

(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.

**(c) Duties of the Board**

In addition to other matters assigned to it by the chairman, the Board shall conduct the following, without power of delegation:

(1) Adopt by-laws that ensure sufficient oversight, governance, and effectiveness of the National Defense Stockpile program.

(2) Elect or remove Board members.

(3) Advise the National Defense Stockpile Manager.

(4) Establish performance metrics and conduct an annual performance review of the management and operations of the National Defense Stockpile program.

(5) Review and approve the annual budget of the National Defense Stockpile program and conduct appropriate reviews of annual financial statements.

(6) Re-allocate budget resources within the annual budget of the National Defense Stockpile program.

(7) Review and approve the Annual Materials and Operations Plan required by section 98h-2(a) of this title. The report required by section 98h-2(b)(2) of this title shall include the views and recommendations of the Board on the projected domestic and foreign economic effects of all acquisition of materials for and disposals of materials from the stockpile.

(8) Complete and submit the annual Board Report, in accordance with section 98h-2(b)(2) of this title.

(9) Recommend to the Secretary of Defense—

(A) a strategy to ensure a secure supply of materials designated as critical to national security; and

(B) such other strategies as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security.

**(d) Board meetings**

The Board shall meet as determined necessary by the chairman but not less frequently than once every year to fulfill the duties described in subsection (c).

**(e) Application of provisions relating to Federal advisory committees**

Section 1013(a) of title 5 shall not apply to the Board.

**(f) Definitions**

In this section:

**(1) Materials critical to national security**

The term “materials critical to national security” means materials—

(A) upon which the production or sustainment of military equipment is dependent; and

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

**(2) Military equipment**

The term “military equipment” means equipment used directly by the Armed Forces to carry out military operations.

**(3) Secure supply**

The term “secure supply”, with respect to a material, means the availability of a source or

sources for the material, including the full supply chain for the material and components containing the material.

(June 7, 1939, ch. 190, §10, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 323; amended Pub. L. 102-484, div. C, title XXXIII, §3314, Oct. 23, 1992, 106 Stat. 2654; Pub. L. 117-263, div. A, title XIV, §1411(b), Dec. 23, 2022, 136 Stat. 2869; Pub. L. 118-31, div. A, title XIV, §1411(c), Dec. 22, 2023, 137 Stat. 524.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 10 of act June 7, 1939, ch. 190, §10, was renumbered section 13 and is classified to section 98h-4 of this title.

Provisions similar to those in this section were contained in section 187 of Title 10, Armed Forces, prior to repeal by Pub. L. 117-263, §1411(a).

**AMENDMENTS**

2023—Subsec. (c)(4). Pub. L. 118-31, §1411(c)(1)(A), substituted “of the management and operations of the National Defense Stockpile program” for “of the National Defense Stockpile Manager”.

Subsec. (c)(5), (6). Pub. L. 118-31, §1411(c)(1)(B), redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which read as follows: “Set compensation for the National Defense Stockpile Manager.”

Subsec. (c)(7). Pub. L. 118-31, §1411(c)(1)(B), (C), redesignated par. (8) as (7) and substituted “required by section 98h-2(a) of this title. The report required by section 98h-2(b)(2) of this title shall include the views and recommendations of the Board on” for “required by section 98h-2(a)(2) of this title, including a review of” and “all acquisition of materials for and disposals of materials from the stockpile” for “proposed actions to be taken under the Annual Materials and Operations Plan”. Former par. (7) redesignated (6).

Subsec. (c)(8) to (10). Pub. L. 118-31, §1411(c)(1)(B), redesignated pars. (9) and (10) as (8) and (9), respectively.

Subsec. (e). Pub. L. 118-31, §1411(c)(2), amended subsec. (e) generally. Prior to amendment, text read as follows: “Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.”

2022—Pub. L. 117-263 amended section generally. Prior to amendment, section related to appointment of advisory committees and a Market Impact Committee.

1992—Subsec. (c). Pub. L. 102-484 added subsec. (c).

**Statutory Notes and Related Subsidiaries****ADVISORY COMMITTEE REGARDING OPERATION AND MODERNIZATION OF STOCKPILE**

Pub. L. 102-484, div. C, title XXXIII, §3306, Oct. 23, 1992, 106 Stat. 2652, required the President to appoint, no later than Mar. 15, 1993, an advisory committee to make recommendations concerning the operation and modernization of the National Defense Stockpile.

**§ 98h-2. Reports****(a) Reports to the Board**

The National Defense Stockpile Manager shall submit to the Board an Annual Materials and Operations Plan for the forthcoming year.

**(b) Reports to Congress****(1) Report by National Defense Stockpile Manager**

Not later than February 15 of each fiscal year, the National Defense Stockpile Manager shall submit to the congressional defense com-