

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

in the position designated by the President under subsection (a) or during which the authority of the President under this subchapter (other than under sections 98f and 98h-4 of this title) has not been delegated to that position, no action may be taken under section 98e(a)(6) of this title."

1989—Subsec. (a). Pub. L. 101-189, §3313(b)(1), substituted "sections 98f and 98h-4" for "sections 98f, 98g, and 98h-4".

Subsec. (c). Pub. L. 101-189, §3313(b)(1), (2), substituted "sections 98f and 98h-4" for "sections 98f, 98g, and 98h-4" and inserted at end "The President may not delegate functions of the President under sections 98f and 98h-4 of this title." after "Executive order."

Subsec. (d). Pub. L. 101-189, §3313(b)(1), (3), substituted "sections 98f and 98h-4" for "sections 98f, 98g, and 98h-4" and "section 98e(a)(6)" for "section 98e(b) or 98e(d)".

1987—Pub. L. 100-180 amended section generally, revising and restating provisions of subsecs. (a) and (b) and adding subsecs. (c) and (d).

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Pub. L. 100-180, div. C, title II, §3203(c), Dec. 4, 1987, 101 Stat. 1247, provided that: "Unless otherwise directed by the President under section 6A [renumbered §16] of the Strategic and Critical Materials Stock Piling Act [this section], as amended by subsection (a), the designation of a National Defense Stockpile Manager in effect on the day before the date of the enactment of this Act [Dec. 4, 1987] shall remain in effect until the individual so designated ceases to hold the office held by the individual at the time of the designation."

DEADLINE FOR DESIGNATION OF MANAGER

Pub. L. 99-661, div. C, title II, §3202(b), Nov. 14, 1986, 100 Stat. 4067, directed President, not later than Feb. 15, 1987, to designate an official as National Defense Stockpile Manager, as required by this section.

Executive Documents

DESIGNATION OF NATIONAL DEFENSE STOCKPILE MANAGER; DELEGATION OF FUNCTIONS

The Secretary of Defense was designated National Defense Stockpile Manager and functions of the President under this section were delegated to the 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.

§ 98i. Repealed. Pub. L. 85-861, § 36A, Sept. 2, 1958, 72 Stat. 1570

Section, act Aug. 3, 1956, ch. 939, title IV, §416, 70 Stat. 1018, related to contracts for storage, handling, and distribution of liquid fuels. See section 2922 of Title 10, Armed Forces.

Section was not enacted as part of the Strategic and Critical Materials Stock Piling Act which comprises this subchapter.

§ 99. Transferred

Editorial Notes

CODIFICATION

Section, act July 2, 1940, ch. 508, §6, 54 Stat. 714, was transferred to section 701 of the former Appendix to this title and subsequently repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

§ 100. Nitrate plants

(a) Investigations; designation of sites; construction and operation of dams, locks, improvements to navigation, etc.

The President of the United States may make, or cause to be made, such investigation as in his

judgment is necessary to determine the best, cheapest, and most available means for the production of nitrates and other products for munitions of war and useful in the manufacture of fertilizers and other useful products by water power or any other power as in his judgment is the best and cheapest to use; and is also authorized to designate for the exclusive use of the United States, if in his judgment such means is best and cheapest, such site or sites, upon any navigable or nonnavigable river or rivers or upon the public lands, as in his opinion will be necessary for national defense; and is further authorized to construct, maintain, and operate, at or on any site or sites so designated, dams, locks, improvements to navigation, power houses, and other plants and equipment or other means than water power as in his judgment is the best and cheapest, necessary or convenient for the generation of electrical or other power and for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers and other useful products.

(b) Lease, purchase, or acquisition of lands and rights of way; purchase or acquisition of materials, minerals, and processes

The President is authorized to lease, buy, or acquire, by condemnation, gift, grant, or devise, such lands and rights of way as may be necessary for the construction and operation of such plants and to take from any lands of the United States, or to buy or acquire by condemnation materials, minerals, and processes, patented or otherwise, necessary for the construction and operation of such plants and for the manufacture of such products.

(c) Use of products of plants; disposal of surplus

The products of such plants shall be used by the President for military and naval purposes to the extent that he may deem necessary, and any surplus which he shall determine is not required shall be sold and disposed of by him under such regulations as he may prescribe.

(d) Employment of officers, agents, or agencies

The President is authorized to employ such officers, agents, or agencies as may in his discretion be necessary to enable him to carry out the purposes herein specified, and to authorize and require such officers, agents, or agencies to perform any and all of the duties imposed upon him by the provisions hereof.

(e) Government construction and operation

The plant or plants provided for under this section shall be constructed and operated solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

(Aug. 10, 1956, ch. 1041, §37, 70A Stat. 634.)

Editorial Notes

CODIFICATION

Section was not enacted as part of the Strategic and Critical Materials Stock Piling Act which comprises this subchapter.