

(2) LIMITATION.—A proposed procurement in an amount greater than \$150,000 may not be divided into several purchases or contracts for lesser amounts in order to qualify for this exception.

(d) DEFINITIONS.—In this section:

(1) COVERED ITEM.—The term “covered item” means an article or item of—

(A) personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material (including nitrile and vinyl gloves, surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, surgical and isolation gowns, and head and foot coverings) or clothing, and the materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or

(B) sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

(2) COVERED NATION.—The term “covered nation” means—

(A) the Democratic People’s Republic of North Korea;

(B) the People’s Republic of China;

(C) the Russian Federation; and

(D) the Islamic Republic of Iran.

(Added Pub. L. 117–81, div. A, title VIII, § 802(a)(1), Dec. 27, 2021, 135 Stat. 1812, § 2533e; renumbered § 4875, Pub. L. 117–81, div. A, title VIII, § 802(b)(1), Dec. 27, 2021, 135 Stat. 1813.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81 renumbered section 2533e of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81, which renumbered section 2533e of this title as this section, deemed to have taken effect immediately before section 1881 of Pub. L. 116–283, subsec. (a) of which had repealed chapter 148 of this title, where section 2533c was located. See section 881(a) of Pub. L. 117–263, set out as a note under section 4027 of this title.

Pub. L. 117–81, div. A, title VIII, § 802(b)(3), Dec. 27, 2021, 135 Stat. 1814, provided that: “The transfer, redesignation, and amendments made by this subsection [renumbering section 2533e of this title as this section] shall take effect immediately after the amendments made by title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116–283] take effect [Jan. 1, 2022].” See note above.

REFERENCES; SAVINGS PROVISION; RULE OF CONSTRUCTION

Pub. L. 117–81, div. A, title VIII, § 802(b)(4), Dec. 27, 2021, 135 Stat. 1814, provided that: “Sections 1883 through 1885 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Public Law 116–283] [set out as notes preceding section 3001 of this title] shall apply with respect to the transfers, redesignations, and amendments made under this subsection [see Effective Date of 2021 Amendment note above] as if such transfers, redesignations, and amendments were made under title XVIII of such Act.”

SUBCHAPTER IV—DEFENSE INDUSTRIAL RESERVE AND INDUSTRIAL MOBILIZATION

Sec. 4881.	Defense Industrial Reserve.
4882.	Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.
4883.	Industrial mobilization: plants; lists.
4884.	Industrial mobilization: Board on Mobilization of Industries Essential for Military Preparedness.

§ 4881. Defense Industrial Reserve

(a) DECLARATION OF PURPOSE AND POLICY.—It is the intent of Congress—

(1) to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and an industrial reserve of machine tools and other industrial manufacturing equipment may be assured for immediate use to supply the needs of the armed forces in time of national emergency or in anticipation thereof;

(2) that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements for immediate use in time of national emergency, and that any such items which shall become excess to such requirements shall be disposed of as expeditiously as possible;

(3) that to the maximum extent practicable, reliance will be placed upon private industry for support of defense production; and

(4) that machine tools and other industrial manufacturing equipment may be held in plant equipment packages or in a general reserve to maintain a high state of readiness for production of critical items of defense materiel, to provide production capacity not available in private industry for defense materiel, or to assist private industry in time of national disaster.

(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in subsection (a), the Secretary of Defense shall—

(A) determine which industrial plants and installations (including machine tools and other industrial manufacturing equipment) should become a part of the Defense Industrial Reserve;

(B) designate what excess industrial property shall be disposed of;

(C) establish general policies and provide for the transportation, handling, care, storage, protection, maintenance, repair, rebuilding, utilization, recording, leasing and security of such property;

(D) direct the transfer without reimbursement of such property to other Government agencies with the consent of such agencies;

(E) direct the leasing of any of such property to designated lessees;

(F) authorize the disposition in accordance with existing law of any of such property when in the opinion of the Secretary such property is no longer needed by the Department of Defense; and

(G) notwithstanding chapter 5 of title 40 and any other provision of law, authorize the

transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property is in the public interest.

(2)(A) The Secretary of a military department to which equipment or other property is transferred from the Defense Industrial Reserve shall reimburse appropriations available for the purposes of the Defense Industrial Reserve for the full cost (including direct and indirect costs) of—

- (i) storage of such property;
- (ii) repair and maintenance of such property; and
- (iii) overhead allocated to such property.

(B) The Secretary of Defense shall prescribe regulations establishing general policies and fee schedules for reimbursements under subparagraph (A).

(c) DEFINITIONS.—In this section:

(1) The term “Defense Industrial Reserve” means—

(A) a general reserve of industrial manufacturing equipment, including machine tools, selected by the Secretary of Defense for retention for national defense or for other emergency use;

(B) those industrial plants and installations held by and under the control of the Department of Defense in active or inactive status, including Government-owned/Government-operated plants and installations and Government-owned/contractor-operated plants and installations which are retained for use in their entirety, or in part, for production of military weapons systems, munitions, components, or supplies; and

(C) those industrial plants and installations under the control of the Secretary which are not required for the immediate need of any department or agency of the Government and which should be sold, leased, or otherwise disposed of.

(2) The term “plant equipment package” means a complement of active and idle machine tools and other industrial manufacturing equipment held by and under the control of the Department of Defense and approved by the Secretary for retention to produce particular defense materiel or defense supporting items at a specific level of output in the event of emergency.

(Added and amended Pub. L. 102-484, div. D, title XLII, §4235, Oct. 23, 1992, 106 Stat. 2690, §2535; Pub. L. 103-35, title II, §201(c)(8), May 31, 1993, 107 Stat. 98; Pub. L. 103-337, div. A, title III, §379(a), Oct. 5, 1994, 108 Stat. 2737; Pub. L. 107-107, div. A, title X, §1048(a)(23), Dec. 28, 2001, 115 Stat. 1224; Pub. L. 107-217, §3(b)(7), Aug. 21, 2002, 116 Stat. 1295; renumbered §4881, Pub. L. 116-283, div. A, title XVIII, §1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4286.)

Editorial Notes

CODIFICATION

The text of section 451 of Title 50, War and National Defense, which was transferred to this section, des-

ignated subsec. (a), and amended by Pub. L. 102-484, §4235(a)(2), was based on acts July 2, 1948, ch. 811, §2, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617.

The text of section 453 of Title 50 which was transferred to this section, designated subsec. (b), and amended by Pub. L. 102-484, §4235(a)(3), was based on acts July 2, 1948, ch. 811, §4, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617; Nov. 14, 1986, Pub. L. 99-661, div. A, title XIII, §1359(a), 100 Stat. 3999. For effective date of 1986 amendment, see section 1359(b) of Pub. L. 99-661.

The text of section 452 of Title 50 which was transferred to this section, designated subsec. (c), and amended by Pub. L. 102-484, §4235(b), was based on acts July 2, 1948, ch. 811, §3, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2535 of this title as this section.

2002—Subsec. (b)(1)(G). Pub. L. 107-217 substituted “chapter 5 of title 40” for “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)”.

2001—Subsec. (a). Pub. L. 107-107, §1048(a)(23)(A)(i), substituted “intent of Congress—” for “intent of Congress” in introductory provisions.

Subsec. (a)(1). Pub. L. 107-107, §1048(a)(23)(A)(ii), (iii), substituted “armed forces” for “Armed Forces” and realigned margins.

Subsec. (a)(2) to (4). Pub. L. 107-107, §1048(a)(23)(A)(ii), realigned margins.

Subsec. (b)(1). Pub. L. 107-107, §1048(a)(23)(B)(i), substituted “in subsection (a), the Secretary of Defense shall—” for “in this section, the Secretary is authorized and directed to—” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 107-107, §1048(a)(23)(B)(ii), substituted “Defense Industrial Reserve” for “defense industrial reserve”.

Subsec. (c). Pub. L. 107-107, §1048(a)(23)(C), redesignated par. (2) as (1), substituted “means—” for “means” in introductory provisions, realigned margins of subpars. (A) to (C) of par. (1) and inserted “and” after semicolon in subpar. (B), redesignated par. (3) as (2), and struck out former par. (1) which read as follows: “The term ‘Secretary’ means Secretary of Defense.”

1994—Subsec. (b)(1)(G). Pub. L. 103-337 amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: “authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution or school shall by agreement make such provision as the Secretary shall deem satisfactory for the proper maintenance and care of such property and for its return, without expense to the Government, upon request of the Secretary.”

1993—Subsec. (b)(2)(B). Pub. L. 103-35 substituted “subparagraph (A)” for “paragraph (1)”.

1992—Pub. L. 102-484, §4235(a), added section number and catchline.

Subsec. (a). Pub. L. 102-484, §4235(a)(2), transferred the text of section 451 of Title 50, War and National Defense, to this section, designated it subsec. (a), inserted heading, and substituted “It” for “In enacting this chapter it” in introductory provisions. See Codification note above.

Subsec. (b). Pub. L. 102-484, §4235(a)(3), transferred the text of section 453 of Title 50, War and National Defense, to the end of this section and designated it subsec. (b), inserted heading, redesignated former subsec. (a) of section 453 as par. (1), substituted “in this section” for “in this chapter” in introductory provisions, redesignated former pars. (1) to (7) as subpars. (A) to (G), respectively, in subpar. (G) redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, redesignated former subsec. (b) of section 453 as par. (2),

and in par. (2) redesignated former par. (1) as subpar. (A), former subpars. (A) to (C) as cls. (i) to (iii), and former par. (2) as subpar. (B). See Codification note above.

Subsec. (c). Pub. L. 102-484, § 4235(b), transferred the text of section 452 of Title 50, War and National Defense, to the end of this section, designated it subsec. (c), inserted heading, and substituted “In this section:” for “As used in this chapter—” in introductory provisions. See Codification note above.

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.

TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993 TO EDUCATIONAL INSTITUTIONS OR TRAINING SCHOOLS

Pub. L. 103-337, div. A, title III, § 379(b), Oct. 5, 1994, 108 Stat. 2737, provided that: “Except for property determined by the Secretary of Defense to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code [now 10 U.S.C. 4881(b)], or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992 [former section 453(a)(7) of Title 50, War and National Defense, see Codification and 1992 Amendment notes above]) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.”

§ 4882. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

(a) ORDERING AUTHORITY.—In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) COMPLIANCE WITH ORDER REQUIRED.—A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) SEIZURE OF MANUFACTURING PLANTS UPON NONCOMPLIANCE.—In time of war or when war is imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the head of that department is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the armed forces if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the head of such department; or

(3) to furnish them at a reasonable price as determined by the head of such department.

(d) USE OF SEIZED PLANT.—The President, through the head of any department, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) COMPENSATION REQUIRED.—Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) CRIMINAL PENALTY.—Whoever fails to comply with this section shall be imprisoned for not more than three years and fined under title 18.

(Added Pub. L. 103-160, div. A, title VIII, § 822(a)(1), Nov. 30, 1993, 107 Stat. 1704, § 2538; amended Pub. L. 103-337, div. A, title VIII, § 811, Oct. 5, 1994, 108 Stat. 2815; renumbered § 4882, Pub. L. 116-283, div. A, title XVIII, § 1870(e)(2)(A), Jan. 1, 2021, 134 Stat. 4286.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4501 and 9501 of this title, prior to repeal by Pub. L. 103-160, § 822(a)(2).

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2538 of this title as this section.

1994—Subsec. (a). Pub. L. 103-337, § 811(1), substituted “head of any department” for “Secretary of Defense”.

Subsec. (c). Pub. L. 103-337, § 811, substituted “through the head of any department” for “through the Secretary of Defense” and “opinion of the head of that department” for “opinion of the Secretary of Defense” in introductory provisions and “head of such department” for “Secretary” in pars. (2) and (3).

Subsec. (d). Pub. L. 103-337, § 811(1), substituted “head of any department” for “Secretary of Defense”.

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.

§ 4883. Industrial mobilization: plants; lists

(a) LIST OF PLANTS EQUIPPED TO MANUFACTURE ARMS OR AMMUNITION.—The Secretary of Defense may maintain a list of all privately owned plants in the United States, and the territories, Commonwealths, and possessions of the United States, that are equipped to manufacture for the armed forces arms or ammunition, or parts thereof, and may obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.