the Armed Forces in nuclear command, control, and communications.

“(b) ELEMENTS.—The plan required by subsection (a) shall address—

“(1) manpower requirements at various grades;

“(2) desired career paths and promotion timing; and

“(3) any other matters the Secretary of Defense considers relevant to develop a mature cadre of officers with nuclear command, control, and communications expertise.

“(c) SUBMISSION OF PLAN.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan required by subsection (a).

“(d) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall implement the plan required by subsection (a).”

#### ESTABLISHMENT OF NUCLEAR COMMAND AND CONTROL INTELLIGENCE FUSION CENTER

Pub. L. 115–91, div. A, title XVI, § 1655, Dec. 12, 2017, 131 Stat. 1760, provided that:

“(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense and the Director of National Intelligence shall jointly establish an intelligence fusion center to effectively integrate and unify the protection of nuclear command, control, and communications programs, systems, and processes and continuity of government programs, systems, and processes.

“(b) CHARTER.—In establishing the fusion center under subsection (a), the Secretary and the Director shall develop a charter for the fusion center that includes the following:

“(1) To carry out the duties of the fusion center, a description of—

“(A) the roles and responsibilities of officials and elements of the Federal Government, including a detailed description of the organizational relationships of such officials and the elements of the Federal Government that are key stakeholders;

“(B) the organization reporting chain of the fusion center;

“(C) the staffing of the fusion center;

“(D) the processes of the fusion center; and

“(E) how the fusion center integrates with other elements of the Federal Government.

“(2) The management and administration processes required to carry out the fusion center, including with respect to facilities and security authorities.

“(3) Procedures to ensure that the appropriate number of staff of the fusion center have the security clearance necessary to access information on the programs, systems, and processes that relate, either wholly or substantially, to nuclear command, control, and communications or continuity of government, including with respect to both the programs, systems, and processes that are designated as special access programs (as described in section 4.3 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor Executive order) and the programs, systems, and processes that contain sensitive compartmented information.

“(c) COORDINATION.—In establishing the fusion center under subsection (a), the Secretary and the Director shall coordinate with the elements of the Federal Government that the Secretary and Director determine appropriate.

“(d) REPORTS.—

“(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary and the Director shall jointly submit to the appropriate congressional committees a report containing—

“(A) the charter for the fusion center developed under subsection (b); and

“(B) a plan on the budget and staffing of the fusion center.

“(2) ANNUAL REPORTS.—At the same time as the President submits to Congress the annual budget request under section 1105 of title 31, United States Code, for fiscal year 2019 and each fiscal year there-

after, the Secretary and the Director shall submit to the appropriate congressional committees a report on the fusion center, including, with respect to the period covered by the report—

“(A) any updates to the plan on the budget and staffing of the fusion center;

“(B) any updates to the charter developed under subsection (b); and

“(C) a summary of the activities and accomplishments of the fusion center.

“(3) SUNSET.—No report is required under this subsection after December 31, 2021.

“(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

SECURITY OF NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM FROM COMMERCIAL DEPENDENCIES

Pub. L. 115-91, div. A, title XVI, §1656, Dec. 12, 2017, 131 Stat. 1761, provided that:

“(a) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall certify to the congressional defense committees whether the Secretary uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, to carry out—

“(1) the nuclear deterrence mission of the Department of Defense, including with respect to nuclear command, control, and communications, integrated tactical warning and attack assessment, and continuity of government; or

“(2) the homeland defense mission of the Department, including with respect to ballistic missile defense.

“(b) PROHIBITION AND MITIGATION.—

“(1) PROHIBITION.—Except as provided by paragraph (2), beginning on the date that is one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense may not procure or obtain, or extend or renew a contract to procure or obtain, any equipment, system, or service to carry out the missions described in paragraphs (1) and (2) of subsection (a) that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

“(2) WAIVER.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis for a single one-year period if the Secretary—

“(A) determines such waiver to be in the national security interests of the United States; and

“(B) certifies to the congressional committees that—

“(i) there are sufficient mitigations in place to guarantee the ability of the Secretary to carry out the missions described in paragraphs (1) and (2) of subsection (a); and

“(ii) the Secretary is removing the use of covered telecommunications equipment or services in carrying out such missions.

“(3) DELEGATION.—The Secretary may not delegate the authority to make a waiver under paragraph (2) to any official other than the Deputy Secretary of Defense or the co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of title 10, United States Code.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘congressional defense committees’ has the meaning given that term in section 101(a)(16) of title 10, United States Code.

“(2) The term ‘covered foreign country’ means any of the following:

“(A) The People’s Republic of China.

“(B) The Russian Federation.

“(3) The term ‘covered telecommunications equipment or services’ means any of the following:

“(A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

“(B) Telecommunications services provided by such entities or using such equipment.

“(C) Telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.”

SECURITY CLASSIFICATION GUIDE FOR PROGRAMS RELATING TO NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND NUCLEAR DETERRENCE

Pub. L. 115-91, div. A, title XVI, §1658, Dec. 12, 2017, 131 Stat. 1763, provided that:

“(a) REQUIREMENT FOR SECURITY CLASSIFICATION GUIDE.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall require the issuance of a security classification guide for each covered program to ensure the protection of sensitive information from public disclosure.

“(b) REQUIREMENTS.—Each security classification guide issued pursuant to subsection (a) shall be—

“(1) approved by—

“(A) the Council on Oversight of the National Leadership Command, Control, and Communications System with respect to covered programs under paragraph (1) or (2) of subsection (c) [probably should be “subsection (e)”]; or

“(B) the Nuclear Weapons Council with respect to covered programs under paragraph (3) of such subsection; and

“(2) issued not later than March 19, 2019, with respect to a covered program in existence as of such date.

“(c) ANNUAL NOTIFICATIONS.—On an annual basis during the three-year period beginning on the date of the enactment of this Act [Dec. 12, 2017], the Deputy Secretary of Defense, without delegation, shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the status of implementing subsection (a), including a description of any challenges to such implementation.

“(d) EXCLUSION.—This section shall not apply with respect to restricted data covered by chapter 12 of the Atomic Energy Act of 1954 (42 U.S.C. 2161 et seq.).

“(e) COVERED PROGRAM DEFINED.—In this section, the term ‘covered program’ means programs of the Department of Defense in existence on or after the date of the enactment of this Act [Dec. 12, 2017] relating to any of the following:

“(1) Continuity of government.

“(2) Nuclear command, control, and communications.

“(3) Nuclear deterrence.”

EVALUATION AND ENHANCED SECURITY OF SUPPLY CHAIN FOR NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND CONTINUITY OF GOVERNMENT PROGRAMS

Pub. L. 115-91, div. A, title XVI, §1659, Dec. 12, 2017, 131 Stat. 1764, provided that:

“(a) EVALUATIONS OF SUPPLY CHAIN VULNERABILITIES.—

“(1) IN GENERAL.—Not later than December 31, 2019, and in accordance with the plan under paragraph (2)(A), the Secretary of Defense shall conduct evaluations of the supply chain vulnerabilities of each covered program.

“(2) PLAN.—

“(A) DEVELOPMENT.—The Secretary shall develop a plan to carry out the evaluations under paragraph

(1), including with respect to the personnel and resources required to carry out such evaluations.

“(B) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the plan under subparagraph (A).

“(3) WAIVER.—The Secretary may waive, on a case-by-case basis with respect to a weapons system, a program, or a system of systems, of a covered program, either the requirement to conduct an evaluation under paragraph (1) or the deadline specified in such paragraph if the Secretary certifies to the congressional defense committees before such date that all known supply chain vulnerabilities of such weapons system, program, or system of systems have minimal consequences for the capability of such weapons system, program, or system of systems to meet operational requirements or otherwise satisfy mission requirements.

“(4) RISK MITIGATION STRATEGIES.—In carrying out an evaluation under paragraph (1) with respect to a covered program specified in subparagraph (B) or (C) of subsection (c)(2), the Secretary shall develop strategies for mitigating the risks of supply chain vulnerabilities identified in the course of such evaluation.

“(b) PRIORITIZATION OF CERTAIN SUPPLY CHAIN RISK MANAGEMENT EFFORTS.—

“(1) INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall issue a Department of Defense Instruction, or update such an Instruction, establishing the prioritization of supply chain risk management programs, including supply chain risk management threat assessment reporting, to ensure that acquisition and sustainment programs relating to covered programs receive the highest priority of such supply chain risk management programs and reporting.

“(2) REQUIREMENTS.—

“(A) ESTABLISHMENT.—The Secretary shall establish requirements to carry out supply chain risk management threat assessment collections and analyses under acquisition and sustainment programs relating to covered programs.

“(B) SUBMISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees the requirements established under subparagraph (A).

“(c) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘covered programs’ means programs relating to any of the following:

“(A) Nuclear weapons.

“(B) Nuclear command, control, and communications.

“(C) Continuity of government.

“(D) Ballistic missile defense.”

#### STATEMENT OF POLICY ON THE NUCLEAR TRIAD

Pub. L. 114–92, div. A, title XVI, §1664, Nov. 25, 2015, 129 Stat. 1128, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the triad of strategic nuclear delivery systems plays a critical role in ensuring the national security of the United States; and

“(2) retaining all three legs of the nuclear triad is among the highest priorities of the Department of Defense and will best maintain strategic stability at a reasonable cost, while hedging against potential technical problems and vulnerabilities.

“(b) STATEMENT OF POLICY.—It is the policy of the United States—

“(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

“(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise missiles;

“(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

“(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

“(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

“(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent;

“(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members; and

“(5) to achieve a modern and responsive nuclear infrastructure to support the full spectrum of deterrence requirements.”

Pub. L. 113–291, div. A, title XVI, §1652, Dec. 19, 2014, 128 Stat. 3654, provided that: “It is the policy of the United States—

“(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

“(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise missiles;

“(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

“(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

“(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

“(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent; and

“(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members.”

#### Executive Documents

##### DELEGATION OF REPORTING FUNCTIONS SPECIFIED IN SECTION 491 OF TITLE 10, UNITED STATES CODE

Memorandum of President of the United States, June 19, 2013, 78 F.R. 37923, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting functions conferred upon the President by section 491 of title 10, United States Code.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

#### § 492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system

(a) BIENNIAL ASSESSMENTS.—(1) For each even-numbered year, each covered official shall assess