

§ 2926. Operational energy

(a) OPERATIONAL ENERGY POLICY.—In carrying out section 2911(a) of this title, the Secretary of Defense shall ensure the types, availability, and use of operational energy promote the readiness of the armed forces for their military missions in contested logistics environments.

(b) RESPONSIBILITIES.—The Secretary of Defense shall—

(1) require the Secretaries concerned and the commanders of the combatant commands to assess the energy supportability in contested logistics environments of systems, capabilities, and plans;

(2) authorize the use of energy security, cost of backup power, supportability in contested logistics environments, and energy resilience as factors in the cost-benefit analysis for procurement of operational equipment; and

(3) in selecting equipment that will use operational energy, give favorable consideration to the acquisition of equipment that enhances energy security, energy resilience, energy conservation, and reduces logistical vulnerabilities in contested logistics environments.

(c) FUNCTIONS OF THE ASSISTANT SECRETARY OF DEFENSE FOR ENERGY, INSTALLATIONS, AND ENVIRONMENT.—The Assistant Secretary of Defense for Energy, Installations, and Environment, in consultation with the heads of the appropriate Department of Defense components and in coordination with the working group under subsection (d), shall—

(1) oversee the operational energy activities of the Department of Defense, including the activities of the working group established under subsection (d), and oversee the investments of the Department in such activities;

(2) make recommendations to the Secretary regarding the policies and investments that affect the use of operational energy across the Department of Defense, taking into account the findings of the working group under subsection (d);

(3) establish guidelines and recommend to the Secretary policy to improve warfighting capability through energy security and energy resilience, taking into account the findings of the working group under subsection (d);

(4) encourage collaboration with and leveraging of investments made by the Department of Energy, the Department of Agriculture, and other relevant Federal agencies to advance alternative fuel development to the benefit of the Department of Defense; and

(5) certify the budget associated with the investment of the Department of Defense in alternative fuel activities in accordance with subsection (f)(4).

(d) WORKING GROUP.—(1) The Secretary of Defense shall establish a working group to integrate efforts to mitigate contested logistics challenges through the reduction of operational energy demand that are carried out within each armed force, across the armed forces, and with the Office of the Secretary of Defense and to conduct other coordinated functions relating to such efforts.

(2) The head of the working group under paragraph (1) shall be the Assistant Secretary of De-

fense for Energy, Installations, and Environment. The Assistant Secretary shall supervise the members of the working group and provide guidance to such members with respect to specific operational energy plans and programs to be carried out pursuant to the strategy under subsection (e).

(3) The members of the working group under paragraph (1) shall be appointed as follows:

(A) A senior official of each armed force, who shall be nominated by the Secretary concerned and confirmed by the Senate to represent such armed force.

(B) A senior official from each geographic and functional combatant command, who shall be appointed by the commander of the respective combatant command to represent such combatant command.

(C) A senior official under the jurisdiction of the Chairman of the Joint Chiefs of Staff, who shall be appointed by the Chairman to represent the Joint Chiefs of Staff and the Joint Staff.

(4) Each member of the working group shall be responsible for carrying out operational energy plans and programs and implementing coordinated initiatives pursuant to the strategy under subsection (e) for the respective component of the Department that the member represents.

(5) The duties of the working group under paragraph (1) shall be as follows:

(A) Planning for the integration of efforts to mitigate contested logistics challenges through the reduction of operational energy demand carried out within each armed force, across the armed forces, and with the Office of the Secretary of Defense.

(B) Developing recommendations regarding the strategy for operational energy under subsection (e).

(C) Developing recommendations relating to the development of, and modernization efforts for, platforms and weapons systems of the armed forces.

(D) Developing recommendations to ensure that such development and modernization efforts lead to increased lethality, extended range, and extended on-station time for tactical assets.

(E) Developing recommendations to mitigate the effects of hostile action by a near-peer adversary targeting operational energy storage and operations of the armed forces, including through the use of innovative delivery systems, distributed storage, flexible contracting, and improved automation.

(e) OPERATIONAL ENERGY STRATEGY.—(1) The Assistant Secretary of Defense for Energy, Installations, and Environment, in coordination with the working group under subsection (d), shall be responsible for the establishment and maintenance of a department-wide transformational strategy for operational energy. The strategy shall be updated every five years and shall establish near-term, mid-term, and long-term goals, performance metrics to measure progress in meeting the goals, and a plan for implementation of the strategy within each armed force, across the armed forces, and with the Office of the Secretary of Defense.

(2) The strategy required under paragraph (1) shall include the following:

(A) A plan to integrate efforts to mitigate contested logistics challenges through the reduction of operational energy demand within each armed force.

(B) An assessment of how industry trends transitioning from the production of internal combustion engines to the development and production of alternative propulsion systems may affect the long-term availability of parts for military equipment, the fuel costs for such equipment, and the sustainability of such equipment.

(C) An assessment of any technologies, including electric, hydrogen, or other sustainable fuel technologies, that may reduce operational energy demand in the near-term or long-term.

(D) An assessment of how the Secretaries concerned and the commanders of the combatant commands can better plan for challenges presented by near-peer adversaries in a contested logistics environment, including through innovative delivery systems, distributed storage, flexible contracting, and improved automation.

(E) An assessment of any infrastructure investments of allied and partner countries that may affect operational energy availability in the event of a conflict with a near-peer adversary.

(3) By authority of the Secretary of Defense, and taking into consideration the findings of the working group, the Assistant Secretary shall prescribe policies and procedures for the implementation of the strategy and make recommendations to the Secretary of Defense and Deputy Secretary of Defense with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

(4) Not later than 30 days after the date on which the budget for fiscal year 2024 is submitted to Congress pursuant to section 1105 of title 31, and every five years thereafter, the Assistant Secretary shall submit to the congressional defense committees the strategy required under paragraph (1).

(f) BUDGETARY AND FINANCIAL MATTERS.—(1) The Assistant Secretary of Defense for Energy, Installations, and Environment shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the Assistant Secretary for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

(3) The Assistant Secretary shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the Assistant Secretary with respect to the proposed budget, together with the certification of the Assistant Secretary regard-

ing whether the proposed budget is adequate for implementation of the strategy.

(4) Not later than 30 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that were reviewed by the Assistant Secretary under paragraph (3).

(5) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is not adequate for implementation of the strategy, the report shall include the following:

(A) A copy of the report set forth in paragraph (3).

(B) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budget.

(C) An appendix prepared by the Chairman of the Joint Chiefs of Staff describing—

(i) the progress made by the Joint Requirements Oversight Council in implementing the energy Key Performance Parameter; and

(ii) details regarding how operational energy is being addressed in defense planning, scenarios, support to strategic analysis, and resulting policy to improve combat capability.

(D) An appendix prepared by the Under Secretary for Defense for Acquisition and Sustainment certifying that and describing how the acquisition system is addressing operational energy in the procurement process, including long-term sustainment considerations, and how programs are extending combat capability as a result of these considerations.

(E) A separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Assistant Secretary in carrying out the duties of the Assistant Secretary.

(F) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(6) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is adequate for implementation of the strategy, the report shall include the items set forth in subparagraphs (C), (D), and (E) of paragraph (5).

(g) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) Each member of the working group under subsection (d) shall submit to the Assistant Secretary of Defense for Energy, Installations, and Environment the results of all studies and initiatives conducted by the respective component of the Department that the member represents for purposes of the working group in connection with the operational energy strategy.

(2) The Assistant Secretary shall have access to all records and data in the Department of Defense (including the records and data of each armed force) necessary in order to permit the Assistant Secretary to carry out the duties of the Assistant Secretary.

(h) **CONTESTED LOGISTICS ENVIRONMENT DEFINED.**—In this section, the term “contested logistics environment” means an environment in which the armed forces engage in conflict with an adversary that presents challenges in all domains and directly targets logistics operations, facilities, and activities in the United States, abroad, or in transit from one location to the other.

(Added and amended Pub. L. 113–291, div. A, title IX, § 901(g)(1), Dec. 19, 2014, 128 Stat. 3464; Pub. L. 114–92, div. A, title X, § 1081(a)(12), (b)(2), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115–232, div. A, title III, § 314(a), Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116–92, div. A, title III, § 320(a)(1)(B), (c)(1), title IX, § 902(83), Dec. 20, 2019, 133 Stat. 1306, 1307, 1553; Pub. L. 117–81, div. A, title III, § 351(a)–(e), Dec. 27, 2021, 135 Stat. 1650–1653.)

Editorial Notes

CODIFICATION

Subsec. (c)(3) of section 138c of this title, which was transferred to subsec. (a) (now (c)) of this section by Pub. L. 113–291, § 901(g)(1)(B), was based on Pub. L. 112–81, div. A, title III, § 314(a), Dec. 31, 2011, 125 Stat. 1357. Subsecs. (d) to (f) of section 138c of this title, which were transferred to subsecs. (b) to (d) (now (d) to (f)), respectively, of this section by Pub. L. 113–291, § 901(g)(1)(D), were based on Pub. L. 110–417, [div. A], title IX, § 902(a), Oct. 14, 2008, 122 Stat. 4564; amended Pub. L. 111–383, div. A, title IX, § 901(b)(7)(B)–(D), Jan. 7, 2011, 124 Stat. 4320; Pub. L. 112–81, div. A, title III, § 311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 113–66, div. A, title III, § 311, Dec. 26, 2013, 127 Stat. 728.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–81, § 351(a)(1), inserted “in contested logistics environments” after “missions”.

Subsec. (b). Pub. L. 117–81, § 351(a)(2)(A), (B), substituted “Responsibilities” for “Authorities” in heading and “shall” for “may” in introductory provisions.

Subsec. (b)(1). Pub. L. 117–81, § 351(a)(2)(C), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “require the Secretary of a military department or the commander of a combatant command to assess the energy supportability of systems, capabilities, and plans;”.

Subsec. (b)(2). Pub. L. 117–81, § 351(a)(2)(D), inserted “supportability in contested logistics environments,” after “power;”.

Subsec. (b)(3). Pub. L. 117–81, § 351(a)(2)(E), inserted “in contested logistics environments” after “vulnerabilities”.

Subsec. (c). Pub. L. 117–81, § 351(b)(1)(A), inserted “and in coordination with the working group under subsection (d)” after “components” in introductory provisions.

Subsec. (c)(1). Pub. L. 117–81, § 351(b)(1)(B), substituted “Defense, including the activities of the working group established under subsection (d), and oversee” for “Defense and oversee”.

Subsec. (c)(2). Pub. L. 117–81, § 351(b)(1)(C), inserted “, taking into account the findings of the working group under subsection (d)” after “Defense”.

Subsec. (c)(3). Pub. L. 117–81, § 351(b)(1)(D), inserted “, taking into account the findings of the working group under subsection (d)” after “resilience”.

Subsec. (c)(5). Pub. L. 117–81, § 351(e), substituted “subsection (f)(4)” for “subsection (e)(4)”.

Subsec. (d). Pub. L. 117–81, § 351(b)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 117–81, § 351(b)(2), (c), redesignated subsec. (d) as (e) and amended it generally. Prior to amendment, subsec. related to budgetary and financial

matters relating to the operational energy strategy. Section 351(c), which directed amending subsec. (e) to read as follows but omitted the subsec. designation and heading, was executed by amending the text of subsec. (e) and retaining the existing designation and heading, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 117–81, § 351(b)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

Subsec. (g)(1). Pub. L. 117–81, § 351(b)(4)(A), substituted “Each member of the working group under subsection (d)” for “The Secretary of a military department” and “conducted by the respective component of the Department that the member represents for purposes of the working group” for “conducted by the military department”.

Subsec. (g)(2). Pub. L. 117–81, § 351(b)(4)(B), substituted “armed force” for “military department”.

Subsec. (h). Pub. L. 117–81, § 351(d), added subsec. (h). 2019—Pub. L. 116–92, § 320(c)(1), substituted “Operational energy” for “Operational energy activities” in section catchline.

Subsec. (d)(1). Pub. L. 116–92, § 320(a)(1)(B), substituted “the Defense Agencies” for “Defense Agencies”.

Subsec. (e)(5)(D). Pub. L. 116–92, § 902(83), substituted “Under Secretary for Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

2018—Subsecs. (a), (b). Pub. L. 115–232, § 314(a)(2), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 115–232, § 314(a)(3)(A), (B), substituted “Functions of the Assistant Secretary of Defense for Energy, Installations, and Environment” for “Alternative Fuel Activities” in heading and “heads of the appropriate Department of Defense components” for “heads of the military departments and the Assistant Secretary of Defense for Research and Engineering” in introductory provisions.

Pub. L. 115–232, § 314(a)(1), redesignated subsec. (a) as (c). Former subsec. (c) redesignated (e).

Subsec. (c)(1). Pub. L. 115–232, § 314(a)(3)(C), substituted “oversee the operational energy activities” for “lead the alternative fuel activities”.

Subsec. (c)(2). Pub. L. 115–232, § 314(a)(3)(D), substituted “regarding the policies and investments that affect the use of operational energy across the Department of Defense” for “regarding the development of alternative fuels by the military departments and the Office of the Secretary of Defense”.

Subsec. (c)(3). Pub. L. 115–232, § 314(a)(3)(E), substituted “recommend to the Secretary policy to improve warfighting capability through energy security and energy resilience” for “prescribe policy to streamline the investments in alternative fuel activities across the Department of Defense”.

Subsec. (c)(5). Pub. L. 115–232, § 314(a)(3)(F), substituted “subsection (e)(4)” for “subsection (c)(4)”.

Subsecs. (d) to (f). Pub. L. 115–232, § 314(a)(1), redesignated subsecs. (b) to (d) as (d) to (f), respectively.

2015—Pub. L. 114–92, § 1081(a)(12), substituted “for Energy, Installations, and Environment” for “for Installations, Energy, and Environment” in subsecs. (a) to (d). Subsec. (b)(4). Pub. L. 114–92, § 1081(b)(2), amended directory language of Pub. L. 113–291, § 901(g)(1)(F). See 2014 Amendment note below.

2014—Subsec. (a). Pub. L. 113–291, § 901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “The Assistant Secretary” in introductory provisions.

Pub. L. 113–291, § 901(g)(1)(B)–(C)(ii), transferred subsec. (c)(3) of section 138c of this title to subsec. (a) of this section, inserted heading, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively. See Codification note above.

Subsec. (a)(5). Pub. L. 113–291, § 901(g)(1)(C)(iii), substituted “subsection (c)(4)” for “subsection (e)(4)”.

Subsec. (b). Pub. L. 113–291, § 901(g)(1)(D), transferred subsec. (d) of section 138c of this title to subsec. (b) of this section. See Codification note above.

Subsec. (b)(1). Pub. L. 113–291, § 901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “The Assistant Secretary”.

Subsec. (b)(4). Pub. L. 113–291, §901(g)(1)(F), as amended by Pub. L. 114–92, §1081(b)(2), substituted “make recommendations to the Secretary of Defense and Deputy Secretary of Defense and provide guidance to the Secretaries of the military departments” for “provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments.”.

Subsec. (c). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (e) of section 138c of this title to subsec. (c) of this section. See Codification note above.

Subsec. (c)(1). Pub. L. 113–291, §901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “The Assistant Secretary”.

Subsec. (c)(4) to (6). Pub. L. 113–291, §901(g)(1)(G), amended pars. (4) to (6) generally. Prior to amendment, pars. (4) to (6) required the Secretary of Defense to report to Congress, by a certain date, on proposed budgets not certified by the Assistant Secretary under par. (3), including a separate statement of certain estimated expenditures and requested appropriations.

Subsec. (d). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (f) of section 138c of this title to subsec. (d) of this section. See Codification note above.

Subsec. (d)(1). Pub. L. 113–291, §901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “the Assistant Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c)(4) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

§ 2927. Global bulk fuel management and delivery

(a) RESPONSIBLE ELEMENT.—(1) Beginning during the period described in paragraph (2) and permanently thereafter, the United States Transportation Command shall be the element responsible for bulk fuel management and delivery of the Department of Defense on a global basis.

(2) The period described in this paragraph is the period beginning on January 1, 2023, and ending on February 1, 2023.

(b) COORDINATION WITH DEFENSE LOGISTICS AGENCY.—In carrying out the responsibilities specified in subsection (a), the Commander of the United States Transportation Command shall coordinate with the Director of the Defense Logistics Agency.

(c) RULE OF CONSTRUCTION.—Except to the extent that, prior to January 1, 2023, a responsibility specified in subsection (a) was a specific function of the Defense Logistics Agency Energy, nothing under this section shall be construed as—

(1) limiting any other function of the Defense Logistics Agency Energy; or

(2) requiring the transfer of any function, personnel, or asset from the Defense Logistics Agency Energy to the United States Transportation Command.

(Added Pub. L. 117–81, div. A, title III, §352(a)(1), Dec. 27, 2021, 135 Stat. 1654.)

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¹ So in original. Does not conform to chapter heading.

² So in original. Probably should be “3901”.

³ Editorially supplied.