

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.

1987—Subsec. (a)(2). Pub. L. 100-180 struck out “or until each such committee, before the expiration of such period, notifies the President that it has no objection to the proposed transaction” before period at end of first sentence.

1986—Subsec. (b). Pub. L. 99-661 substituted “paragraph (3), (4), or (5)” for “paragraph (4) or (5)”.

1984—Subsec. (b)(2). Pub. L. 98-525, § 903(b), substituted “\$100,000,000” for “\$250,000,000”.

Pub. L. 98-525, § 903(a), substituted “an unobligated balance” for “a balance” where first appearing and “\$250,000,000” for “\$1,000,000,000 or, in the case of a disposal to be made after September 30, 1983, if the disposal would result in there being a balance in the fund in excess of \$500,000,000”.

1981—Subsec. (a). Pub. L. 97-35, § 203(a), designated existing provisions as par. (1), inserted applicability to other incidental expenses, substituted “until expended, unless otherwise” for “for a period of five fiscal years, if so”, and added par. (2).

Subsec. (b). Pub. L. 97-35, § 203(b), inserted designation for cl. (1) and added cl. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title IX, § 903(b), Oct. 19, 1984, 98 Stat. 2573, as amended by Pub. L. 99-145, title XVI, § 1611(b), Nov. 8, 1985, 99 Stat. 776, provided in part that the amendment by section 903(b) of Pub. L. 98-525, is effective Oct. 1, 1987.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title II, § 203(f), Aug. 13, 1981, 95 Stat. 382, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.”

DEPARTMENT OF DEFENSE READINESS TO SUPPORT PROLONGED CONFLICT

Pub. L. 117-263, div. A, title XIV, § 1415, Dec. 23, 2022, 136 Stat. 2873, provided that:

“(a) STUDIES REQUIRED.—

“(1) IN GENERAL.—For each report required by section 14(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-5(a)), the National Defense Stockpile Manager shall—

“(A) conduct a study on the strategic materials required by the Department of Defense to sustain combat operations for not less than one year against the pacing threat identified in the National Defense Strategy; and

“(B) not later than January 15, 2024, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on such study in a classified form with an unclassified summary.

“(2) ENERGY STORAGE AND ELECTRONIC COMPONENTS.—

“(A) IN GENERAL.—The Under Secretary of Defense for Acquisition and Sustainment shall conduct a study of the energy storage and electronic components necessary to sustain combat operations for not less than one year against the pacing threat identified in the National Defense Strategy.

“(B) REPORT.—

“(i) IN GENERAL.—Not later than January 15, 2024, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees a report on the study required under subparagraph (A).

“(ii) FORM.—The report required by clause (i) shall be submitted in an unclassified form but may contain a classified annex.

“(iii) ELEMENTS.—The report required by clause (i) shall include the following:

“(I) A description of the specific number and type of energy storage and electronic compo-

nents that the Department of Defense requires for the manufacture of munitions, combat support items, and weapon systems to sustain combat operations.

“(II) A description of the specific number and type of energy storage and electronic components that the Department of Defense requires to replenish or replace munitions, combat support items, and weapon systems that are lost or expended during the execution and sustainment of the relevant operational plan.

“(III) A description of supply chain vulnerabilities during the sustainment and execution period, such as sole sources of supply, war damage, and shipping interdiction.

“(IV) A description of supply chain vulnerabilities prior to the sustainment and execution period and the replenishment and replacement period, such as reliance on sole sources of supply, geographic proximity to strategic competitors, and diminishing manufacturing sources.

“(V) An identification of alternative sources of supply for energy and electronics components that are domestic or are from allies or partners of the United States.

“(VI) An assessment of the technical and economic feasibility of the preparedness and response programs of the Department of Defense, such as the National Defense Stockpile, the Warstopper program, war reserves and pre-positioned stocks, contract options, or other methods to mitigate postulated shortfalls to Department of Defense requirements.

“(VII) Any other such elements deemed appropriate by the Under Secretary of Defense for Acquisition and Sustainment.

“(C) ENERGY STORAGE AND ELECTRONIC COMPONENT DEFINED.—In this paragraph, the term ‘energy storage and electronic component’ includes—

“(i) an item that operates by controlling the flow of electrons or other electrically charged particles in circuits, using interconnections of electrical devices such as resistors, inductors, capacitors, diodes, switches, transistors, or integrated circuits; and

“(ii) battery cells, battery modules, battery packs, and other related components related to batteries.

“(b) ACQUISITION PRIORITY.—Consistent with the authority in section 5 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d) and subject to the availability of appropriations, the National Defense Stockpile Manager shall acquire the highest priority strategic and critical materials identified in the report submitted under subsection (a)(1).

“(c) STRATEGIC AND CRITICAL MATERIALS DEFINED.—In this section, the term ‘strategic and critical materials’ has the meaning given such term in section 12 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-3).”

PROHIBITION OF REDUCTIONS IN STOCKPILE GOALS

Pub. L. 99-145, title XVI, § 1612, Nov. 8, 1985, 99 Stat. 776, as amended by Pub. L. 99-661, div. C, title II, § 3201, Nov. 14, 1986, 100 Stat. 4067, prohibited action before Oct. 1, 1987, to implement or administer any change in a stockpile goal in effect on Oct. 1, 1984, that would result in a reduction in the quality or quantity of any strategic and critical material acquired for the National Defense Stockpile.

MATERIALS IN THE NATIONAL DEFENSE STOCKPILE

Provisions relating to certain materials in the National Defense Stockpile were contained in the following acts:

Pub. L. 118-31, div. A, title XIV, § 1412, Dec. 22, 2023, 137 Stat. 528.

Pub. L. 116-92, div. A, title VIII, § 850, Dec. 20, 2019, 133 Stat. 1509.

Pub. L. 115-91, div. A, title XIV, §1414, Dec. 12, 2017, 131 Stat. 1708.

Pub. L. 114-328, div. A, title XIV, §1411, Dec. 23, 2016, 130 Stat. 2569.

Pub. L. 113-66, div. A, title XIV, §1412, Dec. 26, 2013, 127 Stat. 934.

Pub. L. 110-181, div. A, title XIV, §§1413, 1414, Jan. 28, 2008, 122 Stat. 418, 419.

Pub. L. 109-163, div. C, title XXXIII, §§3303, 3304, Jan. 6, 2006, 119 Stat. 3546.

Pub. L. 108-375, div. C, title XXXIII, §3303, Oct. 28, 2004, 118 Stat. 2193.

Pub. L. 107-107, div. C, title XXXIII, §§3301, 3303, 3306(a), Dec. 28, 2001, 115 Stat. 1388, 1389, 1391.

Pub. L. 106-398, §1 [div. C, title XXXIII, §3303], Oct. 30, 2000, 114 Stat. 1654, 1654A-483.

Pub. L. 106-65, div. C, title XXXIV, §3402(a)-(e), Oct. 5, 1999, 113 Stat. 972, 973; Pub. L. 108-136, div. C, title XXXIII, §3302, Nov. 24, 2003, 117 Stat. 1788; Pub. L. 109-163, div. C, title XXXIII, §3302(b), Jan. 6, 2006, 119 Stat. 3546; Pub. L. 110-181, div. A, title XIV, §1412(a), Jan. 28, 2008, 122 Stat. 418; Pub. L. 111-383, div. A, title XIV, §1412, Jan. 7, 2011, 124 Stat. 4412; Pub. L. 112-81, div. A, title XIV, §1412, Dec. 31, 2011, 125 Stat. 1654.

Pub. L. 106-31, title I, §303, May 21, 1999, 113 Stat. 67.

Pub. L. 105-262, title VIII, §8109, Oct. 17, 1998, 112 Stat. 2322.

Pub. L. 105-261, div. C, title XXXIII, §§3301, 3303, Oct. 17, 1998, 112 Stat. 2262, 2263; Pub. L. 106-65, div. C, title XXXIV, §3403(a), Oct. 5, 1999, 113 Stat. 973; Pub. L. 106-398, §1 [div. C, title XXXIII, §3302], Oct. 30, 2000, 114 Stat. 1654, 1654A-483; Pub. L. 107-107, div. C, title XXXIII, §3304(a), Dec. 28, 2001, 115 Stat. 1390; Pub. L. 108-375, div. C, title XXXIII, §3302, Oct. 28, 2004, 118 Stat. 2193; Pub. L. 109-163, div. C, title XXXIII, §3302(a), Jan. 6, 2006, 119 Stat. 3545; Pub. L. 109-364, div. C, title XXXIII, §3302(a), Oct. 17, 2006, 120 Stat. 2513; Pub. L. 110-181, div. A, title XIV, §1412(b), Jan. 28, 2008, 122 Stat. 418; Pub. L. 110-417, [div. A], title XIV, §1412(a), Oct. 14, 2008, 122 Stat. 4648.

Pub. L. 105-85, div. A, title XXXIII, §§3301, 3303-3305, Nov. 18, 1997, 111 Stat. 2056, 2057; Pub. L. 106-65, div. C, title XXXIV, §§3402(f)(2), 3403(b), Oct. 5, 1999, 113 Stat. 973; Pub. L. 107-107, div. C, title XXXIII, §§3304(b), 3305, Dec. 28, 2001, 115 Stat. 1390; Pub. L. 109-364, div. C, title XXXIII, §3302(b), Oct. 17, 2006, 120 Stat. 2513; Pub. L. 110-417, [div. A], title XIV, §1412(b), Oct. 14, 2008, 122 Stat. 4648; Pub. L. 111-84, div. A, title XIV, §1412, Oct. 28, 2009, 123 Stat. 2562.

Pub. L. 104-201, div. C, title XXXIII, §§3301, 3303, Sept. 23, 1996, 110 Stat. 2854, 2855; Pub. L. 106-65, div. C, title XXXIV, §§3402(f)(1), 3403(c), Oct. 5, 1999, 113 Stat. 973, 974; Pub. L. 107-107, div. C, title XXXIII, §3304(c), Dec. 28, 2001, 115 Stat. 1390; Pub. L. 109-364, div. C, title XXXIII, §3302(c), Oct. 17, 2006, 120 Stat. 2513.

Pub. L. 103-337, div. C, title XXXIII, §3304, Oct. 5, 1994, 108 Stat. 3098.

Pub. L. 103-160, div. C, title XXXIII, §§3301, 3303(a), Nov. 30, 1993, 107 Stat. 1960, 1961.

Pub. L. 102-484, div. C, title XXXIII, §§3301-3303, Oct. 23, 1992, 106 Stat. 2649-2651; Pub. L. 103-160, div. C, title XXXIII, §3303(b), Nov. 30, 1993, 107 Stat. 1961; Pub. L. 103-337, div. A, title X, §1070(c)(3), div. C, title XXXIII, §3303, Oct. 5, 1994, 108 Stat. 2858, 3098.

Pub. L. 102-190, div. C, title XXXIII, §3301, Dec. 5, 1991, 105 Stat. 1583; Pub. L. 102-484, div. C, title XXXIII, §3308, Oct. 23, 1992, 106 Stat. 2653.

Pub. L. 102-172, title VIII, §8094, Nov. 26, 1991, 105 Stat. 1196.

Pub. L. 101-189, div. C, title XXXIII, §§3301, 3302, Nov. 29, 1989, 103 Stat. 1685.

Pub. L. 100-456, div. A, title XV, §1501, Sept. 29, 1988, 102 Stat. 2085.

Pub. L. 99-661, div. C, title II, §§3204, 3205, Nov. 14, 1986, 100 Stat. 4068.

Pub. L. 99-591, §101(c) [title IX, §9110], (m) [title V, §519], Oct. 30, 1986, 100 Stat. 3341-82, 3341-120, 3341-308, 3341-326.

Pub. L. 99-500, §101(c) [title IX, §9110], (m) [title V, §519], Oct. 18, 1986, 100 Stat. 1783-82, 1783-120, 1783-308, 1783-326.

Pub. L. 98-525, title IX, §§901, 902, Oct. 19, 1984, 98 Stat. 2573.

Pub. L. 97-377, title I, §101(c) [title VII, §799B], Dec. 21, 1982, 96 Stat. 1866.

Pub. L. 97-114, title VII, §788, Dec. 29, 1981, 95 Stat. 1592.

Pub. L. 97-35, title II, §201, Aug. 13, 1981, 95 Stat. 380.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 97-35, title II, §202, Aug. 13, 1981, 95 Stat. 381, provided that:

“(a) Effective on October 1, 1981, there is authorized to be appropriated the sum of \$535,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)).

“(b) Any acquisition using funds appropriated under the authorization of subsection (a) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).”

DISPOSAL OF GOVERNMENT-OWNED TIN SMELTER AT TEXAS CITY, TEXAS

Act June 22, 1956, ch. 426, 70 Stat. 329, directed Federal Facilities Corporation immediately to sell or lease Government-owned tin smelter at Texas City, Texas, and waste acid plant and other assets of Government's tin program, prescribed corporate powers of Corporation in regard to sale or lease, established a Tin Advisory Committee to consult with Corporation, established periods for receipt and negotiation of purchase proposals, and provided that if no contract for sale or lease was effected prior to Jan. 31, 1957, then smelter and other assets be reported as excess property for transfer and disposal in accordance with provisions of Federal Property and Administrative Services Act of 1949.

MAINTENANCE OF DOMESTIC TIN-SMELTING INDUSTRY; TRANSFER OF FUNCTIONS, ETC.

Act June 28, 1947, ch. 159, 61 Stat. 190, as amended June 29, 1948, ch. 722, 62 Stat. 1101; June 30, 1949, ch. 284, 63 Stat. 350; Aug. 21, 1950, ch. 766, 64 Stat. 468; July 30, 1953, ch. 282, title I, §103, 67 Stat. 230; June 22, 1956, ch. 426, §5(a), 70 Stat. 329, declared tin to be a highly strategic and critical material in short supply, directed that it was in the public interest that Congress make a thorough investigation on the advisability of the maintenance of a permanent tin-smelting industry and study the availability of adequate tin supplies, provided that the powers, functions, duties, and authority of the United States exercised by the Reconstruction Finance Corporation to buy, sell, and transport tin, and tin ore and concentrates, to improve, develop, maintain, and operate by lease or otherwise the Government-owned tin smelter at Texas City, Texas, to finance research in tin smelting and processing, and to do all other things necessary to the accomplishment of the foregoing continue in effect until Jan. 31, 1957, or until such earlier time as the Congress shall otherwise provide, and be exercised and performed by such officer, agency, or instrumentality of the United States as the President may designate, authorized diversification of tin-recovery facilities in the United States, and required the Reconstruction Finance Corporation to report to Congress on its activities not later than Dec. 31, 1947, and at the end of each six months thereafter.

DISPOSAL OF GOVERNMENT-OWNED TIN SMELTER AT TEXAS CITY, TEXAS; CANCELLATION OF OBLIGATIONS

Cancellation of obligation of General Services Administration to Federal Facilities Corporation existing by virtue of section 5(b) of act June 22, 1956, set out as a note above, see section 4(b) of Pub. L. 87-190, Aug. 30, 1961, 75 Stat. 418, formerly set out as a note under sections 1921 to 1929 of the former Appendix to this title.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to 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.

FEDERAL FACILITIES CORPORATION; ABOLITION AND DISOLUTION OF RECONSTRUCTION FINANCE CORPORATION AND FEDERAL FACILITIES CORPORATION

Ex. Ord. No. 10539, eff. June 22, 1954, 19 F.R. 3827, designated the Federal Facilities Corporation to perform and exercise the functions formerly performed and exercised by the Reconstruction Finance Corporation under act June 28, 1947, set out as a note above. The Reconstruction Finance Corporation, which was created by the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, was subsequently abolished by section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Facilities Corporation was, in turn, dissolved by Pub. L. 87-190, § 6, Aug. 30, 1961, 75 Stat. 419, effective Sept. 30, 1961, formerly set out as a note under sections 1921 to 1929 of the former Appendix to this title.

§ 98e. Stockpile management

(a) Presidential powers

The President shall—

(1) acquire the materials determined under section 98b(a) of this title to be strategic and critical materials;

(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

(3) provide for the upgrading, refining, or processing of any material in the stockpile (notwithstanding any intermediate stockpile quantity established for such material) when necessary to convert such material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency;

(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration or technological obsolescence of such material by replacement of such material with an equivalent quantity of substantially the same material or better material;

(5) provide for the appropriate recovery of any strategic and critical materials under section 98b(a) of this title that may be available from other Federal agencies, either directly as materials or embedded in excess-to-need, end-of-life items, or waste streams;

(6) subject to the notification required by subsection (d)(2), provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

(7) subject to the provisions of section 98d(b) of this title, dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Federal procurement practices

Except as provided in subsections (c) and (d), acquisition of strategic and critical materials under this subchapter shall be made in accordance with established Federal procurement practices, and, except as provided in subsections (c)

and (d) and in section 98f(a) of this title, disposal of strategic and critical materials from the stockpile shall be made in accordance with the next sentence. To the maximum extent feasible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials; and

(2) efforts shall be made in the acquisition and disposal of such materials to consult with producers and processors of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

(c) Barter; use of stockpile materials as payment for expenses of acquiring, refining, processing, or rotating materials

(1) The President shall encourage the use of barter in the acquisition under subsection (a)(1) of strategic and critical materials for, and the disposal under subsection (a)(6) or (a)(7) of materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

(2) Materials in the stockpile (the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law) shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of upgrading, refining, processing, or rotating materials, under this subchapter.

(3) Notwithstanding section 98b(c) of this title or any other provision of law, whenever the President provides under subsection (a)(3) for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.

(4) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d) Waiver; notification of proposed disposal of materials

(1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1) or (2) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed acquisition or disposal at least 45 days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for