

“(B) an Annual Materials and Operations Plan for the forthcoming year.”

Subsec. (b)(1). Pub. L. 118-31, § 1411(d)(2)(A)(i), (ii), in heading, substituted “Report by National Defense Stockpile Manager” for “Reports by National Defense Stockpile Manager” and, in introductory provisions, substituted “February 15 of each fiscal year” for “90 days after the conclusion of the fourth quarter of each fiscal year” and “an Annual Operations and Materials Plan” for “a report”.

Subsec. (b)(1)(E). Pub. L. 118-31, § 1411(d)(2)(A)(iii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “audited annual financial statements for the Strategic and Critical Materials Fund.”

Subsec. (b)(1)(G) to (I). Pub. L. 118-31, § 1411(d)(2)(A)(iv), added subpars. (G) to (I) and struck out former subpars. (G) and (H) which read as follows:

“(G) details of all planned expenditures from the Strategic and Critical Materials Fund over the Future Years’ Defense Program and anticipated receipts from proposed disposals of stockpile materials; and  
“(H) the report required by paragraph (2).”

Subsec. (b)(2). Pub. L. 118-31, § 1411(d)(2)(B), substituted “paragraph (1) which shall include the activities of the Board to carry out the duties listed in section 98h-1(c) of this title” for “paragraph (1) which shall include—

“(A) the activities of the Board to carry out the duties listed in section 98h-1(c) of this title; and

“(B) the most recent Annual Materials and Operations Plan submitted under subsection (a)(2)(B).”

2022—Pub. L. 117-263 amended section generally. Prior to amendment, section related to annual reports to Congress, including materials plans for the operation of the stockpile.

2018—Subsec. (a). Pub. L. 115-232, § 1423(1), substituted “February 15” for “January 15” in introductory provisions.

Subsec. (b)(1). Pub. L. 115-232, § 1423(2)(A), substituted “Each report under subsection (a) shall also include” for “Not later than February 15 of each year, the President shall submit to the appropriate committees of the Congress a report containing”.

Subsec. (b)(2). Pub. L. 115-232, § 1423(2)(B), substituted “With respect to the plan described in paragraph (1), each such report shall include” for “Each such report shall include” and “With respect to such plan, each report shall also contain” for “Each such report shall also contain”.

2014—Subsec. (b)(2). Pub. L. 113-291 substituted “under section 98h(b)(2)(H)” for “under section 98h(b)(2)(G)”.

1993—Subsec. (a)(1). Pub. L. 103-35 substituted “fiscal year” for “six-month period”.

1991—Subsec. (a). Pub. L. 102-190, § 3313(a)(1), substituted “Not later than January 15 of each year, the President” for “The President” and “an annual” for “every six months a”.

Subsec. (a)(1). Pub. L. 102-190, § 3313(a)(2), which directed the substitution of “fiscal year” for “6-month period”, could not be executed because the words “6-month period” did not appear in text.

Subsec. (a)(2). Pub. L. 102-190, § 3313(a)(3), substituted “fiscal year” for “period”.

Subsec. (a)(5). Pub. L. 102-190, § 3313(a)(4), substituted “current fiscal year” for “next fiscal year”.

Subsec. (b)(1). Pub. L. 102-190, § 3311(b)(1), designated first sentence of subsec. (b) relating to submission of report as par. (1).

Subsec. (b)(2). Pub. L. 102-190, § 3311(b), designated second sentence of subsec. (b) relating to contents of report as par. (2) and inserted at end “Each such report shall also contain details regarding the materials development and research projects to be conducted under section 98h(b)(2)(G) of this title during the fiscal years covered by the report. With respect to each development and research project, the report shall specify the amount planned to be expended from the fund, the material intended to be developed, the potential military

or defense industrial applications for that material, and the development and research methodologies to be used.”

Subsec. (b)(3). Pub. L. 102-190, § 3311(b)(1), designated third sentence of subsec. (b) relating to resubmission of proposed expenditures and disposals not obligated or executed as par. (3).

1989—Subsec. (a)(5). Pub. L. 101-189 substituted “made to the fund, and obligations to be made from the fund,” for “made from the fund”.

1988—Subsec. (a)(3) to (6). Pub. L. 100-456, § 1503(a), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

Subsec. (b). Pub. L. 100-456, § 1503(b), substituted “the next fiscal year” for “such fiscal year” and “all planned expenditures from the National Defense Stockpile Transaction Fund” for “planned expenditures for acquisition of strategic and critical materials” and inserted at end “Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 98d(a)(2) of this title, that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 98d(a)(2) of this title, as appropriate.”

1987—Subsec. (b). Pub. L. 100-180 substituted “Not later than February 15 of each year, the President” for “The President” and struck out “each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year,” after “Congress”.

1986—Subsec. (b). Pub. L. 99-661 substituted “each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31 for the next fiscal year,” for each year with the Budget submitted to Congress pursuant to section 201a of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), for the next fiscal year”.

1981—Pub. L. 97-35 designated existing provisions as subsec. (a) and added subsec. (b).

### § 98h-3. Definitions

For the purposes of this subchapter:

(1) The term “strategic and critical materials” means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) The term “national emergency” means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

(3) The term “reliable source” mean a citizen or business entity organized under the laws of—

(A) the United States or any territory or possession of the United States;

(B) a country of the national technology and industrial base, as such term is defined in section 4801 of title 10; or

(C) a qualifying country, as defined in section 225.003 of the Defense Federal Acquisition Regulation Supplement or any successor document.

(June 7, 1939, ch. 190, § 12, as added Pub. L. 96-41, § 2(a), July 30, 1979, 93 Stat. 324; amended Pub. L. 117-81, div. A, title XIV, § 1411(2), Dec. 27, 2021, 135 Stat. 2018; Pub. L. 118-31, div. A, title XIV, § 1411(e)(2)(C), Dec. 22, 2023, 137 Stat. 528.)

**Editorial Notes**

## AMENDMENTS

2023—Par. (3). Pub. L. 118-31 added par. (3) and struck out former par. (3) which read as follows: “The term ‘national technology and industrial base’ has the meaning given such term in section 2500 of title 10.”

2021—Par. (3). Pub. L. 117-81 added par. (3).

**§ 98h-4. Importation of strategic and critical materials**

The President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this subchapter, if such material is the product of any foreign country or area not listed in general note 3(b) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of a country or area listed in such general note is not prohibited by any provision of law.

(June 7, 1939, ch. 190, § 13, formerly § 10, as added Pub. L. 92-156, title V, § 503(2), Nov. 17, 1971, 85 Stat. 427; renumbered § 13, Pub. L. 96-41, § 2(b)(1), July 30, 1979, 93 Stat. 324; amended Pub. L. 100-180, div. C, title II, § 3206(b), (c), Dec. 4, 1987, 101 Stat. 1247; Pub. L. 100-418, title I, § 1214(o), Aug. 23, 1988, 102 Stat. 1159; Pub. L. 104-201, div. C, title XXXIII, § 3313, Sept. 23, 1996, 110 Stat. 2857.)

**Editorial Notes**

## REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

## CODIFICATION

Section was formerly classified to section 98h-1 of this title.

## AMENDMENTS

1996—Pub. L. 104-201 substituted “not listed in general note” for “not listed as a Communist-dominated country or area in general note” and “product of a country or area listed in such general note” for “product of such Communist-dominated countries or areas”.

1988—Pub. L. 100-418 substituted “general note 3(b) of the Harmonized Tariff Schedule of the United States” for “general headnote 3(d) of the Tariff Schedules of the United States”.

1987—Pub. L. 100-180 inserted section catchline and, in text, substituted “The President” for “Notwithstanding any other provision of law, on and after January 1, 1972, the President”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

**§ 98h-5. Biennial report on stockpile requirements****(a) In general**

Not later than January 15 of every other year, the Secretary of Defense shall submit to Con-

gress a report on stockpile requirements. Each such report shall include—

- (1) the Secretary’s recommendations with respect to stockpile requirements; and
- (2) the matters required under subsection (b).

**(b) National emergency planning assumptions**

Each report under this section shall set forth the national emergency planning assumptions used by the Secretary in making the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumptions to be set forth include assumptions relating to each of the following:

- (1) The length and intensity of the assumed military conflict.
- (2) The military force structure to be mobilized.
- (3) The losses anticipated from enemy action.
- (4) The military, industrial, and essential civilian requirements to support the national emergency.

(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(7) Civilian austerity measures required during the mobilization period and military conflict.

**(c) Period within which to replace or replenish materials**

The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

**(d) Effect of alternative mobilization periods**

The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements.

**(e) Plans of President**

The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.

**(f) Briefings on shortfalls in stockpile**

(1) Not later than March 1 each year, the National Defense Stockpile Manager shall provide