

[§ 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 Repealed.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 Repealed.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 4201 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 con-

duct 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 4172 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.

(e)(1) The Secretary of a military department shall report promptly to the Director the results of all operational test and evaluation conducted by the military department and of all studies conducted by the military department in connection with operational test and evaluation in the military department.

(2) The Director may require that such observers as he designates be present during the preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

(3) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out his duties under this section.

(4) The Director shall have prompt access to all data regarding modeling and simulation activity proposed to be used by military departments and defense agencies in support of operational or live fire test and evaluation of military capabilities. This access shall include data associated with verification, validation, and accreditation activities.

(f)(1) The Director of the Missile Defense Agency shall make available to the Director of