

SUBCHAPTER III—GENERAL PROVISIONS

AMENDMENTS

Editorial Notes

CODIFICATION

Subchapter is comprised of the portions of title VII of act Sept. 8, 1950, ch. 932, as amended, that had not previously been repealed when title VII was editorially reclassified as this subchapter.

§ 4551. Small business**(a) Participation**

Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this chapter.

(b) Administration of chapter

In administering the programs, implementing regulations, policies, and procedures under this chapter, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

(c) Advisory committee participation

Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this chapter.

(d) Information

Information about this chapter and activities undertaken in accordance with this chapter shall be made available to small business concerns.

(e) Allocations under section 4511

Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 4511 of this title, small business concerns shall be accorded, to the extent practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to emerging small business concerns.

(Sept. 8, 1950, ch. 932, title VII, § 701, 64 Stat. 815; July 31, 1951, ch. 275, title I, § 108, 65 Stat. 138; June 30, 1953, ch. 171, § 7, 67 Stat. 130; Aug. 9, 1955, ch. 655, §§ 4, 5, 69 Stat. 580; Pub. L. 96-294, title I, § 105(c), June 30, 1980, 94 Stat. 633; Pub. L. 102-558, title I, § 131, Oct. 28, 1992, 106 Stat. 4209.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 2151 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

1992—Pub. L. 102-558 amended section generally, substituting present provisions for provisions stating policy to encourage small business enterprises and providing for measures to carry out this policy, for allocation of materials in the civilian market, and for distribution of defense contracts.

1980—Subsec. (d). Pub. L. 96-294 substituted "June 30, 1980" for "August 9, 1955".

1955—Subsec. (c). Act Aug. 9, 1955, § 4, struck out specific dates which were the basis for determination of materials in civilian market and inserted provisions requiring that a business receive its fair share based on a representative period before imposition of the allocation.

Subsec. (d). Act Aug. 9, 1955, § 5, added subsec. (d).

1953—Subsec. (c). Act June 30, 1953, amended subsec. (c) generally, the principal change being to provide, in the allocation to business of a fair share of available civilian supply, a new base period for allocating materials not under control on July 1, 1953.

1951—Subsec. (c). Act July 31, 1951, provided that limitations and restrictions on production of specific items shall not exclude new concerns.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 4502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-294 effective June 30, 1980, see section 107 of Pub. L. 96-294, set out as a note under section 4502 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 4502 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President to implement this chapter under this subchapter 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(a) of Ex. Ord. No. 13911, Mar. 27, 2020, 85 F.R. 18403, set out as a note under section 4511 of this title.

Authority of President to implement this chapter under this subchapter with respect to hoarding of health and medical resources necessary to respond to the spread of COVID-19 within the United States delegated to Secretary of Health and Human Services, see section 2(a)(ii) of Ex. Ord. 13910, Mar. 23, 2020, 85 F.R. 17001, set out as a note under section 4512 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 subchapter, see section 802 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16659, set out as a note under section 4553 of this title.

§ 4552. Definitions

For purposes of this chapter, the following definitions shall apply:

(1) Critical component

The term "critical component" includes such components, subsystems, systems, and

related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of equipment identified by the President as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10 or by a Presidential determination as a result of a petition filed under section 1862 of title 19 shall be designated as critical components for purposes of this chapter, unless the President determines that the designation is unwarranted.

(2) Critical infrastructure

The term “critical infrastructure” means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.

(3) Critical technology

The term “critical technology” includes any technology designated by the President to be essential to the national defense.

(4) Critical technology item

The term “critical technology item” means materials directly employing, derived from, or utilizing a critical technology.

(5) Defense contractor

The term “defense contractor” means any person who enters into a contract with the United States—

(A) to furnish materials, industrial resources, or a critical technology for the national defense; or

(B) to perform services for the national defense.

(6) Domestic industrial base

The term “domestic industrial base” means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during peacetime, national emergency, or war.

(7) Domestic source

(A) In general

Except as provided in subparagraph (B), the term “domestic source” means a business concern—

(i) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item; and

(ii) that procures from business concerns described in clause (i) substantially all of any components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

(B) Domestic source for subchapter II

(i) In general

For purposes of subchapter II, the term “domestic source” means a business concern that—

(I) performs substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item in—

(aa) the United States or Canada; or

(bb) subject to clause (ii), Australia or the United Kingdom; and

(II) procures from business concerns described in subclause (I) substantially all of any components or assemblies required under a contract with the United States relating to a critical component or critical technology item.

(ii) Limitations on use of business concerns in Australia and United Kingdom

(I) In general

A business concern described in clause (i)(I)(bb) may be treated as a domestic source only for purposes of the exercise of authorities under subchapter II relating to national defense matters that cannot be fully addressed with business concerns described in clause (i)(I)(aa).

(II) National defense matter defined

For purposes of subclause (I), the term “national defense matter” is a matter relating to the development or production of—

(aa) a defense article, as defined in section 301 of title 10; or

(bb) materials critical to national security, as defined in section 98h-1(f) of this title.

(8) Facilities

The term “facilities” includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

(9) Foreign source

The term “foreign source” means a business entity other than a “domestic source”.

(10) Guaranteeing agency

The term “guaranteeing agency” means a department or agency of the United States engaged in procurement for the national defense.

(11) Homeland security

The term “homeland security” includes efforts—

(A) to prevent terrorist attacks within the United States;

(B) to reduce the vulnerability of the United States to terrorism;

(C) to minimize damage from a terrorist attack in the United States; and

(D) to recover from a terrorist attack in the United States.

(12) Industrial resources

The term “industrial resources” means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial base.

(13) Materials

The term “materials” includes—

(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

(14) National defense

The term “national defense” means programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5195 et seq.] and critical infrastructure protection and restoration.

(15) Person

The term “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

(16) Services

The term “services” includes any effort that is needed for or incidental to—

(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item;

(B) the construction of facilities;

(C) the movement of individuals and property by all modes of civil transportation; or

(D) other national defense programs and activities.

(17) Small business concern

The term “small business concern” means a business concern that meets the requirements of section 632(a) of title 15 and the regulations promulgated pursuant to that section, and includes such business concerns owned and controlled by socially and economically disadvantaged individuals or by women.

(Sept. 8, 1950, ch. 932, title VII, § 702, 64 Stat. 815; June 30, 1953, ch. 171, § 8, 67 Stat. 130; Pub. L. 91-379, title I, § 102, Aug. 15, 1970, 84 Stat. 796; Pub. L. 102-558, title I, § 132, Oct. 28, 1992, 106 Stat. 4210; Pub. L. 103-337, div. C, title XXXIV, § 3411(b), Oct. 5, 1994, 108 Stat. 3110; Pub. L. 108-195, § 5, Dec. 19, 2003, 117 Stat. 2893; Pub. L. 111-67, § 8, Sept. 30, 2009, 123 Stat. 2017; Pub. L. 118-31, div. A, title X, § 1080(a), Dec. 22, 2023, 137 Stat. 415.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in par. (14), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143. Title VI of the Act is classified generally to subchapter IV-B (§ 5195 et seq.) of chapter 68 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 5121 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 2152 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2023—Par. (7). Pub. L. 118-31 designated existing provisions as subpar. (A), inserted heading, substituted “Except as provided in subparagraph (B), the term” for “The term” in introductory provisions, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A) and realigned margins, substituted “clause (i)” for “subparagraph (A)” in cl. (ii), and added subpar. (B).

2009—Par. (1). Pub. L. 111-67, § 8(1), substituted “equipment identified by the President” for “military equipment identified by the Secretary of Defense”.

Pars. (2), (3). Pub. L. 111-67, § 8(2)–(4), added par. (3), redesignated former par. (3) as (2), and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “The term ‘critical industry for national security’ means any industry (or industry sector) identified pursuant to section 2503(6) of title 10 and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.”

Pars. (4), (5). Pub. L. 111-67, § 8(2), (5), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: “The term ‘critical technology’ includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681 of title 42 or section 2508 of title 10 (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.”

Par. (6). Pub. L. 111-67, § 8(5), (6), redesignated par. (7) as (6), in heading, struck out “defense” after “Domestic”, and, in text, substituted “‘domestic industrial base’” for “‘domestic defense industrial base’” and struck out “‘graduated mobilization,’” after “‘peacetime.’”. Former par. (6) redesignated (5).

Pars. (7) to (9). Pub. L. 111-67, § 8(2), (5), (7), redesignated pars. (8), (10), and (11) as (7) to (9), respectively, and struck out former par. (9). Prior to amendment, text of par. (9) read as follows: “The term ‘essential weapon system’ means a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.” Former par. (7) redesignated (6).

Pars. (10), (11). Pub. L. 111-67, § 8(8), added pars. (10) and (11). Former pars. (10) and (11) redesignated (8) and (9), respectively.

Par. (12). Pub. L. 111-67, § 8(9), substituted “base” for “‘capacity’”.

Par. (14). Pub. L. 111-67, §8(10), substituted “military or critical infrastructure assistance to any foreign nation, homeland security” for “military assistance to any foreign nation”.

Par. (16). Pub. L. 111-67, §8(11), added subpars. (C) and (D).

Par. (18). Pub. L. 111-67, §8(2), struck out par. (18). Text read as follows: “The term ‘small business concern owned and controlled by socially and economically disadvantaged individuals’ has the same meaning as in section 637(d)(3)(C) of title 15.”

2003—Pars. (3) to (13). Pub. L. 108-195, §5(1), (2), added par. (3) and redesignated former pars. (3) to (12) as (4) to (13), respectively. Former par. (13) redesignated (14).

Par. (14). Pub. L. 108-195, §5(1), (3), redesignated par. (13) as (14) and inserted “and critical infrastructure protection and restoration” before period at end of last sentence. Former par. (14) redesignated (15).

Pars. (15) to (18). Pub. L. 108-195, §5(1), redesignated pars. (14) to (17) as (15) to (18), respectively.

1994—Par. (13). Pub. L. 103-337 inserted at end “Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.”

1992—Pub. L. 102-558 amended section generally, substituting present provisions for provisions defining terms “person”, “materials”, “facilities”, “national defense”, “wages, salaries, and other compensation”, and “defense contractor”.

1970—Subsec. (d). Pub. L. 91-379, §102(1), inserted reference to space in definition of national defense.

Subsec. (f). Pub. L. 91-379, §102(2), added subsec. (f).

1953—Subsec. (d). Act June 30, 1953, amended subsec. (d) generally which, among other changes, inserted references to construction, military assistance to foreign nations and stockpiling, and struck out specific reference to “operations or activities in connection with the Mutual Defense Assistance Act of 1949, as amended”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 4502 of this title.

§ 4553. Civilian personnel

Any officer or agency head may—

(1) appoint civilian personnel without regard to section 5331(b) of title 5 and without regard to the provisions of title 5 governing appointments in the competitive service; and

(2) fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates,

except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out this chapter.

(Sept. 8, 1950, ch. 932, title VII, §703, 64 Stat. 816; July 31, 1951, ch. 275, title I, §109(a), (b), 65 Stat. 138; Pub. L. 102-558, title I, §133, Oct. 28, 1992, 106 Stat. 4212.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 2153 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1992—Pub. L. 102-558 amended section generally, substituting present provisions for provisions relating to delegation of Presidential authority, creation of new agencies, appointment and compensation of officers and personnel, and State representation in regional offices.

1951—Subsec. (a). Act July 31, 1951, §109(a), provided that executive head of one agency under this chapter shall be paid at a rate comparable to that paid heads of executive departments.

Subsec. (b). Act July 31, 1951, §109(b), inserted provision to provide for State representation in regional offices.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 4502 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

Executive Documents

EX. ORD. NO. 13603. NATIONAL DEFENSE RESOURCES PREPAREDNESS

Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16651, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended ([former] 50 U.S.C. App. 2061 et seq.) [now 50 U.S.C. 4501 et seq.], and section 301 of title 3, United States Code, and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

PART I—PURPOSE, POLICY, AND IMPLEMENTATION

SECTION 101. *Purpose.* This order delegates authorities and addresses national defense resource policies and programs under the Defense Production Act of 1950, as amended (the “Act”).

SEC. 102. *Policy.* The United States must have an industrial and technological base capable of meeting national defense requirements and capable of contributing to the technological superiority of its national defense equipment in peacetime and in times of national emergency. The domestic industrial and technological base is the foundation for national defense preparedness. The authorities provided in the Act shall be used to strengthen this base and to ensure it is capable of responding to the national defense needs of the United States.

SEC. 103. *General Functions.* Executive departments and agencies (agencies) responsible for plans and programs relating to national defense (as defined in section 801(j) of this order), or for resources and services needed to support such plans and programs, shall: