

Pub. L. 116-136, set out as a note under section 4532 of this title.

AUTHORIZATION TO TAKE ACTIONS TO CORRECT THE INDUSTRIAL RESOURCE SHORTFALL FOR HIGH-PURITY BERYLLIUM METAL

Pub. L. 111-84, div. A, title VIII, §842, Oct. 28, 2009, 123 Stat. 2418, provided that: “Notwithstanding any limitation in section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) [now 50 U.S.C. 4533], an action may be taken under such section to correct an industrial resource shortfall or domestic industrial base shortfall for high-purity beryllium metal if such action does not cause the aggregate outstanding amount of all such actions for such shortfall to exceed ‘\$85,000,000.’”

RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS

Pub. L. 108-195, §3, Dec. 19, 2003, 117 Stat. 2892, provided that:

“(a) **IN GENERAL.**—Notwithstanding the limitation contained in [former] section 303(a)(6)(C) of the Defense Production Act of 1950 ([former] 50 U.S.C. App. 2093(a)(6)(C)), the President may take actions under section 303 of the Defense Production Act of 1950 to correct the industrial resource shortfall for radiation-hardened electronics, to the extent that such Presidential actions do not cause the aggregate outstanding amount of all such actions to exceed \$200,000,000.

“(b) **REPORT BY THE SECRETARY.**—Before the end of the 6-month period beginning on the date of the enactment of this Act [Dec. 19, 2003], the Secretary of Defense shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing—

“(1) the current state of the domestic industrial base for radiation-hardened electronics;

“(2) the projected requirements of the Department of Defense for radiation-hardened electronics;

“(3) the intentions of the Department of Defense for the industrial base for radiation-hardened electronics; and

“(4) the plans of the Department of Defense for use of providers of radiation-hardened electronics beyond the providers with which the Department had entered into contractual arrangements under the authority of the Defense Production Act of 1950 [50 U.S.C. 4501 et seq.], as of the date of the enactment of this Act.”

Pub. L. 107-314, div. A, title VIII, §829, Dec. 2, 2002, 116 Stat. 2618, provided that: “Notwithstanding the limitation in [former] section 303(a)(6)(C) of the Defense Production Act of 1950 ([former] 50 U.S.C. App. 2093(a)(6)(C)), action or actions may be taken under section 303 of that Act to correct the industrial resource shortfall for radiation-hardened electronics, if such actions do not cause the aggregate outstanding amount of all such actions to exceed \$106,000,000.”

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under this section delegated to Chief Executive Officer of the United States International Development Finance Corporation, see section 2 of Ex. Ord. No. 13922, May 14, 2020, 85 F.R. 30583, set out as a note under section 4532 of this title.

Authority of President under this section with respect to responding to the spread of COVID-19 within the United States delegated to Secretary of Health and Human Services and the Secretary of Homeland Security, see section 2 of Ex. Ord. No. 13911, Mar. 27, 2020, 85 F.R. 18403, set out as a note under section 4511 of this title.

Functions of President under this chapter relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of certain authority of President under this section, see sections 303(a), 304, 305(b), and 306-308 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16654, 16655, set out as a note under section 4553 of this title.

EXECUTIVE WAIVER OF LIMITATIONS

Requirements of subsec. (a)(1) to (6) of this section waived during the national emergency declared by Proc. No. 9994, Mar. 13, 2020, 85 F.R. 15337, set out as a note under section 1621 of this title, see section 2(c) of Ex. Ord. No. 13911, Mar. 27, 2020, 85 F.R. 18404, set out as a note under section 4511 of this title.

§ 4534. Defense Production Act Fund

(a) Establishment of Fund

There is established in the Treasury of the United States a separate fund to be known as the “Defense Production Act Fund” (in this section referred to as the “Fund”).

(b) Moneys in Fund

There shall be credited to the Fund—

(1) all moneys appropriated for the Fund, as authorized by section 4561 of this title; and

(2) all moneys received by the Fund on transactions entered into pursuant to section 4533 of this title.

(c) Use of Fund

The Fund shall be available to carry out the provisions and purposes of this subchapter, subject to the limitations set forth in this chapter and in appropriations Acts.

(d) Duration of Fund

Moneys in the Fund shall remain available until expended.

(e) Fund balance

The Fund balance at the close of each fiscal year shall not exceed \$750,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds \$750,000,000, the amount in excess of \$750,000,000 shall be paid into the general fund of the Treasury.

(f) Fund manager

The President shall designate a Fund manager. The duties of the Fund manager shall include—

(1) determining the liability of the Fund in accordance with subsection (g);

(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

(g) Liabilities against Fund

When any agreement entered into pursuant to this subchapter after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.

(Sept. 8, 1950, ch. 932, title III, §304, as added Pub. L. 111-67, §7, Sept. 30, 2009, 123 Stat. 2017.)

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), 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 2094 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 304, act Sept. 8, 1950, ch. 932, title III, 64 Stat. 802; June 2, 1951, ch. 121, Ch. XI, 65 Stat. 61; July 31, 1951, ch. 275, title I, §103(b), (c), 65 Stat. 134; Pub. L. 86-560, §2, June 30, 1960, 74 Stat. 282; Pub. L. 88-343, §3, June 30, 1964, 78 Stat. 235; Pub. L. 93-426, §2, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 102-558, title I, §122, Oct. 28, 1992, 106 Stat. 4206; Pub. L. 107-47, §4(4), Oct. 5, 2001, 115 Stat. 260, related to Defense Production Act Fund, was omitted in the general amendment of title III of the Act by Pub. L. 111-67.

Statutory Notes and Related Subsidiaries

INCREASING ACCESS TO MATERIALS NECESSARY FOR NATIONAL SECURITY AND PANDEMIC RECOVERY

Requirement described in subsec. (e) of this section not applicable during the 2-year period beginning on Mar. 27, 2020, see section 4017(1) of Pub. L. 116-136, set out in a note under section 4532 of this title.

DEFENSE PRODUCTION ACT FUND MANAGER

Secretary of Defense designated Defense Production Act Fund Manager in accordance with subsec. (f) of this section, see section 309 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16655, set out as a note under section 4553 of this title.

Executive Documents

EXECUTIVE ORDER No. 12346

Ex. Ord. No. 12346, Feb. 8, 1982, 47 F.R. 5993, related to the transition of synthetic fuel responsibilities from the Department of Energy to the United States Synthetic Fuels Corporation, revoked Ex. Ord. No. 12242, and provided that the provisions of Ex. Ord. No. 12242 would continue in full force and effect with respect to any loan guarantee issued under its provisions.

§ 4535. Reports on exercise of authorities**(a) In general**

The President, or the head of an agency to which the President has delegated authorities under this subchapter, shall submit a report and provide a briefing to the appropriate congressional committees with respect to any action taken pursuant to such authorities—

(1) except as provided by paragraph (2), not later than 30 days after taking the action; and

(2) in the case of an action that involves a business concern in the United Kingdom or Australia, not later than 30 days before taking the action.

(b) Elements**(1) In general**

Each report and briefing required by subsection (a) with respect to an action described in that subsection shall include—

(A) a justification of the necessity of the use of authorities under this subchapter; and
(B) a description of the financial terms of any related financial transaction.

(2) Additional elements relating to business concerns in the United Kingdom or Australia

Each report and briefing required by subsection (a) with respect to an action described in paragraph (2) of that subsection shall include, in addition to the elements under paragraph (1)—

(A) a certification that business concerns in the United States or Canada were not available with respect to the action; and

(B) an analysis of why such business concerns were not available.

(c) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives; and

(2) in the case of an action described in subsection (a) involving materials critical to national security (as defined in section 4552(7)(B)(ii)(II)(bb) of this title), the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(Sept. 8, 1950, ch. 932, title III, §305, as added Pub. L. 118-31, div. A, title X, §1080(b), Dec. 22, 2023, 137 Stat. 416.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 305 to 310 of act Sept. 8, 1950, ch. 932, were omitted in the general amendment of title III of the Act by Pub. L. 111-67.

Section 305, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 619; amended Pub. L. 107-314, div. A, title X, §1062(o)(3), Dec. 2, 2002, 116 Stat. 2653, related to synthetic fuel production.

Section 306, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 623; amended Pub. L. 107-314, div. A, title X, §1062(o)(3), Dec. 2, 2002, 116 Stat. 2653, related to synthetic fuel production subsequent to determinations respecting a national energy supply shortage of defense fuels.

Section 307, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 628; amended Pub. L. 102-558, title I, §151, Oct. 28, 1992, 106 Stat. 4218, related to synthetic fuel action.

Section 308, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 631, related to definitions of “Government synthetic fuel project”, “synthetic fuel”, “synthetic fuel project”, and “United States”.

Section 309, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 98-265, §6, Apr. 17, 1984, 98 Stat. 152; amended Pub. L. 99-441, §4, Oct. 3, 1986, 100 Stat. 1117; Pub. L. 102-558, title I, §124, Oct. 28, 1992, 106 Stat. 4207; Pub. L. 107-47, §4(5), Oct. 5, 2001, 115 Stat. 260, related to annual report on impact of offsets. See section 4568 of this title.

Section 310, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 102-558, title I, §125, Oct. 28, 1992, 106 Stat. 4208, related to civil-military integration.