

(June 7, 1939, ch. 190, § 8, as added Pub. L. 96-41, § 2(a), July 30, 1979, 93 Stat. 322; amended Pub. L. 101-189, div. C, title XXXIII, § 3311, Nov. 29, 1989, 103 Stat. 1686; Pub. L. 118-31, div. A, title XIV, § 1411(e)(2)(B), Dec. 22, 2023, 137 Stat. 527.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 98g, act June 7, 1939, ch. 190, § 8, as added July 23, 1946, ch. 590, 60 Stat. 600; amended 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, authorized appropriations for procurement, transportation, maintenance, rotation, storage, and refining or processing of materials acquired under this subchapter, prior to repeal by section 2(a) of Pub. L. 96-41. See section 98d(c) of this title.

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

##### AMENDMENTS

2023—Subsec. (a)(1). Pub. L. 118-31, § 1411(e)(2)(B)(i), substituted “its territories or possessions, or in a reliable source” for “or in its territories or possessions.”

Subsec. (a)(2). Pub. L. 118-31, § 1411(e)(2)(B)(ii), substituted “in order to develop new sources of strategic and critical materials, develop substitutes, or conserve domestic sources and reliable sources of supply for such strategic and critical materials.” for “in order to—

“(A) determine and develop new domestic sources of supply of such ores and mineral substances;

“(B) devise new methods for the treatment and utilization of lower grade reserves of such ores and mineral substances; and

“(C) develop substitutes for such essential ores and mineral products.”

1989—Subsecs. (c), (d). Pub. L. 101-189 added subsecs. (c) and (d).

#### Executive Documents

##### DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) of this section delegated to Secretary of the Interior and functions of President under subsec. (b) of this section delegated to Secretary of Agriculture by section 1 of Ex. Ord. No. 12636, Feb. 25, 1988, 53 F.R. 6114, set out under section 98 of this title.

### § 98h. National Defense Stockpile Transaction Fund

#### (a) Establishment

There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the “fund”).

#### (b) Fund operations

(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 98e(a) of this title<sup>1</sup> shall be covered into the fund.

(2) Subject to section 98d(a)(1) of this title, moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

(A) The acquisition, maintenance, and disposal of strategic and critical materials under section 98e(a) of this title.

(B) Transportation, storage, and other incidental expenses related to such acquisition, maintenance, and disposal.

(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

(D) Encouraging the appropriate conservation of strategic and critical materials.

(E) Testing and quality studies of stockpile materials.

(F) Studying future material and mobilization requirements for the stockpile.

(G) Activities authorized under section 98h-6 of this title.

(H) Contracting under competitive procedures for materials development and research to—

(i) improve the quality and availability of materials stockpiled from time to time in the stockpile; and

(ii) develop new materials for the stockpile.

(I) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

(J) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.

(K) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.

(L) Pay of employees of the National Defense Stockpile program.

(M) Other expenses of the National Defense Stockpile program.

(3) Moneys in the fund shall remain available until expended.

#### (c) Moneys received from sale of materials being rotated or disposed of

All moneys received from the sale of materials being rotated under the provisions of section 98e(a)(4) of this title or disposed of under section 98f(a) of this title shall be covered into the fund and shall be available only for the acquisition of replacement materials.

#### (d) Effect of bartering

If, during a fiscal year, the National Defense Stockpile Manager barter materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall—

(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2); and

(3) not increase or decrease the balance in the fund.

<sup>1</sup> See References in Text note below.

(June 7, 1939, ch. 190, §9, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 323; amended Pub. L. 97-35, title II, §203(d), Aug. 13, 1981, 95 Stat. 382; Pub. L. 99-661, div. C, title II, §3203(a), Nov. 14, 1986, 100 Stat. 4067; Pub. L. 100-180, div. C, title II, §3204, Dec. 4, 1987, 101 Stat. 1247; Pub. L. 101-189, div. C, title XXXIII, §3312(b), Nov. 29, 1989, 103 Stat. 1688; Pub. L. 101-510, div. C, title XXXIII, §3301(c), Nov. 5, 1990, 104 Stat. 1845; Pub. L. 102-190, div. C, title XXXIII, §3311(a), Dec. 5, 1991, 105 Stat. 1584; Pub. L. 102-484, div. C, title XXXIII, §3313, Oct. 23, 1992, 106 Stat. 2653; Pub. L. 103-160, div. C, title XXXIII, §3313, Nov. 30, 1993, 107 Stat. 1962; Pub. L. 105-261, div. C, title XXXIII, §3304, Oct. 17, 1998, 112 Stat. 2264; Pub. L. 113-66, div. A, title XIV, §1411(b), Dec. 26, 2013, 127 Stat. 934.)

### Editorial Notes

#### REFERENCES IN TEXT

Paragraphs (5) and (6) of section 98e(a) of this title, referred to in subsec. (b)(1), were redesignated as paragraphs (6) and (7) 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 98h, act June 7, 1939, ch. 190, §9, as added July 23, 1946, ch. 590, 60 Stat. 600, related to disposition of receipts, prior to repeal by section 2(a) of Pub. L. 96-41. See section 98h(b)(1) of this title.

#### AMENDMENTS

2013—Subsec. (b)(2)(D) to (M). Pub. L. 113-66 added subpar. (D) and redesignated former subpars. (D) to (L) as (E) to (M), respectively.

1998—Subsec. (b)(2)(J) to (L). Pub. L. 105-261 added subpar. (J) and redesignated former subpars. (J) and (K) as (K) and (L), respectively.

1993—Subsec. (b)(2)(J), (K). Pub. L. 103-160, §3313(a), added subpars. (J) and (K).

Subsec. (b)(4). Pub. L. 103-160, §3313(b), struck out par. (4) which read as follows: “Notwithstanding paragraph (2), moneys in the fund may not be used to pay salaries and expenses of stockpile employees.”

1992—Subsec. (b)(2)(A). Pub. L. 102-484, §3313(a)(1), inserted “, maintenance, and disposal” after “acquisition” and substituted “section 98e(a)” for “section 98e(a)(1)”.

Subsec. (b)(2)(B). Pub. L. 102-484, §3313(a)(2), substituted “such acquisition, maintenance, and disposal” for “such acquisition”.

Subsec. (b)(2)(H), (I). Pub. L. 102-484, §3313(b), added subpars. (H) and (I).

Subsec. (b)(4). Pub. L. 102-484, §3313(c), added par. (4).  
1991—Subsec. (b)(2)(G). Pub. L. 102-190 added subpar. (G).

1990—Subsec. (d). Pub. L. 101-510 added subsec. (d).

1989—Subsec. (b)(2)(F). Pub. L. 101-189 added subpar. (F).

1987—Subsec. (b)(2)(F). Pub. L. 100-180 struck out subpar. (F) which related to other reasonable requirements for management of stockpile.

1986—Subsec. (b)(1). Pub. L. 99-661, §3203(a)(1), struck out “Such moneys shall remain in the fund until appropriated.” after “covered into the fund.”

Subsec. (b)(2), (3). Pub. L. 99-661, §3203(a)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) Moneys covered into the fund under paragraph (1) shall be available, when appropriated therefor, only for the acquisition of strategic and critical materials under section 98e(a)(1) of this title (and for transportation related to such acquisition).

“(3) Moneys in the fund, when appropriated, shall remain available until expended, unless otherwise provided in appropriation Acts.”

1981—Subsec. (b). Pub. L. 97-35 in par. (1) struck out provisions relating to moneys remaining in the fund at the end of the third fiscal year following the fiscal year in which received, and in par. (3) substituted provisions respecting funds remaining available until expended, for provisions relating to funds remaining available for a period of five fiscal years.

### Statutory Notes and Related Subsidiaries

#### USE OF FUNDS FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND TO MEET NATIONAL DEFENSE STOCKPILE GOALS AND SPECIFICATIONS IN EFFECT ON OCTOBER 1, 1984

Pub. L. 100-440, title V, §518, Sept. 22, 1988, 102 Stat. 1748, directed that, no later than Oct. 1, 1989, Administrator of General Services, or any Federal officer assuming Administrator’s responsibilities with respect to management of the stockpile, to use all funds authorized and appropriated before Jan. 1, 1985, from National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on Oct. 1, 1984. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100-202, §101(m) [title V, §519], Dec. 22, 1987, 101 Stat. 1329-390, 1329-417.

Pub. L. 99-500, §101(m) [title V, §520], Oct. 18, 1986, 100 Stat. 1783-308, 1783-326, and Pub. L. 99-591, §101(m) [title V, §520], Oct. 30, 1986, 100 Stat. 3341-308, 3341-326.

#### DEPOSIT OF FUNDS ACCRUING FROM NAVAL PETROLEUM RESERVES

Pub. L. 98-525, title IX, §905, Oct. 19, 1984, 98 Stat. 2574, as amended by Pub. L. 99-145, title XVI, §1611(a), Nov. 8, 1985, 99 Stat. 776, authorized the deposit into the National Defense Stockpile Transaction Fund, established under this section, of 30 percent of all money accruing to the United States during fiscal years 1985 and 1986 from lands in the naval petroleum and oil shale reserves.

### § 98h-1. Strategic and Critical Materials Board of Directors

#### (a) Establishment

There is established a Strategic and Critical Materials Board of Directors (in this subchapter referred to as the “Board”).

#### (b) Members

The Board shall be composed, at a minimum, of the following:

(1) The Assistant Secretary of Defense for Industrial Base Policy, who shall serve as chairman of the Board.

(2) One designee of each of the Secretary of Commerce, the Secretary of State, the Secretary of Energy, and the Secretary of the Interior.

(3) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the House Committee on Armed Services.

(4) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the Senate Committee on Armed Services.

(5) Four designees of the chairman of the Board, who shall have expertise relating to military affairs, defense procurement, production of strategic and critical materials, finance, or any other disciplines deemed necessary by the chairman to conduct the business of the Board.