

**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

not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a)(6) only if such congressional committees are notified in writing of the proposed disposal at least 45 days before any obligation of the United States is incurred in connection with such disposal.

**(e) Leasehold interests in property**

The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

**(f) Loan of stockpile materials**

The President may loan stockpile materials to the Department of Energy or the military departments if the President—

(1) has a reasonable assurance that stockpile materials of a similar or superior quantity and quality to the materials loaned will be returned to the stockpile or paid for;

(2) notifies the congressional defense committees (as defined in section 101(a) of title 10), in writing, not less than 30 days before making any such loan; and

(3) includes in the written notification under paragraph (2) sufficient support for the assurance described in paragraph (1).

**(g) Pilot program to use commercial best practices in acquiring and disposing of strategic and critical materials**

(1) The National Defense Stockpile Manager shall establish a pilot program to use, to the maximum extent practicable, commercial best practices in the acquisition and disposal of strategic and critical materials for the stockpile.

(2)(A) The Stockpile Manager shall brief the congressional defense committees (as defined in section 101(a) of title 10)—

(i) as soon as practicable after the establishment of the pilot program under paragraph (1); and

(ii) annually thereafter until the termination of the pilot program under paragraph (3).

(B) The briefing required by subparagraph (A)(i) shall address—

(i) the commercial best practices selected for use under the pilot program;

(ii) how the Stockpile Manager determined which commercial best practices to select; and

(iii) the plan of the Stockpile Manager for using such practices.

(C) Each briefing required by subparagraph (A)(ii) shall provide a summary of—

(i) how the Stockpile Manager has used commercial best practices under the pilot program during the year preceding the briefing;

(ii) how many times the Stockpile Manager has used such practices;

(iii) the outcome of each use of such practices; and

(iv) any savings achieved or lessons learned as a result of the use of such practices.

(3) The pilot program established under paragraph (1) shall terminate effective on the date that is 5 years after December 22, 2023.

**(h) Ensuring programs achieve positive cash flow**

Except to the extent necessary for the national defense, the National Defense Stockpile Manager shall ensure that each program for the recovery of strategic and critical materials implemented under subsection (a)(5) operates in a manner designed to achieve positive cash flow.

(June 7, 1939, ch. 190, § 6, as added Pub. L. 96-41, § 2(a), July 30, 1979, 93 Stat. 321; amended Pub. L. 97-35, title II, § 203(c), Aug. 13, 1981, 95 Stat. 382; Pub. L. 99-661, div. C, title II, § 3207(b), Nov. 14, 1986, 100 Stat. 4069; Pub. L. 101-189, div. C, title XXXIII, § 3314, Nov. 29, 1989, 103 Stat. 1688; Pub. L. 101-510, div. C, title XXXIII, § 3301(a), (b), Nov. 5, 1990, 104 Stat. 1844; Pub. L. 102-190, div. C, title XXXIII, § 3312, Dec. 5, 1991, 105 Stat. 1584; Pub. L. 103-337, div. C, title XXXIII, § 3302, Oct. 5, 1994, 108 Stat. 3098; Pub. L. 104-106, div. A, title XV, § 1502(e)(1), Feb. 10, 1996, 110 Stat. 509; Pub. L. 104-201, div. C, title XXXIII, § 3312(b), (c), Sept. 23, 1996, 110 Stat. 2857; Pub. L. 105-85, div. C, title XXXIII, § 3306, Nov. 18, 1997, 111 Stat. 2058; Pub. L. 106-65, div. A, title X, § 1067(13), Oct. 5, 1999, 113 Stat. 775; Pub. L. 113-66, div. A, title XIV, § 1411(a), Dec. 26, 2013, 127 Stat. 934; Pub. L. 117-81, div. A, title XIV, §§ 1411(1), 1412, Dec. 27, 2021, 135 Stat. 2018; Pub. L. 118-31, div. A, title XIV, § 1411(b), Dec. 22, 2023, 137 Stat. 523.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 98e, acts June 7, 1939, ch. 190, § 6, 53 Stat. 812; May 28, 1941, ch. 135, 55 Stat. 206; July 23, 1946, ch. 590, 60 Stat. 598; Ex. Ord. No. 9809, eff. Dec. 12, 1946, 11 F.R. 14281; Ex. Ord. No. 9841, eff. Apr. 23, 1947, 12 F.R. 2645; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; 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 transfer of surplus materials to stock piles, prior to repeal by section 2(a) of Pub. L. 96-41. See section 98c(b) of this title.

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

**AMENDMENTS**

2023—Subsec. (a)(5). Pub. L. 118-31, § 1411(b)(1), substituted “from other Federal agencies, either directly as materials or embedded in excess-to-need, end-of-life items, or waste streams;” for “from excess materials made available for recovery purposes by other Federal agencies;”.

Subsec. (c)(1). Pub. L. 118-31, § 1411(b)(2), substituted “subsection (a)(6) or (a)(7)” for “subsection (a)(5) or (a)(6)”.

Subsec. (d)(2). Pub. L. 118-31, § 1411(b)(3), substituted “subsection (a)(6)” for “subsection (a)(5)”.

Subsecs. (g), (h). Pub. L. 118-31, § 1411(b)(4), added subsecs. (g) and (h).

2021—Subsec. (b)(2). Pub. L. 117-81, § 1411(1), inserted “to consult with producers and processors of such materials” before “to avoid”.

Subsec. (f). Pub. L. 117-81, § 1412, added subsec. (f).

2013—Subsec. (a)(5) to (7). Pub. L. 113-66 added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

1999—Subsec. (d)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (b). Pub. L. 105-85, in first sentence, substituted “strategic and critical materials from the

stockpile shall be made in accordance with the next sentence” for “materials from the stockpile shall be made by formal advertising or competitive negotiation procedures”.

1996—Subsec. (d)(1). Pub. L. 104-201, §3312(b), substituted “45 days” for “thirty days”.

Pub. L. 104-106, §1502(e)(1)(A), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (d)(2). Pub. L. 104-201, §3312(c), substituted “45 days” for “thirty days”.

Pub. L. 104-106, §1502(e)(1)(B), substituted “such congressional committees” for “the Committees on Armed Services of the Senate and House of Representatives”.

1994—Subsec. (a)(4). Pub. L. 103-337 inserted “or technological obsolescence” after “deterioration”.

1991—Subsec. (a)(4). Pub. L. 102-190 inserted before semicolon “or better material”.

1990—Subsec. (a)(3). Pub. L. 101-510, §3301(b)(1), substituted “upgrading, refining,” for “refining”, inserted “(notwithstanding any intermediate stockpile quantity established for such material)” after “stockpile”, and substituted “storage, subsequent disposition, and immediate use in a national emergency” for “storage and subsequent disposition”.

Subsec. (c)(1). Pub. L. 101-510, §3301(b)(2), inserted “under subsection (a)(1)” after “the acquisition” and “under subsection (a)(5) or (a)(6)” after “the disposal”.

Subsec. (c)(2). Pub. L. 101-510, §3301(b)(3), substituted “(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)” for “, the disposition of which is authorized by law,” and “of upgrading, refining” for “of refining”.

Subsec. (c)(3), (4). Pub. L. 101-510, §3301(a), added par. (3) and redesignated former par. (3) as (4).

1989—Subsec. (b). Pub. L. 101-189, §3314(1), inserted “and” at end of par. (1), substituted a period for “; and” at end of par. (2), and struck out par. (3) which read as follows: “disposal of such materials shall be made for domestic consumption.”

Subsec. (d)(1). Pub. L. 101-189, §3314(2), substituted “paragraph (1) or (2)” for “paragraph (1), (2), or (3)”.

1986—Subsec. (a)(3). Pub. L. 99-661 substituted “a form more” for “the form most”.

1981—Subsec. (a)(6). Pub. L. 97-35 inserted reference to section 98d(b) of this title.

### Statutory Notes and Related Subsidiaries

#### ACQUISITION OF DEPLETED URANIUM FOR NATIONAL DEFENSE STOCKPILE

Pub. L. 101-511, title VIII, §8095, Nov. 5, 1990, 104 Stat. 1896, directed President, using funds available in National Defense Stockpile Transaction Fund, to acquire over a period of ten years from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in National Defense Stockpile, prior to repeal by Pub. L. 102-172, title VIII, §8027A, Nov. 26, 1991, 105 Stat. 1177.

### Executive Documents

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### § 98e-1. Transferred

#### Editorial Notes

##### CODIFICATION

Section, act June 7, 1939, ch. 190, §6A, as added Nov. 14, 1986, Pub. L. 99-661, div. C, title II, §3202(a), 100 Stat.

4067; amended Dec. 4, 1987, Pub. L. 100-180, div. C, title II, §3203(a), 101 Stat. 1246, which related to National Defense Stockpile Manager, was transferred to section 98h-7 of this title.

### § 98e-2. Multiyear procurement authority for domestically processed critical minerals

#### (a) Authority for multiyear procurement

Subject to section 3501 of title 10 and from amounts made available by discretionary appropriations Acts from the National Defense Stockpile Transaction Fund (as established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a))) after December 22, 2023, the Secretary of Defense may enter into one or more multiyear contracts for the procurement of critical minerals that are processed in the United States by domestic sources.

#### (b) Application of Strategic and Critical Materials Stock Piling Act

A multiyear contract entered into under this section shall be deemed to be an acquisition under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

#### (c) Authority for advance procurement

The Secretary of Defense may enter into one or more contracts, beginning in fiscal year 2024, for advance procurement associated with the domestically processed critical minerals for which authorization to enter into a multiyear procurement contract is provided under subsection (a).

#### (d) Condition for out-year contract payments

A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2024 is subject to the availability of appropriations or funds for that purpose for such later fiscal year.

#### (e) Definitions

In this section:

(1) The term “critical mineral” means a mineral determined to be a strategic and critical material under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

(2) The term “processed” means the processing or recycling of a critical mineral or magnet, including the separation, reduction, metallization, alloying, milling, pressing, strip casting, and sintering of a critical mineral.

(3) The term “domestic source” has the meaning given that term in section 4552 of this title.

(Pub. L. 118-31, div. A, title I, §152, Dec. 22, 2023, 137 Stat. 180.)

### Editorial Notes

#### REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (b), is act June 7, 1939, ch. 190, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 319, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2024, and not as part