

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2194.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, § 1687, Dec. 23, 2016, 130 Stat. 2629, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(5), Dec. 23, 2024, 138 Stat. 2199.

§ 5533. Required testing of ground-based midcourse defense element of ballistic missile defense system

(a) TESTING REQUIRED.—Except as provided in subsection (c), not less frequently than once each fiscal year, the Director of the Missile Defense Agency shall administer a flight test of the ground-based midcourse defense element of the ballistic missile defense system. Beginning not later than five years after the date on which the next generation interceptor achieves initial operational capability, the Director shall ensure that such flight tests include the next generation interceptor.

(b) REQUIREMENTS.—The Director shall ensure that each test carried out under subsection (a) provides for one or more of the following:

- (1) The validation of technical improvements made to increase system performance and reliability.
- (2) The evaluation of the operational effectiveness of the ground-based midcourse defense element of the ballistic missile defense system.
- (3) The use of threat-representative targets and critical engagement conditions, including the use of threat-representative countermeasures.
- (4) The evaluation of new configurations of interceptors before they are fielded.
- (5) The satisfaction of the “fly before buy” acquisition approach for new interceptor components or software.
- (6) The evaluation of the interoperability of the ground-based midcourse defense element with other elements of the ballistic missile defense systems.

(c) EXCEPTIONS.—The Director may forgo a test under subsection (a) in a fiscal year under one or more of the following conditions:

- (1) Such a test would jeopardize national security.
- (2) Insufficient time considerations between post-test analysis and subsequent pre-test design.
- (3) Insufficient funding.
- (4) An interceptor is unavailable.
- (5) A target is unavailable or is insufficiently representative of threats.
- (6) The test range or necessary test assets are unavailable.
- (7) Inclement weather.
- (8) Any other condition the Director considers appropriate.

(d) CERTIFICATION.—Not later than 45 days after forgoing a test for a condition or conditions under subsection (c)(8), the Under Sec-

retary of Defense for Research and Engineering shall submit to the congressional defense committees a certification setting forth the condition or conditions that caused the test to be forgone under such subsection.

(e) REPORT.—Not later than 45 days after forgoing a test for any condition specified in subsection (c), the Director shall submit to the congressional defense committees a report setting forth the rationale for forgoing the test and a plan to restore an intercept flight test in the Integrated Master Test Plan of the Missile Defense Agency. In the case of a test forgone for a condition or conditions under subsection (c)(8), the report required by this subsection is in addition to the certification required by subsection (d).

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2195.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, § 1689, Dec. 23, 2016, 130 Stat. 2631, as amended by Pub. L. 116–92, div. A, title IX, § 902(97), title XVI, § 1684, Dec. 20, 2019, 133 Stat. 1555, 1783; Pub. L. 117–81, div. A, title XVI, § 1668(d), Dec. 27, 2021, 135 Stat. 2107, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(6), Dec. 23, 2024, 138 Stat. 2199.

§ 5534. Integration and interoperability of air and missile defense capabilities

(a) INTEROPERABILITY OF MISSILE DEFENSE SYSTEMS.—The Vice Chairman of the Joint Chiefs of Staff and the chairman of the Missile Defense Executive Board (pursuant to section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), acting through the Missile Defense Executive Board, shall ensure the interoperability and integration of the covered air and missile defense capabilities of the United States, including by carrying out operational testing.

(b) ANNUAL DEMONSTRATION.—(1) Except as provided by paragraph (2), the Director of the Missile Defense Agency and the Secretary of the Army shall jointly ensure that not less than one intercept or flight test is carried out each year that demonstrates interoperability and integration among the covered air and missile defense capabilities of the United States.

(2) The Director and the Secretary may waive the requirement in paragraph (1) with respect to an intercept or flight test carried out during the year covered by the waiver if the chairman of the Missile Defense Executive Board—

- (A) determines that such waiver is necessary for such year; and
- (B) submits to the congressional defense committees notification of such waiver, including an explanation for how such waiver will not negatively affect demonstrating the interoperability and integration among the covered air and missile defense capabilities of the United States.

(c) DEFINITION OF COVERED AIR AND MISSILE DEFENSE CAPABILITIES.—In this section, the term “covered air and missile defense capabilities” means Patriot air and missile defense bat-

teries and associated interceptors and systems, Aegis ships and associated ballistic missile interceptors (including Aegis Ashore capability), AN/TPY-2 radars, or terminal high altitude area defense batteries and interceptors.

(Added Pub. L. 118-159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2196.)

Editorial Notes

REFERENCES IN TEXT

Section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsec. (a), is section 1681(c) of Pub. L. 115-232, div. A, title XVI, Aug. 13, 2018, 132 Stat. 2161, which is not classified to the Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114-92, div. A, title XVI, § 1675, Nov. 25, 2015, 129 Stat. 1131, as amended by Pub. L. 116-92, div. A, title IX, § 902(69), Dec. 20, 2019, 133 Stat. 1551; Pub. L. 116-283, div. A, title X, § 1081(f)(3), Jan. 1, 2021, 134 Stat. 3875, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118-159, div. A, title XVI, § 1649(b)(7), Dec. 23, 2024, 138 Stat. 2199.

§ 5535. Development of requirements to support integrated air and missile defense capabilities

(a) IN GENERAL.—Consistent with the memorandum of the Chairman of the Joint Chiefs of Staff of January 27, 2014, regarding joint integrated air and missile defense, the Vice Chairman of the Joint Chiefs of Staff shall oversee the development of warfighter requirements for persistent and survivable capabilities to detect, identify, determine the status, track, and support engagement of strategically important mobile or relocatable assets in all phases of conflict in order to achieve the objective of preventing the effective employment of such assets, including through offensive actions against such assets prior to their use.

(b) PURPOSE OF REQUIREMENTS.—The requirements developed pursuant to subsection (a) shall be used and updated, as appropriate, for the purpose of informing applicable acquisition programs and systems-of-systems architecture planning that are funded through the Military Intelligence Program, the National Intelligence Program, and non-intelligence programs.

(c) SUPPORTING ACTIVITIES.—The Vice Chairman shall also oversee the development of the enabling framework for intelligence support for integrated air and missile defense, including concepts for the integrated operation of multiple systems, and, as appropriate, the development of requirements for capabilities to be acquired to achieve such integrated operations.

(Added Pub. L. 118-159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2196.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114-92, div. A, title XVI, § 1687, Nov. 25, 2015, 129 Stat. 1143, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118-159, div. A, title XVI, § 1649(b)(8), Dec. 23, 2024, 138 Stat. 2199.

§ 5536. Testing and assessment of missile defense systems prior to production and deployment

(a) SUCCESSFUL TESTING REQUIRED PRIOR TO FINAL PRODUCTION OR OPERATIONAL DEPLOYMENT.—The Secretary of Defense may not make a final production decision for, or operationally deploy, a covered system unless—

(1) the Secretary ensures that—

(A) sufficient and operationally realistic testing of the covered system is conducted to assess the performance of the covered system in order to inform a final production decision or an operational deployment decision; and

(B) the results of such testing have demonstrated a high probability that the covered system—

(i) will work in an operationally effective manner; and

(ii) has the ability to accomplish the intended mission of the covered system; and

(2) the Director of Operational Test and Evaluation has carried out subsection (b) with respect to such covered system.

(b) ASSESSMENT BY DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—The Director of Operational Test and Evaluation shall—

(1) provide to the Secretary the assessment of the Director, based on the available test data, of the sufficiency, adequacy, and results of the testing of each covered system, including an assessment of whether the covered system will be sufficiently effective, suitable, and survivable when needed; and

(2) submit to the congressional defense committees a written summary of such assessment.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, modify, or otherwise affect a determination of the Secretary with respect to the participation of the Missile Defense Agency in the Joint Capabilities Integration Development System or the acquisition reporting process under the Department of Defense Directive 5000 series, or to diminish the authority of the Secretary of Defense to deploy a missile defense system at the date on which the Secretary determines appropriate.

(d) COVERED SYSTEM.—In this section, the term “covered system” means a new or substantially upgraded interceptor or weapon system of the ballistic missile defense system.

(Added Pub. L. 118-159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2197.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 113-291, div. A, title XVI, § 1662, Dec. 19, 2014, 128 Stat. 3657, as amended by Pub. L. 115-91, div. A, title XVI, § 1677(b), Dec. 12, 2017, 131 Stat. 1774, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118-159, div. A, title XVI, § 1649(b)(9), Dec. 23, 2024, 138 Stat. 2199.

§ 5537. Limitation on Missile Defense Agency production of satellites and ground systems associated with operation of such satellites

(a) PRODUCTION OF SATELLITES AND GROUND SYSTEMS.—The Director of the Missile Defense