

Strategic and Critical Materials Stock Piling Act

[Chapter 190, Enacted June 7, 1939, 53 Stat. 811]

[As Amended Through P.L. 118–31, Enacted December 22, 2023]

【Currency: This publication is a compilation of the text of Chapter 190 of the 76th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

SHORT TITLE

SECTION 1. 【50 U.S.C. 98】 This Act may be cited as the “Strategic and Critical Materials Stock Piling Act”.

FINDINGS AND PURPOSE

SEC. 2. 【50 U.S.C. 98a】 (a) The Congress finds that the natural resources of the United States in certain strategic and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this Act to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources or a single point of failure for supplies of such materials in times of national emergency.

(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

(d) To the maximum extent practicable and to reduce the reliance of the National Defense Stockpile program on appropriated funds, the National Defense Stockpile Manager shall seek to achieve positive cash flows from the recovery of strategic and critical materials pursuant to section 6(a)(5).

MATERIALS TO BE ACQUIRED: PRESIDENTIAL AUTHORITY AND GUIDELINES

SEC. 3. 【50 U.S.C. 98b】 (a) Subject to subsection (c), the President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this Act, and (2) the quality and quantity of each such material to be acquired for

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the purposes of this Act and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 4 of this Act, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the “stockpile”).

(b) The President shall make the determinations required to be made under subsection (a) on the basis of the principles stated in section 2(c).

(c)(1) The quantity of any material to be stockpiled under this Act, as in effect on September 30, 1987, may be changed only as provided in this subsection or as otherwise provided by law enacted after December 4, 1987.

(2) The President shall notify Congress in writing of any increase proposed to be made in the quantity of any material to be stockpiled that involves the acquisition of additional materials for the stockpile. The President may make the increase after the end of the 30-day period beginning on the date of the notification. The President shall include a full explanation and justification for the proposed increase with the notification.

MATERIALS CONSTITUTING THE NATIONAL DEFENSE STOCKPILE

SEC. 4. [50 U.S.C. 98c] (a) The stockpile consists of the following materials:

(1) Materials acquired under this Act and contained in the national stockpile on July 29, 1979.

(2) Materials acquired under this Act after July 29, 1979.

(3) Materials in the supplemental stockpile established by section 104(b) of the Food for Peace Act (as in effect from September 21, 1959, through December 31, 1966) on July 29, 1979.

(4) Materials acquired by the United States under the provisions of section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 663 of the Foreign Assistance Act of 1961 (22 U.S.C. 2423) that have been determined to be strategic and critical materials for the purposes of this Act and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of section 103(a) of the Act entitled “An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes”, approved August 28, 1954 (7 U.S.C. 1743(a)), and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 103(a) of such Act of August 28, 1954.

(9) Materials transferred to the stockpile under subsection (b).

(10) Materials transferred to the stockpile under subsection (c).

(b) Notwithstanding any other provision of law, any material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is suitable for transfer or disposal through the stockpile shall be transferred to the stockpile. Any such transfer shall be made without reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this Act.

(c) The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under subsection (b), are suitable for disposal through the stockpile, and are uncontaminated.

AUTHORITY FOR STOCKPILE OPERATIONS

SEC. 5. [50 U.S.C. 98d] (a)(1) Except for acquisitions made under the authority of paragraph (3) of this section or under the authority of paragraph (3) or (4) of section 6(a), no funds may be obligated or appropriated for acquisition of any material under this Act unless funds for such acquisition have been authorized by law. Funds appropriated for any acquisition of materials under this Act (and for transportation and other incidental expenses related to such acquisition) shall remain available until expended, unless otherwise provided in appropriation Acts.

(2) If for any fiscal year the President proposes (or Congress requires) a significant change in any stockpile transactions proposed in the Annual Materials and Operations Plan for such fiscal year after the National Defense Stockpile Manager submits the report under section 11(b)(2) containing such plan, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 45 days has passed from the date of the receipt of such statement by such committees.

(3) Using funds appropriated for acquisition of materials under this Act, the National Defense Stockpile Manager may acquire materials determined to be strategic and critical under section 3(a) without regard to the requirement of the first sentence of paragraph (1) if the Stockpile Manager determines there is a shortfall of such materials in the stockpile.

(b) Except for disposals made under the authority of paragraph (3), (4), or (5) of section 6(a) or under section 7(a), no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials

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contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available until expended, unless otherwise provided in appropriations Acts.

STOCKPILE MANAGEMENT

SEC. 6. [50 U.S.C. 98e] (a) The President shall—

(1) acquire the materials determined under section 3(a) to be strategic and critical materials;

(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

(3) provide for the upgrading, refining, or processing of any material in the stockpile (notwithstanding any intermediate stockpile quantity established for such material) when necessary to convert such material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency;

(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration or technological obsolescence of such material by replacement of such material with an equivalent quantity of substantially the same material or better material;

(5) provide for the appropriate recovery of any strategic and critical materials under section 3(a) that may be available from other Federal agencies, either directly as materials or embedded in excess-to-need, end-of-life items, or waste streams;

(6) subject to the notification required by subsection (d)(2), provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

(7) subject to the provisions of section 5(b), dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Except as provided in subsections (c) and (d), acquisition of strategic and critical materials under this Act shall be made in accordance with established Federal procurement practices, and, except as provided in subsections (c) and (d) and in section 7(a), disposal of strategic and critical materials from the stockpile shall be made in accordance with the next sentence. To the maximum extent feasible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials; and

(2) efforts shall be made in the acquisition and disposal of such materials to consult with producers and processors of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

(c)(1) The President shall encourage the use of barter in the acquisition under subsection (a)(1) of strategic and critical materials for, and the disposal under subsection (a)(6) or (a)(7) of materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

(2) Materials in the stockpile (the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law) shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of upgrading, refining, processing, or rotating materials, under this Act.

(3) Notwithstanding section 3(c) or any other provision of law, whenever the President provides under subsection (a)(3) for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.

(4) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d)(1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1) or (2) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed acquisition or disposal at least 45 days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a)(6) only if such congressional committees are notified in writing of the proposed disposal at least 45 days before any obligation of the United States is incurred in connection with such disposal.

(e) The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

(f) The President may loan stockpile materials to the Department of Energy or the military departments if the President—

(1) has a reasonable assurance that stockpile materials of a similar or superior quantity and quality to the materials loaned will be returned to the stockpile or paid for;

(2) notifies the congressional defense committees (as defined in section 101(a) of title 10, United States Code), in writing, not less than 30 days before making any such loan; and

(3) includes in the written notification under paragraph (2) sufficient support for the assurance described in paragraph (1).

(g)(1) The National Defense Stockpile Manager shall establish a pilot program to use, to the maximum extent practicable, commercial best practices in the acquisition and disposal of strategic and critical materials for the stockpile.

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(2)(A) The Stockpile Manager shall brief the congressional defense committees (as defined in section 101(a) of title 10, United States Code)—

(i) as soon as practicable after the establishment of the pilot program under paragraph (1); and

(ii) annually thereafter until the termination of the pilot program under paragraph (3).

(B) The briefing required by subparagraph (A)(i) shall address—

(i) the commercial best practices selected for use under the pilot program;

(ii) how the Stockpile Manager determined which commercial best practices to select; and

(iii) the plan of the Stockpile Manager for using such practices.

(C) Each briefing required by subparagraph (A)(ii) shall provide a summary of—

(i) how the Stockpile Manager has used commercial best practices under the pilot program during the year preceding the briefing;

(ii) how many times the Stockpile Manager has used such practices;

(iii) the outcome of each use of such practices; and

(iv) any savings achieved or lessons learned as a result of the use of such practices.

(3) The pilot program established under paragraph (1) shall terminate effective on the date that is 5 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024.

(h) Except to the extent necessary for the national defense, the National Defense Stockpile Manager shall ensure that each program for the recovery of strategic and critical materials implemented under subsection (a)(5) operates in a manner designed to achieve positive cash flow.

SPECIAL DISPOSAL AUTHORITY OF THE PRESIDENT

SEC. 7. [50 U.S.C. 98f] (a) Materials in the stockpile may be released for use, sale, or other disposition—

(1) on the order of the President, at any time the President determines the release of such materials is required for purposes of the national defense;

(2) in time of war declared by the Congress or during a national emergency, on the order of any officer or employee of the United States designated by the President to have authority to issue disposal orders under this subsection, if such officer or employee determines that the release of such materials is required for purposes of the national defense; and

(3) on the order of the Under Secretary of Defense for Acquisition and Sustainment, if the President has designated the Under Secretary to have authority to issue release orders under this subsection and, in the case of any such order, if the Under Secretary determines that the release of such materials

is required for use, manufacture, or production for purposes of national defense.

(b) Any order issued under subsection (a) shall be promptly reported by the President, or by the officer or employee issuing such order, in writing, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

MATERIALS DEVELOPMENT AND RESEARCH

SEC. 8. [50 U.S.C. 98g] (a)(1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, preparation, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, its territories or possessions, or in a reliable source (B) are essential to the national defense, industrial, and essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

(2) Such investigations shall be carried out in order to develop new sources of strategic and critical materials, develop substitutes, or conserve domestic sources and reliable sources of supply for such strategic and critical materials.

(3) Investigations under paragraph (1) may be carried out on public lands and, with the consent of the owner, on privately owned lands for the purpose of exploring and determining the extent and quality of deposits of such minerals, the most suitable methods of mining and beneficiating such minerals, and the cost at which the minerals or metals may be produced.

(b) The President shall make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 3(a) of this Act to be a strategic and critical material or substitutes therefor.

(c) The President shall make scientific, technologic, and economic investigations concerning the feasibility of—

(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b)) determined pursuant to section 3(a) to be strategic and critical materials; and

(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

(d) The President shall encourage the conservation of domestic sources of any material determined pursuant to section 3(a) to be a strategic and critical material by making grants or awarding contracts for research regarding the development of—

(1) substitutes for such material; or

(2) more efficient methods of production or use of such material.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SEC. 9. [50 U.S.C. 98h] (a) There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the “fund”).

(b)(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 6(a) shall be covered into the fund.

(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

(A) The acquisition, maintenance, and disposal of strategic and critical materials under section 6(a).

(B) Transportation, storage, and other incidental expenses related to such acquisition, maintenance, and disposal.

(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

(D) Encouraging the appropriate conservation of strategic and critical materials.

(E) Testing and quality studies of stockpile materials.

(F) Studying future material and mobilization requirements for the stockpile.

(G) Activities authorized under section 15.

(H) Contracting under competitive procedures for materials development and research to—

(i) improve the quality and availability of materials stockpiled from time to time in the stockpile; and

(ii) develop new materials for the stockpile.

(I) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

(J) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.

(K) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.

(L) Pay of employees of the National Defense Stockpile program.

(M) Other expenses of the National Defense Stockpile program.

(3) Moneys in the fund shall remain available until expended.

(c) All moneys received from the sale of materials being rotated under the provisions of section 6(a)(4) or disposed of under section 7(a) shall be covered into the fund and shall be available only for the acquisition of replacement materials.

(d) If, during a fiscal year, the National Defense Stockpile Manager barter materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for

services directly related to that purpose), the contract value of the materials so bartered shall—

(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2); and

(3) not increase or decrease the balance in the fund.

SEC. 10. [50 U.S.C. 98h-1] STRATEGIC AND CRITICAL MATERIALS BOARD OF DIRECTORS.

(a) **ESTABLISHMENT.**—There is established a Strategic and Critical Materials Board of Directors (in this Act referred to as the “Board”).

(b) **MEMBERS.**—The Board shall be composed, at a minimum, of the following:

(1) The Assistant Secretary of Defense for Industrial Base Policy, who shall serve as chairman of the Board.

(2) One designee of each of the Secretary of Commerce, the Secretary of State, the Secretary of Energy, and the Secretary of the Interior.

(3) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the House Committee on Armed Services.

(4) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the Senate Committee on Armed Services.

(5) Four designees of the chairman of the Board, who shall have expertise relating to military affairs, defense procurement, production of strategic and critical materials, finance, or any other disciplines deemed necessary by the chairman to conduct the business of the Board.

(c) **DUTIES OF THE BOARD.**—In addition to other matters assigned to it by the chairman, the Board shall conduct the following, without power of delegation:

(1) Adopt by-laws that ensure sufficient oversight, governance, and effectiveness of the National Defense Stockpile program.

(2) Elect or remove Board members.

(3) Advise the National Defense Stockpile Manager.

(4) Establish performance metrics and conduct an annual performance review of the management and operations of the National Defense Stockpile program.

(5) Review and approve the annual budget of the National Defense Stockpile program and conduct appropriate reviews of annual financial statements.

(6) Re-allocate budget resources within the annual budget of the National Defense Stockpile program.

(7) Review and approve the Annual Materials and Operations Plan required by section 11(a) of this Act. The report required by section 11(b)(2) shall include the views and recommendations of the Board on the projected domestic and for-

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eign economic effects of all acquisition of materials for and disposals of materials from the stockpile.

(8) Complete and submit the annual Board Report, in accordance with section 11(b)(2) of this Act.

(9) Recommend to the Secretary of Defense—

(A) a strategy to ensure a secure supply of materials designated as critical to national security; and

(B) such other strategies as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security.

(d) **BOARD MEETINGS.**—The Board shall meet as determined necessary by the chairman but not less frequently than once every year to fulfill the duties described in subsection (c).

(e) **APPLICATION OF PROVISIONS RELATING TO FEDERAL ADVISORY COMMITTEES.**—Section 1013(a) of title 5, United States Code, shall not apply to the Board.

(f) **DEFINITIONS.**—In this section:

(1) **MATERIALS CRITICAL TO NATIONAL SECURITY.**—The term “materials critical to national security” means materials—

(A) upon which the production or sustainment of military equipment is dependent; and

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

(2) **MILITARY EQUIPMENT.**—The term “military equipment” means equipment used directly by the Armed Forces to carry out military operations.

(3) **SECURE SUPPLY.**—The term “secure supply”, with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.

SEC. 11. [50 U.S.C. 98h-2] REPORTS.

(a) **REPORTS TO THE BOARD.**—The National Defense Stockpile Manager shall submit to the Board an Annual Materials and Operations Plan for the forthcoming year.

(b) **REPORTS TO CONGRESS.**—

(1) **REPORT BY NATIONAL DEFENSE STOCKPILE MANAGER.**—Not later than February 15 of each fiscal year, the National Defense Stockpile Manager shall submit to the congressional defense committees (as defined in section 101(a) of title 10, United States Code) an Annual Operations and Materials Plan that shall include—

(A) information with respect to foreign and domestic purchases of materials for the stockpile during the preceding fiscal year;

(B) information with respect to the acquisition and disposal of materials under this Act by barter, during such fiscal year;

(C) information with respect to the activities by the National Defense Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials;

(D) information with respect to the research and development activities conducted under section 8 of this Act;

(E) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and anticipated appropriations to be made to the Fund, and obligations to be made from the fund, during the current fiscal year;

(F) other pertinent information on the administration of this Act as will enable the Congress to evaluate the effectiveness of the program;

(G) an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years and planned expenditures from the National Defense Stockpile Transaction Fund and anticipated receipts from disposal of stockpile materials, which shall include—

(i) details of all planned expenditures from the National Defense Stockpile Transaction Fund during such period and of anticipated receipts from the proposed disposals of stockpile materials during such period;

(ii) details regarding materials development and research projects to be conducted during the fiscal years covered by the report using moneys in the National Defense Stockpile Transaction Fund pursuant to section 9(b)(2)(G); and

(iii) with respect to each development and research project described in clause (ii), the report shall specify the amount planned to be expended from the National Defense Stockpile Transaction Fund, the material intended to be developed, the potential military or defense industrial applications for that material, and the development and research methodologies to be used;

(H) any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2) that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate; and

(I) a summary of the implementation and findings of the pilot program established under section 6(g)(1), including—

(i) the commercial best practices selected for use under the pilot program;

(ii) how the National Defense Stockpile Manager determined which commercial best practices to select;

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- (iii) how the National Defense Stockpile Manager has used commercial best practices under the pilot program during the year preceding the briefing;
- (iv) the outcome of each use of such practices; and
- (v) any savings achieved or lessons learned as a result of the use of such practices.

(2) REPORT BY THE BOARD.—The Board shall prepare a written report to accompany the report required by paragraph (1) which shall include the activities of the Board to carry out the duties listed in section 10(c) of this Act¹

DEFINITIONS

SEC. 12. [50 U.S.C. 98h–3] For the purposes of this Act:

(1) The term “strategic and critical materials” means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) The term “national emergency” means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

(3) The term “reliable source” mean a citizen or business entity organized under the laws of—

(A) the United States or any territory or possession of the United States;

(B) a country of the national technology and industrial base, as such term is defined in section 4801 of title 10, United States Code; or

(C) a qualifying country, as defined in section 225.003 of the Defense Federal Acquisition Regulation Supplement or any successor document.

IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS

SEC. 13. [50 U.S.C. 98h–4] The President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed in general note 3(b) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of a country or area listed in such general note is not prohibited by any provision of law.

BIENNIAL REPORT ON STOCKPILE REQUIREMENTS

SEC. 14. [50 U.S.C. 98h–5] (a) Not later than January 15 of every other year, the Secretary of Defense shall submit to Congress a report on stockpile requirements. Each such report shall include—

- (1) the Secretary’s recommendations with respect to stockpile requirements; and

¹Missing punctuation at the end of paragraph (2) is so in law. See amendment made by section 1411(d)(2)(B) of division A of Public Law 118–31.

(2) the matters required under subsection (b).

(b) Each report under this section shall set forth the national emergency planning assumptions used by the Secretary in making the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumptions to be set forth include assumptions relating to each of the following:

(1) The length and intensity of the assumed military conflict.

(2) The military force structure to be mobilized.

(3) The losses anticipated from enemy action.

(4) The military, industrial, and essential civilian requirements to support the national emergency.

(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(7) Civilian austerity measures required during the mobilization period and military conflict.

(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements.

(e) The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.

(f)(1) Not later than March 1 each year, the National Defense Stockpile Manager shall provide to the congressional defense committees a briefing on strategic and critical materials that—

(A) are determined to be in shortfall in the most recent report on stockpile requirements submitted under subsection (a); and

(B) the acquisition or disposal of which is included in the Annual Materials and Operations Plan for the operation of the stockpile during the next fiscal year submitted under section 11(b).

(2) Each briefing required by paragraph (1) shall include—

(A) a description of each material described in that paragraph, including the objective to be achieved if funding is pro-

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vided, in whole or in part, for the acquisition of the material to remedy the shortfall;

(B) an estimate of additional amounts required to provide such funding, if any; and

(C) an assessment of the supply chain for each such material, including any assessment of any relevant risk in any such supply chain.

SEC. 15. [50 U.S.C. 98h-6] DEVELOPMENT AND CONSERVATION OF RELIABLE SOURCES.

(a) DUTIES.—Subject to subsection (d), the National Defense Stockpile Manager shall encourage the development and appropriate conservation of reliable sources of strategic and critical materials—

(1) by purchasing, or making a commitment to purchase, strategic and critical materials from reliable sources when such materials are needed for the stockpile;

(2) by contracting with facilities located in and owned and controlled by reliable sources, or making a commitment to contract with such facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage or disposition or meeting stockpile requirements;

(3) by qualifying facilities located in and owned and controlled by reliable sources, or qualifying strategic and critical materials produced by such facilities, to meet stockpile requirements;

(4) by contracting with facilities located in and owned and controlled by reliable sources to recycle strategic and critical materials to meet stockpile requirements or increase the balance of the National Defense Stockpile Transaction Fund under section 9; and

(5) by entering into an agreement to co-fund a bankable feasibility study for a project for the development of strategic and critical materials located in and owned and controlled by a reliable source, if the agreement—

(A) limits the liability of the stockpile to not more than the total funding provided by the Federal Government;

(B) limits the funding contribution of the Federal Government to not more than 50 percent of the cost of the bankable feasibility study; and

(C) does not obligate the Federal Government to purchase strategic and critical materials from the reliable source.

(b) ADDITIONAL AUTHORITIES.—

(1) EXTENDED CONTRACTING AUTHORITY.—

(A) IN GENERAL.—The term of a contract or commitment made under subsection (a) may not exceed ten years.

(B) PREEXISTING CONTRACTS.—A contract entered into before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 for a term of more than ten years may be extended, on or after such date of enactment, for a total of not more than an additional ten

years pursuant to any option or options set forth in the contract.

(2) **MATTERS RELATING TO CO-FUNDING OF BANKABLE FEASIBILITY STUDIES.**—To the extent authorized by Congress pursuant to the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.) and determined to be required by the President pursuant to that Act, the National Defense Stockpile Manager may provide for loans or procure debt issued by other entities to carry out a project for the development of strategic and critical materials with respect to which a study was carried out under subsection (a)(5).

(c) **PROPOSED TRANSACTIONS INCLUDED IN ANNUAL MATERIALS PLAN.**—Descriptions of proposed transactions under subsection (a) shall be included in the Annual Materials and Operations Plan. Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in accordance with section 5(a)(2).

(d) **AVAILABILITY OF FUNDS.**—The authority of the National Defense Stockpile Manager to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund under section 9 are adequate to meet such obligations.

(e) **BANKABLE FEASIBILITY STUDY DEFINED.**—In this section, the term “bankable feasibility study” means a comprehensive technical and economic study—

(1) of the selected option for a strategic and critical materials development project that includes appropriately detailed assessments of realistically assumed extraction, processing, metallurgical, economic, marketing, legal, environmental, social, and governmental considerations and any other relevant operational factors and detailed financial analysis, that are necessary to demonstrate at the time of reporting that production is reasonably justified; and

(2) that may reasonably serve as the basis for a final decision by a proponent of a project or financial institution to proceed with, or finance, the development of the project.

NATIONAL DEFENSE STOCKPILE MANAGER

SEC. 16. [50 U.S.C. 98h–7] (a) The President shall designate a single Federal office to have responsibility for performing the functions of the President under this Act, other than under sections 7(a)(1) and 13. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

(b) The individual holding the office designated by the President under subsection (a) shall be known for purposes of functions under this Act as the “National Defense Stockpile Manager”.

(c) The President may delegate functions of the President under this Act (other than under sections 7(a)(1) and 13) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order. The President may not delegate functions of the President under sections 7(a)(1) and 13.