

turing. The Secretary of Commerce may award financial assistance to any Manufacturing USA Institute for work relating to semiconductor manufacturing.” for “is focused on semiconductor manufacturing.”, and “Such institutes may emphasize” for “Such institute may emphasize”.

Subsec. (h). Pub. L. 117–167, §103(c)(5), added subsec. (h).

#### **§ 4657. Prohibition relating to foreign entities of concern**

None of the funds authorized to be appropriated to carry out this chapter may be provided to a foreign entity of concern.

(Pub. L. 116–283, div. H, title XCIX, §9907, Jan. 1, 2021, 134 Stat. 4860.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

This chapter, referred to in text, was in the original “this subtitle” and was translated as reading “this title”, meaning title XCIX of div. H of Pub. L. 116–283, to reflect the probable intent of Congress.

#### **§ 4658. Defense Production Act of 1950 efforts**

##### **(a) In general**

Not later than 180 days after January 1, 2021, the President shall submit to Congress a report on a plan of action for any use of authorities available in title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.) to establish or enhance a domestic production capability for microelectronics technologies and related technologies, subject to—

(1) the availability of appropriations for that purpose; and

(2) a determination made under the plan pursuant to such title III that such technologies are essential to the national defense and that domestic industrial capabilities are insufficient to meet these needs.

##### **(b) Coordination**

The President shall develop the plan of action required by subsection (a) in consultation with any relevant head of a Federal agency, an advisory committee established under section 708(d) of the Defense Production Act of 1950 (50 U.S.C. 4558(d)), and appropriate stakeholders in the private sector.

(Pub. L. 116–283, div. H, title XCIX, §9908, Jan. 1, 2021, 134 Stat. 4860.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Defense Production Act of 1950, referred to in subsec. (a), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified principally to chapter 55 (§4501 et seq.) of Title 50, War and National Defense. Title III of the Act is classified generally to subchapter II (§4531 et seq.) of chapter 55. For complete classification of this Act to the Code, see section 4501 of Title 50 and Tables.

#### **§ 4659. Additional authorities**

##### **(a) In general**

In carrying out the responsibilities of the Department of Commerce under this chapter, the Secretary may—

(1) enter into agreements, including contracts, grants and cooperative agreements,

and other transactions as may be necessary and on such terms as the Secretary considers appropriate;

(2) make advance payments under agreements and other transactions authorized under paragraph (1) without regard to section 3324 of title 31;

(3) require a person or other entity to make payments to the Department of Commerce upon application and as a condition for receiving support through an award of assistance or other transaction;

(4) procure temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5;

(5) notwithstanding section 3104 of title 5 or the provisions of any other law relating to the appointment, number, classification, or compensation of employees, make appointments of scientific, engineering, and professional personnel, and fix the basic pay of such personnel at a rate to be determined by the Secretary at rates not in excess of the highest total annual compensation payable at the rate determined under section 104 of title 3, except that the Secretary shall appoint not more than 25 personnel under this paragraph;

(6) with the consent of another Federal agency, enter into an agreement with that Federal agency to use, with or without reimbursement, any service, equipment, personnel, or facility of that Federal agency; and

(7) establish such rules, regulations, and procedures as the Secretary considers appropriate.

##### **(b) Requirement**

Any funds received from a payment made by a person or entity pursuant to subsection (a)(3) shall be credited to and merged with the account from which support to the person or entity was made<sup>1</sup>

##### **(c) Lead Federal agency and cooperating agencies**

###### **(1) Definition**

In this subsection, the term “lead agency” has the meaning given the term in section 111 of NEPA (42 U.S.C. 4336e).

###### **(2) Option to serve as lead agency**

With respect to a covered activity that is a major Federal action under NEPA, and with respect to which the Department of Commerce is authorized or required by law to issue an authorization or take action for or relating to that covered activity, the Department of Commerce shall have the first right to serve as the lead agency with respect to that covered activity under NEPA.

##### **(d) Categorical exclusions**

###### **(1) Establishment of categorical exclusions**

Each of the following categorical exclusions is established for the National Institute of Standards and Technology with respect to a covered activity and, beginning on October 2, 2024, is available for use by the Secretary with respect to a covered activity:

(A) Categorical exclusion 17.04.d (relating to the acquisition of machinery and equip-

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

ment) in the document entitled “EDA Program to Implement the National Environmental Policy Act of 1969 and Other Federal Environmental Mandates As Required” (Directive No. 17.02-2; effective date October 14, 1992).

(B) Categorical exclusion A9 in Appendix A to subpart D of part 1021 of title 10, Code of Federal Regulations, or any successor regulation.

(C) Categorical exclusions B1.24, B1.31, B2.5, and B5.1 in Appendix B to subpart D of part 1021 of title 10, Code of Federal Regulations, or any successor regulation.

(D) The categorical exclusions described in paragraphs (4) and (13) of section 50.19(b) of title 24, Code of Federal Regulations, or any successor regulation.

(E) Categorical exclusion (c)(1) in Appendix B to part 651 of title 32, Code of Federal Regulations, or any successor regulation.

(F) Categorical exclusions A2.3.8 and A2.3.14 in Appendix B to part 989 of title 32, Code of Federal Regulations, or any successor regulation.

## (2) Additional categorical exclusions

Notwithstanding any other provision of law, each of the following shall be treated as a category of action categorically excluded from the requirements relating to environmental assessments and environmental impact statements under section 1501.4 of title 40, Code of Federal Regulations, or any successor regulation:

(A) The provision by the Secretary of any Federal financial assistance for a project described in section 4652 of this title, if the facility that is the subject of the project is on or adjacent to a site—

(i) that is owned or leased by the covered entity to which Federal financial assistance is provided for that project; and

(ii) on which, as of the date on which the Secretary provides that Federal financial assistance, substantially similar construction, expansion, or modernization is being or has been carried out, such that the facility would not more than double existing developed acreage or on-site supporting infrastructure.

(B) The provision by the Secretary of Defense of any Federal financial assistance relating to—

(i) the creation, expansion, or modernization of one or more facilities described in the second sentence of section 4653(a)(1) of this title; or

(ii) carrying out section 4653(b) of this title, as in effect on October 2, 2024.

(C) Any activity undertaken by the Secretary relating to carrying out section 4656 of this title, as in effect on October 2, 2024.

## (e) Incorporation of prior planning decisions

### (1) Definition

In this subsection, the term “prior studies and decisions” means baseline data, planning documents, studies, analyses, decisions, and documentation that a Federal agency has

completed for a project (or that have been completed under the laws and procedures of a State or Indian Tribe), including for determining the reasonable range of alternatives for that project.

### (2) Reliance on prior studies and decisions

In completing an environmental review under NEPA for a covered activity, the Secretary may consider and, as appropriate, rely on or adopt prior studies and decisions, if the Secretary determines that—

(A) those prior studies and decisions meet the standards for an adequate statement, assessment, or determination under applicable procedures of the Department of Commerce implementing the requirements of NEPA;

(B) in the case of prior studies and decisions completed under the laws and procedures of a State or Indian Tribe, those laws and procedures are of equal or greater rigor than those of each applicable Federal law, including NEPA, implementing procedures of the Department of Commerce; or

(C) if applicable, the prior studies and decisions are informed by other analysis or documentation that would have been prepared if the prior studies and decisions were prepared by the Secretary under NEPA.

## (f) Definitions

In this section:

### (1) Covered activity

The term “covered activity” means any activity relating to the construction, expansion, or modernization of a facility, the investment in which is eligible for Federal financial assistance under section 4652 or 4656 of this title.

### (2) NEPA

The term “NEPA” means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Pub. L. 116-283, div. H, title XCIX, §9909, as added Pub. L. 117-167, div. A, §103(d), Aug. 9, 2022, 136 Stat. 1389; amended Pub. L. 118-105, §2(2), Oct. 2, 2024, 138 Stat. 1588.)

## Editorial Notes

### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this division” and was translated as reading “this title”, meaning title XCIX of div. H of Pub. L. 116-283, to reflect the probable intent of Congress.

The National Environmental Policy Act of 1969, referred to in subsec. (f)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

### AMENDMENTS

2024—Subsecs. (c) to (f). Pub. L. 118-105 added subsecs. (c) to (f).

## CHAPTER 73—EXPORT ENHANCEMENT

### SUBCHAPTER I—FAIR TRADE IN AUTO PARTS

Sec.

4701 to 4704. Omitted.

### SUBCHAPTER I-A—FAIR TRADE IN AUTOMOTIVE PARTS

4705 to 4705c. Omitted.