

term in section 111 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336e).

“(3) STOCKPILE.—The term ‘Stockpile’ means the National Defense Stockpile established under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b).

“(4) STRATEGIC AND CRITICAL MATERIALS.—The term ‘strategic and critical materials’ means materials, including rare earth elements, that are necessary to meet national defense and national security requirements, including requirements relating to supply chain resiliency, and for the economic security of the United States.”

Executive Documents

DELEGATION OF FUNCTIONS

Functions of the President under this section were delegated to the Secretary of Defense by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

§ 98c. Materials constituting the National Defense Stockpile

(a) Contents

The stockpile consists of the following materials:

(1) Materials acquired under this subchapter and contained in the national stockpile on July 29, 1979.

(2) Materials acquired under this subchapter after July 29, 1979.

(3) Materials in the supplemental stockpile established by section 1704(b) of title 7 (as in effect from September 21, 1959, through December 31, 1966) on July 29, 1979.

(4) Materials acquired by the United States under the provisions of section 4533 of this title and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 2423 of title 22 that have been determined to be strategic and critical materials for the purposes of this subchapter and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 714b(h) of title 15.

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of section 1743(a) of title 7, and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 1743(a) of title 7.

(9) Materials transferred to the stockpile under subsection (b).

(10) Materials transferred to the stockpile under subsection (c).

(b) Transfer and reimbursement

Notwithstanding any other provision of law, any material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is suitable for transfer or disposal through the stockpile shall be transferred to the stockpile. Any such transfer shall be made with-

out reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this subchapter.

(c) Transfer and disposal

The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under subsection (b), are suitable for disposal through the stockpile, and are uncontaminated.

(June 7, 1939, ch. 190, § 4, as added Pub. L. 96-41, § 2(a), July 30, 1979, 93 Stat. 320; amended Pub. L. 99-661, div. C, title II, § 3207(a)(1), Nov. 14, 1986, 100 Stat. 4069; Pub. L. 104-106, div. C, title XXXIII, § 3311, Feb. 10, 1996, 110 Stat. 630; Pub. L. 110-246, title III, § 3001(b)(1)(A), (2)(Z), June 18, 2008, 122 Stat. 1820, 1821; Pub. L. 114-328, div. A, title XIV, § 1412(a), Dec. 23, 2016, 130 Stat. 2570.)

Editorial Notes

REFERENCES IN TEXT

Section 1704(b) of title 7, referred to in subsec. (a)(3), was amended generally by Pub. L. 101-624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3635, and, as so amended, no longer contains provisions relating to a supplemental stockpile.

PRIOR PROVISIONS

A prior section 98c, acts June 7, 1939, ch. 190, § 4, 53 Stat. 811; July 23, 1946, ch. 590, 60 Stat. 598; 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; Apr. 21, 1976, Pub. L. 94-273, § 37, 90 Stat. 380, required reports to Congress, prior to repeal by section 2(a) of Pub. L. 96-41. See section 98h-2 of this title.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-328, § 1412(a)(1), substituted “suitable for transfer or disposal through” for “required for”.

Subsec. (c). Pub. L. 114-328, § 1412(a)(2), struck out “(2)” before “The Secretary”, substituted “subsection (b)” for “this subsection”, and struck out par. (1) which read as follows: “The Secretary of Energy, in consultation with the Secretary of Defense, shall transfer to the stockpile for disposal in accordance with this subchapter uncontaminated materials that are in the Department of Energy inventory of materials for the production of defense-related items, are excess to the requirements of the Department for that purpose, and are suitable for transfer to the stockpile and disposal through the stockpile.”

2008—Subsec. (a)(3). Pub. L. 110-246 made technical amendment to reference in original act which appears in text as reference to section 1704(b) of title 7.

1996—Subsec. (a)(10). Pub. L. 104-106, § 3311(b), added par. (10).

Subsec. (c). Pub. L. 104-106, § 3311(a), added subsec. (c). 1986—Pub. L. 99-661 substituted “on July 29, 1979” for “on the day before the date of the date of enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979” in pars. (1) and (3), and “after July 29, 1979” for “on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979” in par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CLARIFICATION OF STOCKPILE STATUS OF CERTAIN
MATERIALS

Pub. L. 102-484, div. C, title XXXIII, §3315, Oct. 23, 1992, 106 Stat. 2654, as amended by Pub. L. 103-337, div. A, title X, §1070(c)(4), Oct. 5, 1994, 108 Stat. 2858, provided that: "All materials purchased under section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) [now 50 U.S.C. 4533] and held in the Defense Production Act inventory as of June 30, 1992, are hereby transferred to the National Defense Stockpile and shall be managed, controlled, and subject to disposal by the National Defense Stockpile Manager as provided in the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a et seq.) [50 U.S.C. 98 et seq.]."

§ 98d. Authority for stockpile operations

(a) Funds appropriated for acquisitions; proposed stockpile transactions; significant changes therein

(1) Except for acquisitions made under the authority of paragraph (3) of this section¹ or under the authority of paragraph (3) or (4) of section 98e(a) of this title, no funds may be obligated or appropriated for acquisition of any material under this subchapter unless funds for such acquisition have been authorized by law. Funds appropriated for any acquisition of materials under this subchapter (and for transportation and other incidental expenses related to such acquisition) shall remain available until expended, unless otherwise provided in appropriation Acts.

(2) If for any fiscal year the President proposes (or Congress requires) a significant change in any stockpile transactions proposed in the Annual Materials and Operations Plan for such fiscal year after the National Defense Stockpile Manager submits the report under section 98h-2(b)(2) of this title containing such plan, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 45 days has passed from the date of the receipt of such statement by such committees.

(3) Using funds appropriated for acquisition of materials under this subchapter, the National Defense Stockpile Manager may acquire materials determined to be strategic and critical under section 98b(a) of this title without regard to the requirement of the first sentence of paragraph (1) if the Stockpile Manager determines there is a shortfall of such materials in the stockpile.

(b) Disposal

Except for disposals made under the authority of paragraph (3), (4), or (5)² of section 98e(a) of this title or under section 98f(a) of this title, no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, se-

curity, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available until expended, unless otherwise provided in appropriations Acts.

(June 7, 1939, ch. 190, §5, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 321; amended Pub. L. 97-35, title II, §203(a), (b), Aug. 13, 1981, 95 Stat. 381, 382; Pub. L. 98-525, title IX, §903, Oct. 19, 1984, 98 Stat. 2573; Pub. L. 99-661, div. C, title II, §3207(a)(2), Nov. 14, 1986, 100 Stat. 4069; Pub. L. 100-180, div. C, title II, §3206(a), Dec. 4, 1987, 101 Stat. 1247; Pub. L. 102-484, div. C, title XXXIII, §3312, Oct. 23, 1992, 106 Stat. 2653; Pub. L. 103-160, div. C, title XXXIII, §3312, Nov. 30, 1993, 107 Stat. 1962; Pub. L. 117-263, div. A, title XIV, §§1411(d)(1)(A), 1412(a), Dec. 23, 2022, 136 Stat. 2871, 2872; Pub. L. 118-31, div. A, title XIV, §1411(e)(2)(A), Dec. 22, 2023, 137 Stat. 527.)

Editorial Notes

REFERENCES IN TEXT

Paragraph (5) of section 98e(a) of this title, referred to in subsec. (b), was redesignated paragraph (6) of section 98e(a) of this title by Pub. L. 113-66, div. A, title XIV, §1411(a), Dec. 26, 2013, 127 Stat. 934.

PRIOR PROVISIONS

A prior section 98d, acts June 7, 1939, ch. 190, §5, 53 Stat. 812; July 23, 1946, ch. 590, 60 Stat. 598, related to release of stock pile materials, prior to repeal by section 2(a) of Pub. L. 96-41. See section 98f of this title.

Provisions similar to those in this section were contained in former sections 98b and 98g of this title prior to repeal by Pub. L. 96-41.

AMENDMENTS

2023—Subsec. (a)(2). Pub. L. 118-31 substituted "the National Defense Stockpile Manager" for "the Board".

2022—Subsec. (a)(1). Pub. L. 117-263, §1412(a)(1)(A), inserted "under the authority of paragraph (3) of this section or" after "Except for acquisitions made" and substituted "appropriated for any acquisition of materials under this subchapter" for "appropriated for such acquisition".

Subsec. (a)(2). Pub. L. 117-263, §1411(d)(1)(A), struck out "certain stockpile transactions in the annual materials plan submitted to Congress for that year under section 98h-2(b) of this title and after that plan is submitted the President proposes" after "the President proposes" and substituted "any stockpile transactions proposed in the Annual Materials and Operations Plan for such fiscal year after the Board submits the report under section 98h-2(b)(2) of this title containing such plan" for "any such transaction".

Subsec. (a)(3). Pub. L. 117-263, §1412(a)(1)(B), added par. (3).

Subsec. (c). Pub. L. 117-263, §1412(a)(2), substituted "until expended, unless otherwise provided in appropriations Acts" for "to carry out the purposes for which appropriated for a period of two fiscal years, if so provided in appropriation Acts".

1993—Subsec. (a)(2). Pub. L. 103-160 substituted "and a period of 45 days has passed from the date of the receipt of such statement by such committees." for "and a period of 30 days has passed from the date of the receipt of such statement by such committees. In computing any 30-day period for the purpose of the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain."

1992—Subsec. (b). Pub. L. 102-484 struck out "(1)" after "the stockpile" and " , or (2) if the disposal would result in there being an unobligated balance in the National Defense Stockpile Transaction Fund in excess of \$100,000,000" after "authorized by law".

¹ So in original. Probably should be "subsection".

² See References in Text note below.