

may be cited as the ‘Defense Production Act Extension Amendments of 1977’.”

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-152, §1, Dec. 16, 1975, 89 Stat. 810, provided: “That this Act [enacting section 2158a of this Appendix, amending sections 2158, 2160, 2162, 2166, 2168, and 2169 of this Appendix, and enacting provisions set out as notes under section 2158 of this Appendix] may be cited as the ‘Defense Production Act Amendments of 1975’.”

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-426, §1, Sept. 30, 1974, 88 Stat. 1166, provided: “That this Act [enacting section 2169 of this Appendix and amending sections 2094, 2161, and 2166 of this Appendix] may be cited as the ‘Defense Production Act Amendments of 1974’.”

SHORT TITLE OF 1955 AMENDMENT

Act Aug. 9, 1955, ch. 655, §1, 69 Stat. 580, provided: “That this Act [amending sections 2062, 2093, 2151, 2158, 2160, 2162, and 2166 of this Appendix and enacting provisions set out as notes under section 2062 of this Appendix] may be cited as the ‘Defense Production Act Amendments of 1955’.”

SHORT TITLE OF 1953 AMENDMENT

Act June 30, 1953, ch. 171, §1, 67 Stat. 129, provided: “That this Act [amending sections 2062, 2071, 2091, 2093, 2151, 2152, 2155, 2163a, and 2166 of this Appendix] may be cited as the ‘Defense Production Act Amendments of 1953’.”

SHORT TITLE OF 1952 AMENDMENT

Act June 30, 1952, ch. 530, §1, 66 Stat. 296, provided: “That this Act [enacting sections 1894a, 2111, 2112, and 2137 of this Appendix and section 43a of Title 41, Public Contracts, and amending sections 1884, 1894, 1894a, 2071, 2074, 2092, 2102, 2103, 2107, 2108, 2123, 2155, 2157, 2158, 2162, 2163a, and 2166 of this Appendix and sections 44 and 45 of Title 41] may be cited as the ‘Defense Production Act Amendments of 1952’.”

SHORT TITLE OF 1951 AMENDMENT

Act July 31, 1951, ch. 275, §1, 65 Stat. 131, provided: “That this Act [amending sections 1884, 1892 to 1896, 1898, 1899, 2071, 2072, 2074, 2081, 2093, 2094, 2102, 2103, 2105, 2109, 2122, 2123, 2131, 2133, 2135, 2151, 2153 to 2156, 2160, and 2163a to 2166 of this Appendix, repealing section 694f of former Title 38, Pensions, Bonuses, and Veterans’ Relief, and enacting provisions set out as a note under section 1907 of this Appendix] may be cited as the ‘Defense Production Act Amendments of 1951’.”

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of certain authority of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix] relating to national defense industrial resource preparedness and statement of related policy, see Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, set out as a note under section 2153 of this Appendix.

§ 2062. Declaration of policy

(a) Findings

Congress finds that—

(1) the security of the United States is dependent on the ability of the domestic industrial base to supply materials and services for the national defense and to prepare for and re-

spond to military conflicts, natural or man-caused disasters, or acts of terrorism within the United States;

(2) to ensure the vitality of the domestic industrial base, actions are needed—

(A) to promote industrial resources preparedness in the event of domestic or foreign threats to the security of the United States;

(B) to support continuing improvements in industrial efficiency and responsiveness;

(C) to provide for the protection and restoration of domestic critical infrastructure operations under emergency conditions; and

(D) to respond to actions taken outside of the United States that could result in reduced supplies of strategic and critical materials, including energy, necessary for national defense and the general economic well-being of the United States;

(3) in order to provide for the national security, the national defense preparedness effort of the United States Government requires—

(A) preparedness programs to respond to both domestic emergencies and international threats to national defense;

(B) measures to improve the domestic industrial base for national defense;

(C) the development of domestic productive capacity to meet—

(i) essential national defense needs that can result from emergency conditions; and

(ii) unique technological requirements; and

(D) the diversion of certain materials and facilities from ordinary use to national defense purposes, when national defense needs cannot otherwise be satisfied in a timely fashion;

(4) to meet the requirements referred to in this subsection, this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] provides the President with an array of authorities to shape national defense preparedness programs and to take appropriate steps to maintain and enhance the domestic industrial base;

(5) in order to ensure national defense preparedness, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

(6) to further assure the adequate maintenance of the domestic industrial base, to the maximum extent possible, domestic energy supplies should be augmented through reliance on renewable energy sources (including solar, geothermal, wind, and biomass sources), more efficient energy storage and distribution technologies, and energy conservation measures;

(7) much of the industrial capacity that is relied upon by the United States Government for military production and other national defense purposes is deeply and directly influenced by—

(A) the overall competitiveness of the industrial economy of the United States; and

(B) the ability of industries in the United States, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve competitiveness with respect to military and civilian production; and

(8) the inability of industries in the United States, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair the ability to sustain the Armed Forces of the United States in combat for longer than a short period.

(b) Statement of policy

It is the policy of the United States that—

(1) to ensure the adequacy of productive capacity and supply, Federal departments and agencies that are responsible for national defense acquisition should continuously assess the capability of the domestic industrial base to satisfy production requirements under both peacetime and emergency conditions, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

(2) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment;

(3) plans and programs to carry out the purposes of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] should be undertaken with due consideration for promoting efficiency and competition;

(4) in providing United States Government financial assistance under this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] to correct a domestic industrial base shortfall, the President should give consideration to the creation or maintenance of production sources that will remain economically viable after such assistance has ended;

(5) authorities under this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] should be used to reduce the vulnerability of the United States to terrorist attacks, and to minimize the damage and assist in the recovery from terrorist attacks that occur in the United States;

(6) in order to ensure productive capacity in the event of an attack on the United States, the United States Government should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas that are vulnerable to attack by an enemy of the United States;

(7) to ensure that essential national defense requirements are met, consideration should be given to stockpiling strategic materials, to the extent that such stockpiling is economical and feasible; and

(8) in the construction of any industrial facility owned by the United States Government, in the rendition of any financial assistance by the United States Government for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix] or any other provision of law, each department and agency of the United States Government should apply, under the coordination of the

Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of geographic dispersal of such facilities in the interest of national defense.

(Sept. 8, 1950, ch. 932, § 2, 64 Stat. 798; June 30, 1953, ch. 171, § 2, 67 Stat. 129; Aug. 9, 1955, ch. 655, § 2, 69 Stat. 580; June 29, 1956, ch. 474, § 4, 70 Stat. 408; Pub. L. 96-294, title I, § 102, June 30, 1980, 94 Stat. 617; Pub. L. 102-558, title I, § 101, Oct. 28, 1992, 106 Stat. 4199; Pub. L. 111-67, § 3(a), Sept. 30, 2009, 123 Stat. 2007.)

AMENDMENTS

2009—Pub. L. 111-67 amended section generally, substituting provisions relating to findings and statement of policy with respect to the domestic industrial base for former findings and statement of policy concerning development of national security industrial and technology base.

1992—Pub. L. 102-558 amended section generally, substituting provisions relating to findings and statement of policy, for provisions stating that mobilization effort continued to require diversion of materials and facilities from civilian to military use, and to require development of preparedness programs and expansion of productive capacity and supply, in order to reduce time required for full mobilization in case of attack on the United States or to respond to actions occurring outside the United States resulting in termination or reduction of availability of strategic materials, including energy, and provisions stating policy of Congress was to encourage geographical dispersal of industrial facilities, and requiring executive branch departments and agencies to apply principle of geographical dispersal in construction of such facilities.

1980—Pub. L. 96-294 inserted provisions relating to preparedness respecting termination or reduction in availability of strategic and critical materials, including energy, and domestic energy supplies for national defense needs.

1956—Act June 29, 1956, inserted paragraph relating to encouragement of the geographical dispersal of the industrial facilities of the United States.

1955—Act Aug. 9, 1955, provided that mobilization effort requires development of preparedness programs and expansion of productive capacity and supply in order to reduce time required for full mobilization.

1953—Act June 30, 1953, amended section generally to make it conform to the more limited scope of sections 2061 et seq. of this Appendix.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 304 of Pub. L. 102-558 provided that: “This Act [enacting sections 2074, 2077, 2078, 2099a, and 2171 of this Appendix, amending sections 2062, 2091 to 2094, 2097, 2099, 2151 to 2155, 2159 to 2161, 2166, and 2170 of this Appendix, sections 1815, 1817, 1818, 1820, 1834, 1834a, and 3104 of Title 12, Banks and Banking, and section 1143 of Title 30, Mineral Lands and Mining, repealing sections 2162, 2165, 2167, and 2169 of this Appendix, enacting provisions set out as notes under sections 2062, 2099, and 2159 of this Appendix and sections 1815, 1817, 1834, 1834a, and 3104 of Title 12, and repealing provisions set out as notes under sections 1817, 1834, and 1834a of Title 12] and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 107 of Pub. L. 96-294 provided that: “The amendments made by this part [enacting sections 2075, 2076, and 2095 to 2098 of this Appendix, amending sections 2062, 2091 to 2093, 2151, 2161, and 2166 of this Appendix, and enacting a provision set out as a note under section 2061 of this Appendix] shall take effect on the date of the enactment of this part [June 30, 1980].”

EFFECTIVE DATE OF 1955 AMENDMENT

Section 11 of act Aug. 9, 1955, provided that: “The provisions of this Act [amending sections 2062, 2093, 2151, 2158, 2160, 2162, and 2166 of this Appendix and enacting provisions set out as a note under this section] shall take effect as of the close of July 31, 1955.”

TERMINATION DATE

For termination of certain provisions of act Sept. 8, 1950, see section 2166 of this Appendix.

REPORT ON CONTRACTING WITH MINORITY- AND WOMEN-OWNED BUSINESSES

Pub. L. 108-195, §6, Dec. 19, 2003, 117 Stat. 2893, directed the Secretary of Defense to prepare and submit to Congress a report on the extent to which contracts entered into during the fiscal year ending before the end of the 1-year period beginning Dec. 19, 2003, under the Defense Production Act of 1950, section 2061 et seq. of this Appendix, had been contracts with minority- and women-owned businesses.

REPORTS TO CONGRESS

Pub. L. 104-64, §4, Dec. 18, 1995, 109 Stat. 689, directed the President to prepare and transmit to Congress an interim report, not later than Jan. 31, 1997, and a final report, not later than Sept. 30, 1997, on proposed legislative modernization of the authorities contained in the Defense Production Act of 1950, section 2061 et seq. of this Appendix.

EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY

Section 203 of Pub. L. 102-558, established Congressional Commission on the Evaluation of the Defense Industrial Base Policy which was to submit, not later than Mar. 1, 1995, a final report to Congress outlining criteria for maintaining strength of domestic industrial base for purposes of supporting national security strategy of United States, taking into consideration, with respect to each Federal agency and department with any responsibility for maintaining strength of domestic defense industrial base, adequacy of statutory framework, budgets, policies, and programs of such agency or department in maintaining domestic defense industrial base, and whether such elements were being effectively implemented and coordinated within such agency or department, as well as degree to which similar activities in commercial sector were being integrated and implemented by such agency or department, and further provided for membership of Commission, as well as staff, powers, interim reports, appropriations, and termination of Commission 60 days after submission of final report.

TITLE I—PRIORITIES AND ALLOCATIONS

§ 2071. Priority in contracts and orders

(a) Allocation of materials, services, and facilities

The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) Critical and strategic materials

The powers granted in this section shall not be used to control the general distribution of any

material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c) Domestic energy; materials, equipment, and services

(1) Notwithstanding any other provision of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix], the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, materials, equipment, and services in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

(A) such materials, services, and facilities are scarce, critical, and essential—

(i) to maintain or expand exploration, production, refining, transportation;

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(3) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

(d) Rules; consultation among agency heads

The head of each Federal agency to which the President delegates authority under this section shall—

(1) not later than 270 days after the date of enactment of the Defense Production Act Reauthorization of 2009 [Sept. 30, 2009], issue final rules, in accordance with section 553 of title 5, United States Code, that establish standards and procedures by which the priorities and allocations authority under this section is used to promote the national defense, under both emergency and nonemergency conditions; and

(2) as appropriate and to the extent practicable, consult with the heads of other Federal agencies to develop a consistent and unified Federal priorities and allocations system.

(Sept. 8, 1950, ch. 932, title I, §101, 64 Stat. 799; July 31, 1951, ch. 275, title I, §101(a), 65 Stat. 131;