

industrial capabilities and processes of the national technology and industrial base.

(5) A detailed description of any use by the Secretary of Defense or a Secretary concerned, as applicable, during the prior 12 months of a waiver or exception to the sourcing requirements or prohibitions established by chapter 83 of title 41 or chapter 385 of this title, including—

(A) the type of waiver or exception used; and

(B) the reasoning for the use of each such waiver or exception.

(Added Pub. L. 104-201, div. A, title VIII, § 829(e), Sept. 23, 1996, 110 Stat. 2614, § 2504; amended Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112-239, div. A, title XVI, § 1603(b), Jan. 2, 2013, 126 Stat. 2063; Pub. L. 116-92, div. A, title VIII, § 846(b), Dec. 20, 2019, 133 Stat. 1503; renumbered § 4814 and amended Pub. L. 116-283, div. A, title VIII, § 842(a), (b)(1), title XVIII, § 1867(b), (d)(3), Jan. 1, 2021, 134 Stat. 3764, 3765, 4281; Pub. L. 117-81, div. A, title III, § 333, title XVII, § 1701(b)(22)(A), (d)(15), Dec. 27, 2021, 135 Stat. 1638, 2135, 2137; Pub. L. 118-31, div. A, title X, § 1061(c)(1), Dec. 22, 2023, 137 Stat. 399.)

### Editorial Notes

#### AMENDMENTS

2023—Pub. L. 118-31, in section catchline, substituted “National technology and industrial base: biennial report” for “National technology and industrial base: annual report and quarterly briefings”; in subsec. (a), struck out designation and heading “Annual Report” before “The Secretary of Defense shall transmit” and substituted “March 1 of each odd-numbered year” for “March 1 of each year” in introductory provisions; and struck out subsec. (b) which required quarterly briefings from the Secretary of Defense to the congressional defense committees.

2021—Pub. L. 116-283, § 1867(b), renumbered section 2504 of this title as this section.

Pub. L. 116-283, § 842(b)(1), amended section catchline generally, substituting “National technology and industrial base: annual report and quarterly briefings” for “Annual report to Congress”.

Subsec. (a). Pub. L. 116-283, § 842(a)(1), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (a)(1). Pub. L. 116-283, § 1867(d)(3)(A), as amended by Pub. L. 117-81, § 1701(b)(22)(A), substituted “section 4811(c)” for “section 2506”.

Subsec. (a)(2). Pub. L. 116-283, § 1867(d)(3)(B), as amended by Pub. L. 117-81, § 1701(b)(22)(A), substituted “section 4816” for “section 2505”.

Subsec. (a)(3). Pub. L. 116-283, § 1867(d)(3)(C), as amended by Pub. L. 117-81, § 1701(b)(22)(A), substituted “section 4811” for “section 2501” and “section 4816” for “section 2505”.

Subsec. (a)(3)(B). Pub. L. 117-81, § 333, which directed the amendment of par. (3)(B) by inserting “(including vulnerabilities related to the current and projected impacts of extreme weather and to cyber attacks or disruptions)” after “industrial base”, was executed by making the insertion in subsec. (a)(3)(B) to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 117-81, § 1701(d)(15), substituted “chapter 385” for “subchapter V of chapter 148” in introductory provisions.

Pub. L. 116-283, § 842(a)(2), added par. (5).

Subsec. (b). Pub. L. 116-283, § 842(a)(3), added subsec. (b).

2019—Par. (3). Pub. L. 116-92, § 846(b)(1), inserted “Executive order or” after “pursuant to”.

Par. (3)(A). Pub. L. 116-92, § 846(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as

follows: “a description of any mitigation strategies necessary to address any gaps or vulnerabilities in the national technology and industrial base; and”.

Par. (3)(B), (C). Pub. L. 116-92, § 846(b)(3), (4), added subpar. (B) and redesignated former subpar. (B) as (C).

2013—Pars. (2), (3). Pub. L. 112-239 added par. (3), redesignated former par. (3) as (2) and struck out former par. (2) which read as follows: “A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base.”

1999—Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(22)(A) of Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1701(d)(15) of Pub. L. 117-81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116-283 have taken effect, see section 1701(a)(3) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1867(b), (d)(3) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

### § 4815. Unfunded priorities of the national technology and industrial base: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on the unfunded priorities to address gaps or vulnerabilities in the national technology and industrial base.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement of the national technology and industrial base that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(2) is necessary to address gaps or vulnerabilities in the national technology and industrial base; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement had emerged before the budget was formulated.

(Added Pub. L. 116–92, div. A, title VIII, § 846(c)(1), Dec. 20, 2019, 133 Stat. 1504, § 2504a; renumbered § 4815, Pub. L. 116–283, div. A, title XVIII, § 1867(b), Jan. 1, 2021, 134 Stat. 4281.)

### Editorial Notes

#### AMENDMENTS

2021—Pub. L. 116–283 renumbered section 2504a of this title as this section.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

### § 4816. National technology and industrial base: periodic defense capability assessments

(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability of the national technology and industrial base to attain the national security objectives set forth in section 4811(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

(1) describe sectors or capabilities, their underlying infrastructure and processes;

(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment;

(3) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries supporting the sectors or capabilities in the assessment, evaluate the reasons for any variance from applicable preceding determinations, and identify the extent to which those industries are comprised of only one potential source in the national technology and industrial base or have multiple potential sources;

(4) determine the extent to which the requirements associated with defense acquisition

programs can be satisfied by the present and projected performance capacities of industries that do not actively support Department of Defense acquisition programs and identify the barriers to the participation of those industries;

(5) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives; and

(6) consider the effects of the termination of major defense acquisition programs (as the term is defined in section 4201 of this title<sup>1</sup> in the previous fiscal year on the sectors and capabilities in the assessment.

(c) ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.—Each assessment under subsection (a) shall include a separate discussion and presentation regarding the extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

(d) ASSESSMENT OF EXTENT OF EFFECTS OF FOREIGN BOYCOTTS.—Each assessment under subsection (a) shall include an examination of the extent to which the national technology and industrial base is affected by foreign boycotts. If it is determined that a foreign boycott (other than a boycott addressed in a previous assessment) is subjecting the national technology and industrial base to significant harm, the assessment shall include a separate discussion and presentation regarding that foreign boycott that shall, at a minimum—

(1) identify the sectors that are subject to such harm;

(2) describe the harm resulting from such boycott; and

(3) identify actions necessary to minimize the effects of such boycott on the national technology and industrial base.

(e) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.

(Added Pub. L. 102–484, div. D, title XLII, § 4215, Oct. 23, 1992, 106 Stat. 2667, § 2505; amended Pub. L. 103–35, title II, § 201(g)(7), May 31, 1993, 107 Stat. 100; Pub. L. 104–201, div. A, title VIII,

<sup>1</sup>So in original. Probably should be followed by a closing parenthesis.