

### SUBCHAPTER III—ACQUISITION AND DEVELOPMENT OF STRATEGIC RAW MATERIALS

#### § 98. Short title

This subchapter may be cited as the “Strategic and Critical Materials Stock Piling Act”.

(June 7, 1939, ch. 190, § 1, as added Pub. L. 96–41, § 2(a), July 30, 1979, 93 Stat. 319.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 98, acts June 7, 1939, ch. 190, § 1, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 596, related to declaration of Congressional policy in enacting this subchapter, prior to repeal by section 2(a) of Pub. L. 96–41.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–180, div. C, title II, § 3201, Dec. 4, 1987, 101 Stat. 1245, provided that: “This title [enacting section 98h–5 of this title, amending sections 98a, 98b, 98d, 98e–1, 98h, 98h–2, and 98h–4 of this title, enacting provisions set out as a note under section 98e–1 of this title, and repealing provisions set out as a note under this section] may be cited as the ‘National Defense Stockpile Amendments of 1987’.”

##### SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–41, § 1, July 30, 1979, 93 Stat. 319, provided: “That this Act [enacting this section and sections 98a to 98h–3 of this title, redesignating former section 98h–1 of this title as 98h–4 of this title, amending section 4533 of this title, sections 1743 and 1745 of Title 7, Agriculture, section 741b of Title 15, Commerce and Trade, and section 485 of former Title 40, Public Buildings, Property, and Works, enacting a provision set out as a note under this section, and repealing a provision set out as a note under this section] may be cited as the ‘Strategic and Critical Materials Stock Piling Revision Act of 1979’.”

##### SHORT TITLE

Act June 7, 1939, ch. 190, § 11, formerly § 10, as added by act July 23, 1946, ch. 590, 60 Stat. 596; renumbered § 11, Pub. L. 92–156, title V, § 503(1), Nov. 17, 1971, 85 Stat. 427, provided that this Act, which enacted this subchapter, be cited as the “Strategic and Critical Materials Stock Piling Act”, prior to repeal by Pub. L. 96–41, § 2(b)(2), July 30, 1979, 93 Stat. 324.

##### NEW BUDGET AUTHORITY

Pub. L. 96–41, § 4, July 30, 1979, 93 Stat. 320, provided that: “Any provision authorizing the enactment of new budget authority contained in the amendments made by this Act [see Short Title of 1979 Amendment note above] shall be effective on October 1, 1979.”

#### Executive Documents

##### EXECUTIVE ORDER NO. 12155

Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071, as amended by Ex. Ord. No. 12417, May 2, 1983, 48 F.R. 20035, which related to delegation of functions vested in President by Strategic and Critical Materials Stock Piling Act, as amended [50 U.S.C. 98 et seq.], to various Federal agencies and officials, was revoked by Pub. L. 100–180, div. C, title II, § 3203(b), Dec. 4, 1987, 101 Stat. 1247, effective 30 days after Dec. 4, 1987.

##### EX. ORD. NO. 12626. NATIONAL DEFENSE STOCKPILE MANAGER

Ex. Ord. No. 12626, Feb. 25, 1988, 53 F.R. 6114, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), as amended, section 3203 of the National Defense Authorization Act for Fiscal Year 1988 (Public Law 100–180) [amending section 98e–1 of this title and enacting a provision set out as a note under section 98e–1 of this title], and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is designated National Defense Stockpile Manager. The functions vested in the President by the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.], except the functions vested in the President by sections 7, 8, and 13 of the Act [50 U.S.C. 98f, 98g, 98h–4], are delegated to the Secretary of Defense. The functions vested in the President by section 8(a) of the Act [50 U.S.C. 98g(a)] are delegated to the Secretary of the Interior. The functions vested in the President by section 8(b) of the Act [50 U.S.C. 98g(b)] are delegated to the Secretary of Agriculture.

SEC. 2. The functions vested in the President by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), are delegated to the Secretary of Defense.

SEC. 3. The functions vested in the President by section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)) [now 40 U.S.C. 574(d)], are delegated to the Secretary of Defense.

SEC. 4. In executing the functions delegated to him by this Order, the Secretary of Defense may delegate such functions as he may deem appropriate, subject to his direction. The Secretary shall consult with the heads of affected agencies in performing the functions delegated to him by this Order.

RONALD REAGAN.

##### EX. ORD. NO. 14051. DESIGNATION TO EXERCISE AUTHORITY OVER THE NATIONAL DEFENSE STOCKPILE

Ex. Ord. No. 14051, Oct. 31, 2021, 86 F.R. 60747, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), section 1413 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239) [amending sections 98f and 98h–7 of this title], and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Policy and Purpose.* The United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity, national security, and national competitiveness. In Executive Order 14017 of February 24, 2021 (America’s Supply Chains) [86 F.R. 11849], I directed a comprehensive review of America’s supply chains to ensure that they are resilient in the face of a range of risks. One critical component of safeguarding supply chain resilience and industrial base health is ensuring that both the Federal Government and the private sector maintain adequate quantities of supplies, equipment, or raw materials on hand to create a buffer against potential shortages and import dependencies. Some of the Federal Government’s key tools to maintain adequate quantities of supplies to guard against such shortages and dependencies are the United States national stockpiles, including the National Defense Stockpile. By strengthening the National Defense Stockpile, the Federal Government will both ensure that it is keeping adequate quantities of goods on hand and provide a model for the private sector, while recognizing that private sector stockpiles and reserves can differ from government ones. This order confers authority related to the release of strategic and critical materials from the National Defense Stockpile to improve Federal Government efforts around stockpiling for national defense purposes.

SEC. 2. *Designation.* In accordance with section 98f of title 50, United States Code, the Under Secretary of De-

fense for Acquisition and Sustainment (Under Secretary) is designated to have authority to release strategic and critical materials from the National Defense Stockpile.

SEC. 3. *Execution and Consultation.* In executing the authority conferred by this order, the Under Secretary may release strategic and critical materials from the National Defense Stockpile for use, sale, or other disposition only when required for use, manufacture, or production for purposes of national defense. No release is authorized for economic or budgetary purposes. Prior to ordering the release of strategic and critical materials from the National Defense Stockpile, the Under Secretary shall consult with the heads of relevant executive departments and agencies.

SEC. 4. *Authority.* (a) All previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except to the extent that they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or another assignment of authority under the Strategic and Critical Materials Stock Piling Act.

(b) Nothing in this order shall affect the authorities assigned under Executive Order 13603 of March 16, 2012 (National Defense Resources Preparedness) [50 U.S.C. 4553 note].

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or  
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

#### **§ 98a. Congressional findings and declaration of purpose**

(a) The Congress finds that the natural resources of the United States in certain strategic and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this subchapter to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources or a single point of failure for supplies of such materials in times of national emergency.

(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

(June 7, 1939, ch. 190, § 2, as added Pub. L. 96–41, § 2(a), July 30, 1979, 93 Stat. 319; amended Pub. L. 100–180, div. C, title II, § 3202(b), Dec. 4, 1987, 101 Stat. 1245; Pub. L. 103–160, div. C, title XXXIII, § 3311, Nov. 30, 1993, 107 Stat. 1961; Pub. L. 104–201, div. C, title XXXIII, § 3311(b), Sept. 23, 1996, 110 Stat. 2857; Pub. L. 112–239, div. A, title XIV, § 1412, Jan. 2, 2013, 126 Stat. 2048.)

#### **Editorial Notes**

##### **PRIOR PROVISIONS**

A prior section 98a, acts June 7, 1939, ch. 190, § 2, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 596; 1953 Reorg. Plan No. 3, § 2(b), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90–608, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, related to determination of strategic and critical materials, the quantity and quality to be purchased, formation and functions of industry advisory committees, and the subsistence and traveling expenses of members of those committees, prior to repeal by section 2(a) of Pub. L. 96–41.

Provisions similar to those in this section were contained in former section 98 of this title prior to repeal by Pub. L. 96–41.

##### **AMENDMENTS**

2013—Subsec. (b). Pub. L. 112–239 inserted “or a single point of failure” after “foreign sources”.

1996—Subsec. (c). Pub. L. 104–201 added subsec. (c) and struck out former subsec. (c) which read as follows: “In providing for the National Defense Stockpile under this subchapter, Congress establishes the following principles:

“(1) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

“(2) Before October 1, 1994, the quantities of materials stockpiled under this subchapter should be sufficient to sustain the United States for a period of not less than three years during a national emergency situation that would necessitate total mobilization of the economy of the United States for a sustained conventional global war of indefinite duration.

“(3) On and after October 1, 1994, the quantities of materials stockpiled under this subchapter should be sufficient to meet the needs of the United States during a period of a national emergency that would necessitate an expansion of the Armed Forces together with a significant mobilization of the economy of the United States under planning guidance issued by the Secretary of Defense.”

1993—Subsec. (c)(2). Pub. L. 103–160, § 3311(1), substituted “Before October 1, 1994, the quantities” for “The quantities”.

Subsec. (c)(3). Pub. L. 103–160, § 3311(2), added par. (3). 1987—Subsec. (c). Pub. L. 100–180 added subsec. (c).

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104–201, div. C, title XXXIII, § 3311(c), Sept. 23, 1996, 110 Stat. 2857, provided that: “The amendments made by this section [amending this section and section 98h–5 of this title] shall take effect on October 1, 1996.”

#### **§ 98b. National Defense Stockpile**

##### **(a) Determination of materials; quantities**

Subject to subsection (c), the President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this subchapter, and (2) the quality and quantity of each such material to be acquired for the purposes of this subchapter and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 98c of this title, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this subchapter referred to as the “stockpile”).