SEC. 814 . REVISION TO COVERED PROGRAMS SUBJECT TO CERTIFICATION PURSUANT TO SECTIONS 2366A AND 2366B OF TITLE 10, UNITED STATES CODE.

(a) REPEAL OF APPLICATION OF CERTIFICATION REQUIREMENT TO ONGOING PROGRAMS.—Section 204 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111-23; 123 Stat. 1723), is amended by striking subsection (c).

(b) KEY DECISION POINT APPROVAL IN CASE OF SPACE PROGRAM.—

(1) CERTIFICATION.—Subsection (a) of section 2366a of title 10, United States Code, is amended—

(A) by striking "or Key Decision Point A approval in the case of a space program,"; and

(B) by striking "or Key Decision Point B approval in the case of a space program,".

(2) NOTIFICATION.—Subsection (b) of such section is amended—

(A) in paragraph (1), by striking "(or Key Decision Point A approval in the case of a space program)"; and

(B) in paragraph (2)(C)(ii), by striking "or Key Decision Point A approval in the case of a space program,";

(3) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**or Key Decision Point A**".

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking the item related to section 2366a and inserting the following new item:

"2366a. Major defense acquisition programs: certification required before Milestone A approval.".

Section-by-Section Analysis

Section 204 of the Weapon Systems Acquisition Reform Act of 2009 (WSARA) (Public Law 111-23; 123 Stat. 1723) requires the certification of major defense programs that were initiated prior to the enactment of the Act and that have not otherwise been certified pursuant to section 2366a or 2366b of title 10, United States Code. To date, the Department of Defense has certified 24 programs, two of which were subsequently rescinded. These certifications were conducted in conjunction with previously scheduled milestone decisions. There are now a total of 29 programs remaining to be certified. These "catch-up" certifications are required in addition to the normal milestone documentation previously approved for a Milestone A or B decision. The workload associated with these certifications is substantial and represents a significant drag on acquisition productivity. Therefore, the Department desires to focus instead on the certifications of programs that have been initiated since enactment of WSARA.

Budget Implications: There are no quantifiable budget implications associated with this proposal.

Changes to Existing Law: The proposal would make the following changes to section 2366a of title 10, United States Code:

§ 2366a. Major defense acquisition programs: certification required before Milestone A ~~or Key Decision Point A~~ approval

(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone A approval, ~~or Key Decision Point A approval in the case of a space program,~~ or otherwise be initiated prior to Milestone B approval, ~~or Key Decision Point B approval in the case of a space program,~~ until the Milestone Decision Authority certifies, after consultation with the Joint Requirements Oversight Council on matters related to program requirements and military needs—

(1) that the program fulfills an approved initial capabilities document;

(2) that the program is being executed by an entity with a relevant core competency as identified by the Secretary of Defense under section 118b of this title;

(3) if the program duplicates a capability already provided by an existing system, the duplication provided by such program is necessary and appropriate;

(4) that an analysis of alternatives has been performed consistent with study guidance developed by the Director of Cost Assessment and Program Evaluation; and

(5) that a cost estimate for the program has been submitted, with the concurrence of the Director of Cost Assessment and Program Evaluation, and that the level of resources required to develop and procure the program is consistent with the priority level assigned by the Joint Requirements Oversight Council.

(b) NOTIFICATION.—(1) With respect to a major defense acquisition program certified by the Milestone Decision Authority under subsection (a), if the projected cost of the program, at any time prior to Milestone B approval, exceeds the cost estimate for the program submitted at the time of the certification by at least 25 percent, or the program manager determines that the period of time required for the delivery of an initial operational capability is likely to exceed the schedule objective established pursuant to section 181(b)(5) of this title by more than 25 percent,

the program manager for the program concerned shall notify the Milestone Decision Authority. The Milestone Decision Authority, in consultation with the Joint Requirements Oversight Council on matters related to program requirements and military needs, shall determine whether the level of resources required to develop and procure the program remains consistent with the priority level assigned by the Joint Requirements Oversight Council. The Milestone Decision Authority may withdraw the certification concerned or rescind Milestone A approval ~~(or Key Decision Point A approval in the case of a space program)~~ if the Milestone Decision Authority determines that such action is in the interest of national defense.

(2) Not later than 30 days after a program manager submits a notification to the Milestone Decision Authority pursuant to paragraph (1) with respect to a major defense acquisition program, the Milestone Decision Authority shall submit to the congressional defense committees a report that—

(A) identifies the root causes of the cost or schedule growth in accordance with applicable policies, procedures, and guidance;

(B) identifies appropriate acquisition performance measures for the remainder of the development of the program; and

(C) includes one of the following:

(i) A written certification (with a supporting explanation) stating that—

(I) the program is essential to national security;

(II) there are no alternatives to the program that will provide acceptable military capability at less cost;

(III) new estimates of the development cost or schedule, as appropriate, are reasonable; and

(IV) the management structure for the program is adequate to manage and control program development cost and schedule.

(ii) A plan for terminating the development of the program or withdrawal of Milestone A approval, ~~or Key Decision Point A approval in the case of a space program,~~ if the Milestone Decision Authority determines that such action is in the interest of national defense.

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The proposal also would make the following changes to section 204 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111-23; 123 Stat. 1723):

SEC. 204. ACTIONS TO IDENTIFY AND ADDRESS SYSTEMIC PROBLEMS IN MAJOR DEFENSE ACQUISITION PROGRAMS PRIOR TO MILESTONE B APPROVAL.

(a) ****

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~~(c) APPLICATION TO ONGOING PROGRAMS.—~~

~~(1) IN GENERAL.—Each major defense acquisition program described in paragraph (2) shall be certified in accordance with the requirements of section 2366a of title 10,~~

~~United States Code (as amended by this section), within one year after the date of the enactment of this Act.~~

~~(2) COVERED PROGRAMS.—The requirement in paragraph (1) shall apply to any major defense acquisition program that—~~

~~(A) was initiated before the date of the enactment of this Act; and~~

~~(B) as of the date of certification under paragraph (1) has not otherwise been certified pursuant to either section 2366a (as so amended) or 2366b of title 10, United States Code.~~