

For delegation of certain authority of President under this chapter relating to national defense resource preparedness and statement of related policy, see Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16651, set out as a note under section 4553 of this title.

§ 4502. Declaration of policy

(a) Findings

Congress finds that—

(1) the security of the United States is dependent on the ability of the domestic industrial base to supply materials and services for the national defense and to prepare for and respond to military conflicts, natural or man-caused disasters, or acts of terrorism within the United States;

(2) to ensure the vitality of the domestic industrial base, actions are needed—

(A) to promote industrial resources preparedness in the event of domestic or foreign threats to the security of the United States;

(B) to support continuing improvements in industrial efficiency and responsiveness;

(C) to provide for the protection and restoration of domestic critical infrastructure operations under emergency conditions; and

(D) to respond to actions taken outside of the United States that could result in reduced supplies of strategic and critical materials, including energy, necessary for national defense and the general economic well-being of the United States;

(3) in order to provide for the national security, the national defense preparedness effort of the United States Government requires—

(A) preparedness programs to respond to both domestic emergencies and international threats to national defense;

(B) measures to improve the domestic industrial base for national defense;

(C) the development of domestic productive capacity to meet—

(i) essential national defense needs that can result from emergency conditions; and

(ii) unique technological requirements; and

(D) the diversion of certain materials and facilities from ordinary use to national defense purposes, when national defense needs cannot otherwise be satisfied in a timely fashion;

(4) to meet the requirements referred to in this subsection, this chapter provides the President with an array of authorities to shape national defense preparedness programs and to take appropriate steps to maintain and enhance the domestic industrial base;

(5) in order to ensure national defense preparedness, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

(6) to further assure the adequate maintenance of the domestic industrial base, to the maximum extent possible, domestic energy supplies should be augmented through reliance on renewable energy sources (including solar, geothermal, wind, and biomass sources), more efficient energy storage and distribution technologies, and energy conservation measures;

(7) much of the industrial capacity that is relied upon by the United States Government

for military production and other national defense purposes is deeply and directly influenced by—

(A) the overall competitiveness of the industrial economy of the United States; and

(B) the ability of industries in the United States, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve competitiveness with respect to military and civilian production; and

(8) the inability of industries in the United States, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair the ability to sustain the Armed Forces of the United States in combat for longer than a short period.

(b) Statement of policy

It is the policy of the United States that—

(1) to ensure the adequacy of productive capacity and supply, Federal departments and agencies that are responsible for national defense acquisition should continuously assess the capability of the domestic industrial base to satisfy production requirements under both peacetime and emergency conditions, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

(2) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment;

(3) plans and programs to carry out the purposes of this chapter should be undertaken with due consideration for promoting efficiency and competition;

(4) in providing United States Government financial assistance under this chapter to correct a domestic industrial base shortfall, the President should give consideration to the creation or maintenance of production sources that will remain economically viable after such assistance has ended;

(5) authorities under this chapter should be used to reduce the vulnerability of the United States to terrorist attacks, and to minimize the damage and assist in the recovery from terrorist attacks that occur in the United States;

(6) in order to ensure productive capacity in the event of an attack on the United States, the United States Government should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas that are vulnerable to attack by an enemy of the United States;

(7) to ensure that essential national defense requirements are met, consideration should be given to stockpiling strategic materials, to the extent that such stockpiling is economical and feasible; and

(8) in the construction of any industrial facility owned by the United States Govern-

ment, in the rendition of any financial assistance by the United States Government for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this chapter or any other provision of law, each department and agency of the United States Government should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of geographic dispersal of such facilities in the interest of national defense.

(Sept. 8, 1950, ch. 932, § 2, 64 Stat. 798; June 30, 1953, ch. 171, § 2, 67 Stat. 129; Aug. 9, 1955, ch. 655, § 2, 69 Stat. 580; June 29, 1956, ch. 474, § 4, 70 Stat. 408; Pub. L. 96-294, title I, § 102, June 30, 1980, 94 Stat. 617; Pub. L. 102-558, title I, § 101, Oct. 28, 1992, 106 Stat. 4199; Pub. L. 111-67, § 3(a), Sept. 30, 2009, 123 Stat. 2007.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4) and (b), was in the original "this Act", meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2062 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2009—Pub. L. 111-67 amended section generally, substituting provisions relating to findings and statement of policy with respect to the domestic industrial base for former findings and statement of policy concerning development of national security industrial and technology base.

1992—Pub. L. 102-558 amended section generally, substituting provisions relating to findings and statement of policy, for provisions stating that mobilization effort continued to require diversion of materials and facilities from civilian to military use, and to require development of preparedness programs and expansion of productive capacity and supply, in order to reduce time required for full mobilization in case of attack on the United States or to respond to actions occurring outside the United States resulting in termination or reduction of availability of strategic materials, including energy, and provisions stating policy of Congress was to encourage geographical dispersal of industrial facilities, and requiring executive branch departments and agencies to apply principle of geographical dispersal in construction of such facilities.

1980—Pub. L. 96-294 inserted provisions relating to preparedness respecting termination or reduction in availability of strategic and critical materials, including energy, and domestic energy supplies for national defense needs.

1956—Act June 29, 1956, inserted paragraph relating to encouragement of the geographical dispersal of the industrial facilities of the United States.

1955—Act Aug. 9, 1955, provided that mobilization effort requires development of preparedness programs and expansion of productive capacity and supply in order to reduce time required for full mobilization.

1953—Act June 30, 1953, amended section generally to make it conform to the more limited scope of this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-558, title III, § 304, Oct. 28, 1992, 106 Stat. 4226, provided that: "This Act [see Tables for classification] and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-294, title I, § 107, June 30, 1980, 94 Stat. 633, provided that: "The amendments made by this part [part A (§§ 101-107) of title I of Pub. L. 96-294, see Tables for classification] shall take effect on the date of the enactment of this part [June 30, 1980]."

EFFECTIVE DATE OF 1955 AMENDMENT

Act Aug. 9, 1955, ch. 655, § 11, 69 Stat. 583, provided that: "The provisions of this Act [see Tables for classification] shall take effect as of the close of July 31, 1955."

DOMESTIC MINERALS PROGRAM EXTENSION

Act Aug. 7, 1953, ch. 339, 67 Stat. 417, provided: "That this Act may be cited as the 'Domestic Minerals Program Extension Act of 1953'."

"DECLARATION OF POLICY"

"SEC. 2. It is recognized that the continued dependence on overseas sources of supply for strategic or critical minerals and metals during periods of threatening world conflict or of political instability within those nations controlling the sources of supply of such materials gravely endangers the present and future economy and security of the United States. It is therefore declared to be the policy of the Congress that each department and agency of the Federal Government charged with responsibilities concerning the discovery, development, production, and acquisition of strategic or critical minerals and metals shall undertake to decrease further and to eliminate where possible the dependency of the United States on overseas sources of supply of each such material.

"SEC. 3. In accordance with the declaration of policy set forth in section 2 of this Act, the termination dates of all purchase programs designed to stimulate the domestic production of tungsten, manganese, chromite, mica, asbestos, beryl, and columbium-tantalum-bearing ores and concentrates and established by regulations issued pursuant to the Defense Production Act of 1950, as amended [50 U.S.C. 4501 et seq.], shall be extended an additional two years: *Provided*, That this section is not intended and shall not be construed to limit or restrict the regulatory agencies from extending the termination dates of these programs beyond the two-year extension periods provided by this section or from increasing the quantity of materials that may be delivered and accepted under these programs as permitted by existing statutory authority: *Provided further*, That the extended termination date provided by this section for the columbium-tantalum purchase program shall not apply to the purchase of columbium-tantalum-bearing ores and concentrates of foreign origin.

"SEC. 4. In order that those persons who produce or who plan to produce under purchase programs established pursuant to Public Law 774 (Eighty-first Congress) [50 U.S.C. 4501 et seq.] and Public Law 96 (Eighty-second Congress) [act July 31, 1951, ch. 275, 65 Stat. 131, see Tables for classification] may be in position to plan their investment and production with due regard to requirements, the responsible agencies controlling such purchase programs are directed to publish at the end of each calendar quarter the amounts of each of the ores and concentrates referred to in section 3 purchased in that quarter and the total amounts of each which have been purchased under the program."

[Act Aug. 7, 1953, ch. 339, set out above, was formerly classified to sections 2181 to 2183 of the former Appendix to this title and to provisions set out as a note

under section 2181 of the former Appendix to this title prior to editorial reclassification as this note.]

SUBCHAPTER I—PRIORITIES AND ALLOCATIONS

§ 4511. Priority in contracts and orders

(a) Allocation of materials, services, and facilities

The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) Critical and strategic materials

The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c) Domestic energy; materials, equipment, and services

(1) Notwithstanding any other provision of this chapter, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, materials, equipment, and services in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

(A) such materials, services, and facilities are scarce, critical, and essential—

(i) to maintain or expand exploration, production, refining, transportation;

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(3) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be ap-

propriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

(d) Rules; consultation among agency heads

The head of each Federal agency to which the President delegates authority under this section shall—

(1) issue, and annually review and update whenever appropriate, final rules, in accordance with section 553 of title 5, that establish standards and procedures by which the priorities and allocations authority under this section is used to promote the national defense, under both emergency and nonemergency conditions; and

(2) as appropriate and to the extent practicable, consult with the heads of other Federal agencies to develop a consistent and unified Federal priorities and allocations system.

(Sept. 8, 1950, ch. 932, title I, §101, 64 Stat. 799; July 31, 1951, ch. 275, title I, §101(a), 65 Stat. 131; June 30, 1952, ch. 530, title I, §§101, 102, 66 Stat. 296, 297; June 30, 1953, ch. 171, §3, 67 Stat. 129; Pub. L. 94-163, title I, §104(a), Dec. 22, 1975, 89 Stat. 878; Pub. L. 102-99, §6, Aug. 17, 1991, 105 Stat. 490; Pub. L. 111-67, §4, Sept. 30, 2009, 123 Stat. 2009; Pub. L. 113-172, §3, Sept. 26, 2014, 128 Stat. 1897.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2071 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (d)(1). Pub. L. 113-172 substituted “issue, and annually review and update whenever appropriate, final rules” for “not later than 270 days after the date of enactment of the Defense Production Act Reauthorization of 2009, issue final rules”.

2009—Subsec. (d). Pub. L. 111-67 added subsec. (d).

1991—Subsec. (a)(2). Pub. L. 102-99, §6(1), substituted “materials, services, and facilities” for “materials and facilities”.

Subsec. (c)(1). Pub. L. 102-99, §6(2), substituted “materials, equipment, and services” for “supplies of materials and equipment”.

Subsec. (c)(2) to (4). Pub. L. 102-99, §6(3), (4), added par. (2), redesignated par. (4) as (3), and struck out former pars. (2) and (3) which read as follows:

“(2) The President shall report to the Congress within sixty days after December 22, 1975, on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining prior-