

to the congressional defense committees a briefing on strategic and critical materials that—

(A) are determined to be in shortfall in the most recent report on stockpile requirements submitted under subsection (a); and

(B) the acquisition or disposal of which is included in the Annual Materials and Operations Plan for the operation of the stockpile during the next fiscal year submitted under section 98h-2(b) of this title.

(2) Each briefing required by paragraph (1) shall include—

(A) a description of each material described in that paragraph, including the objective to be achieved if funding is provided, in whole or in part, for the acquisition of the material to remedy the shortfall;

(B) an estimate of additional amounts required to provide such funding, if any; and

(C) an assessment of the supply chain for each such material, including any assessment of any relevant risk in any such supply chain.

(June 7, 1939, ch. 190, §14, as added Pub. L. 100-180, div. C, title II, §3202(c), Dec. 4, 1987, 101 Stat. 1246; amended Pub. L. 102-190, div. C, title XXXIII, §3313(b)(1), (2), Dec. 5, 1991, 105 Stat. 1585; Pub. L. 103-160, div. C, title XXXIII, §3314, Nov. 30, 1993, 107 Stat. 1962; Pub. L. 104-201, div. C, title XXXIII, §3311(a), Sept. 23, 1996, 110 Stat. 2856; Pub. L. 117-263, div. A, title XIV, §1413, Dec. 23, 2022, 136 Stat. 2872.)

Editorial Notes

REFERENCES IN TEXT

The congressional defense committees, referred to in subsec. (f)(1), are not defined for this subchapter. However, elsewhere in this subchapter, they are defined as the committees listed in section 101(a) of Title 10, Armed Forces.

AMENDMENTS

2022—Subsec. (f). Pub. L. 117-263 added subsec. (f).

1996—Subsecs. (b) to (e). Pub. L. 104-201 added subsecs. (b) to (d), redesignated former subsec. (c) as (e), and struck out former subsec. (b) which related to national emergency planning assumptions set forth in reports required under this section.

1993—Subsec. (b). Pub. L. 103-160 struck out before period at end of first sentence “, based upon total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years” and inserted after first sentence “Before October 1, 1994, such assumptions shall be based upon the total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years. On and after October 1, 1994, such assumptions shall be based on an assumed national emergency involving military conflict that necessitates an expansion of the Armed Forces together with a significant mobilization of the economy of the United States.”

1991—Pub. L. 102-190, §3313(b)(2), substituted “Biennial” for “Annual” in section catchline.

Subsec. (a). Pub. L. 102-190, §3313(b)(1), in introductory provisions, substituted “Not later than January 15 of every other year, the Secretary” for “The Secretary” and “a report” for “an annual report” and struck out “shall be submitted with the annual report submitted under section 98h-2(b) of this title and” before “shall include”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 3311(c) of Pub. L. 104-201, set out as a note under section 98a of this title.

INITIAL REPORT DUE DATE

Pub. L. 102-190, div. C, title XXXIII, §3313(b)(3), Dec. 5, 1991, 105 Stat. 1585, provided that: “The first report required by section 14(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-5(a)), as amended by paragraph (1) shall be submitted not later than January 15, 1993.”

§ 98h-6. Development and conservation of reliable sources

(a) Duties

Subject to subsection (d), the National Defense Stockpile Manager shall encourage the development and appropriate conservation of reliable sources of strategic and critical materials—

(1) by purchasing, or making a commitment to purchase, strategic and critical materials from reliable sources when such materials are needed for the stockpile;

(2) by contracting with facilities located in and owned and controlled by reliable sources, or making a commitment to contract with such facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage or disposition or meeting stockpile requirements;

(3) by qualifying facilities located in and owned and controlled by reliable sources, or qualifying strategic and critical materials produced by such facilities, to meet stockpile requirements;

(4) by contracting with facilities located in and owned and controlled by reliable sources to recycle strategic and critical materials to meet stockpile requirements or increase the balance of the National Defense Stockpile Transaction Fund under section 98h of this title; and

(5) by entering into an agreement to co-fund a bankable feasibility study for a project for the development of strategic and critical materials located in and owned and controlled by a reliable source, if the agreement—

(A) limits the liability of the stockpile to not more than the total funding provided by the Federal Government;

(B) limits the funding contribution of the Federal Government to not more than 50 percent of the cost of the bankable feasibility study; and

(C) does not obligate the Federal Government to purchase strategic and critical materials from the reliable source.

(b) Additional authorities

(1) Extended contracting authority

(A) In general

The term of a contract or commitment made under subsection (a) may not exceed ten years.

(B) Preexisting contracts

A contract entered into before December 22, 2023, for a term of more than ten years

may be extended, on or after December 22, 2023, for a total of not more than an additional ten years pursuant to any option or options set forth in the contract.

(2) Matters relating to co-funding of bankable feasibility studies

To the extent authorized by Congress pursuant to the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.) and determined to be required by the President pursuant to that Act, the National Defense Stockpile Manager may provide for loans or procure debt issued by other entities to carry out a project for the development of strategic and critical materials with respect to which a study was carried out under subsection (a)(5).

(c) Proposed transactions included in annual materials plan

Descriptions of proposed transactions under subsection (a) shall be included in the Annual Materials and Operations Plan. Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in accordance with section 98d(a)(2) of this title.

(d) Availability of funds

The authority of the National Defense Stockpile Manager to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund under section 98h of this title are adequate to meet such obligations.

(e) Bankable feasibility study defined

In this section, the term “bankable feasibility study” means a comprehensive technical and economic study—

(1) of the selected option for a strategic and critical materials development project that includes appropriately detailed assessments of realistically assumed extraction, processing, metallurgical, economic, marketing, legal, environmental, social, and governmental considerations and any other relevant operational factors and detailed financial analysis, that are necessary to demonstrate at the time of reporting that production is reasonably justified; and

(2) that may reasonably serve as the basis for a final decision by a proponent of a project or financial institution to proceed with, or finance, the development of the project.

(June 7, 1939, ch. 190, §15, as added Pub. L. 101-189, div. C, title XXXIII, §3312(a), Nov. 29, 1989, 103 Stat. 1687; amended Pub. L. 113-66, div. A, title XIV, §1411(c), Dec. 26, 2013, 127 Stat. 934; Pub. L. 114-328, div. A, title XIV, §1412(b), Dec. 23, 2016, 130 Stat. 2570; Pub. L. 117-81, div. A, title XIV, §1411(3), Dec. 27, 2021, 135 Stat. 2018; Pub. L. 117-263, div. A, title XIV, §1411(d)(1)(B), Dec. 23, 2022, 136 Stat. 2871; Pub. L. 118-31, div. A, title XIV, §1411(e)(1), Dec. 22, 2023, 137 Stat. 526.)

Editorial Notes

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b)(2), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified principally to chapter 55 (§4501 et seq.) of this title. For complete classification of this

Act to the Code, see section 4501 of this title and Tables.

AMENDMENTS

2023—Pub. L. 118-31 amended section generally. Prior to amendment, section related to development of domestic sources for materials.

2022—Subsec. (c)(1). Pub. L. 117-263, §1411(d)(1)(B)(i), substituted “Annual Materials and Operations Plan” for “annual materials plan”.

Subsec. (e). Pub. L. 117-263, §1411(d)(1)(B)(ii), inserted “, acting through the National Defense Stockpile Manager,” after “The President” and substituted “section 98h-2(b)(1) of this title” for “section 98h-2(a) of this title”.

2021—Subsec. (a)(5). Pub. L. 117-81 added par. (5).

2016—Subsec. (a)(3), (4). Pub. L. 114-328 added pars. (3) and (4).

2013—Subsec. (a). Pub. L. 113-66 inserted “and appropriate conservation” after “development” in introductory provisions.

§ 98h-7. National Defense Stockpile Manager

(a) Appointment

The President shall designate a single Federal office to have responsibility for performing the functions of the President under this subchapter, other than under sections 98f(a)(1) and 98h-4 of this title. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

(b) Title of designated officer

The individual holding the office designated by the President under subsection (a) shall be known for purposes of functions under this subchapter as the “National Defense Stockpile Manager”.

(c) Delegation of functions

The President may delegate functions of the President under this subchapter (other than under sections 98f(a)(1) and 98h-4 of this title) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order. The President may not delegate functions of the President under sections 98f(a)(1) and 98h-4 of this title.

(June 7, 1939, ch. 190, §16, formerly §6A, as added Pub. L. 99-661, div. C, title II, §3202(a), Nov. 14, 1986, 100 Stat. 4067; amended Pub. L. 100-180, div. C, title II, §3203(a), Dec. 4, 1987, 101 Stat. 1246; renumbered §16 and amended Pub. L. 101-189, div. C, title XXXIII, §3313, Nov. 29, 1989, 103 Stat. 1688; Pub. L. 102-190, div. C, title XXXIII, §3314, Dec. 5, 1991, 105 Stat. 1585; Pub. L. 112-239, div. A, title XIV, §1413(b), Jan. 2, 2013, 126 Stat. 2049.)

Editorial Notes

CODIFICATION

Section was classified to section 98e-1 of this title prior to its renumbering by Pub. L. 101-189.

AMENDMENTS

2013—Pub. L. 112-239 substituted “sections 98f(a)(1) and 98h-4” for “sections 98f and 98h-4” wherever appearing.

1991—Subsec. (d). Pub. L. 102-190 struck out subsec. (d) which read as follows: “During any period during which there is no officer appointed by the President, by and with the advice and consent of the Senate, serving