

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

Pub. L. 102-558, title III, § 304, Oct. 28, 1992, 106 Stat. 4226, 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

Pub. L. 96-294, title I, § 107, June 30, 1980, 94 Stat. 633, provided that: "The amendments made by this part [enacting sections 2075, 2076, and 2095 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

Act Aug. 9, 1955, ch. 655, § 11, 69 Stat. 583, 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

Pub. L. 102-558, title II, § 203, Oct. 28, 1992, 106 Stat. 4220, 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 man-

ner, 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; June 30, 1952, ch. 530, title I, §§101, 102, 66 Stat. 296, 297; June 30, 1953, ch. 171, §3, 67 Stat. 129; Pub. L. 94-163, title I, §104(a), Dec. 22, 1975, 89 Stat. 878; Pub. L. 102-99, §6, Aug. 17, 1991, 105 Stat. 490; Pub. L. 111-67, §4, Sept. 30, 2009, 123 Stat. 2009.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111-67 added subsec. (d).

1991—Subsec. (a)(2). Pub. L. 102-99, §6(1), substituted “materials, services, and facilities” for “materials and facilities”.

Subsec. (c)(1). Pub. L. 102-99, §6(2), substituted “materials, equipment, and services” for “supplies of materials and equipment”.

Subsec. (c)(2) to (4). Pub. L. 102-99, §6(3), (4), added par. (2), redesignated par. (4) as (3), and struck out former pars. (2) and (3) which read as follows:

“(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

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

“(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

“(B) maintenance or furtherance 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.”

1975—Subsec. (c). Pub. L. 94-163 added subsec. (c).

1953—Subsec. (a). Act June 30, 1953, struck out provisions which related to slaughtering of livestock and allocation of meat and meat products.

Subsec. (b). Act June 30, 1953, retained priorities and allocation authority for defense production but generally to discontinue such authority with respect to the civilian market except in the special cases where, because of shortages and demands of the defense effort, there otherwise would be a significant dislocation in the civilian market resulting in appreciable hardship.

1952—Act June 30, 1952, redesignated existing provisions as subsec. (a), inserted provisions relating to meat and meat products, and added subsec. (b).

1951—Act July 31, 1951, inserted provision relating to slaughtering of livestock.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-99, §7, Aug. 17, 1991, 105 Stat. 490, provided that: “This Act [amending this section and sections 2158, 2161, and 2166 of this Appendix, repealing section 2158a of this Appendix, and enacting provisions set out as a note under section 2061 of this Appendix] shall take effect on October 20, 1990.”

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

## DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. 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, 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 this section, see sections 201 to 203 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16652, 16653, set out as a note under section 2153 of this Appendix.

## REPORT ON INDUSTRY PREPAREDNESS

Pub. L. 110-53, title X, §1002(b), Aug. 3, 2007, 121 Stat. 375, provided that: "Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency."

## PRESIDENTIAL AUTHORITY TO ISSUE ORDERS RELATING TO DOMESTIC ENERGY SUPPLIES

Pub. L. 94-163, title I, §104(b), Dec. 22, 1975, 89 Stat. 879, as amended by Pub. L. 99-58, title I, §101(b), July 2, 1985, 99 Stat. 102; Pub. L. 101-46, §1(2), June 30, 1989, 103 Stat. 132; Pub. L. 101-262, §2(a), Mar. 31, 1990, 104 Stat. 124; Pub. L. 101-360, §2(a), Aug. 10, 1990, 104 Stat. 421; Pub. L. 101-383, §2(1), Sept. 15, 1990, 104 Stat. 727; Pub. L. 105-388, §6, Nov. 13, 1998, 112 Stat. 3479; Pub. L. 106-469, title I, §103(2), Nov. 9, 2000, 114 Stat. 2029, provided that: "The expiration of the Defense Production Act of 1950 [section 2061 et seq. of this Appendix] or any amendment of such Act after the date of enactment of this Act [Dec. 22, 1975] shall not affect the authority of the President under section 101(c) of such Act [subsec. (c) of this section], as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary."

## EXECUTIVE ORDER No. 10161

Ex. Ord. No. 10161, Sept. 9, 1950, 15 F.R. 6105, as amended by Ex. Ord. No. 10200, Jan. 3, 1951, 16 F.R. 61; Ex. Ord. No. 10233, Apr. 23, 1951, 16 F.R. 3503; Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789; Ex. Ord. No. 10301, Nov. 5, 1951, 16 F.R. 11257; Ex. Ord. No. 10324, Feb. 6, 1952, 17 F.R. 1171; Ex. Ord. No. 10359, June 9, 1952, 17 F.R. 5269; Ex. Ord. No. 10373, July 15, 1952, 17 F.R. 6425; Ex. Ord. No. 10377, July 28, 1952, 17 F.R. 6891; Ex. Ord. No. 10390, Sept. 2, 1952, 17 F.R. 7995; and Ex. Ord. No. 10433, Feb. 4, 1953, 18 F.R. 761, which related to delegation of President's functions, was revoked by Ex. Ord. No. 10480, Aug. 18, 1953, 18 F.R. 4939, formerly set out under section 2153 of this Appendix.

## ABOLITION OF WAGE STABILIZATION BOARD AND CREATION OF NEW BOARD

Wage Stabilization Board created by Ex. Ord. No. 10161, eff. Sept. 9, 1950, 15 F.R. 6105, as amended, abolished by section 2103(b)(6) of this Appendix. A new Wage Stabilization Board was created by section 2103(b)(1), which terminated according to section 2166 of this Appendix Apr. 30, 1953.

## POWERS OF SECRETARY OF COMMERCE UNDER EX. ORD. No. 10161

The Secretary of Commerce by F.R. Doc. 50-8068, filed Sept. 13, 1950, 15 F.R. 6182, established the National Production Authority in the Department of Commerce to perform the functions and exercise the powers vested in the Secretary of Commerce by Ex. Ord. No. 10161, and established the Advisory Committee on Priorities Administration which was to serve in an advisory capacity with respect to policy matters. The National Production Authority was abolished and its functions merged into the Business and Defense Services Administration by Secretary of Commerce order, dated Oct. 1, 1953, which in turn was abolished by Department Organization Order 40-1A of Sept. 15, 1970 and its functions transferred to the Bureau of Domestic Commerce. All functions of the Bureau of Domestic Commerce were transferred by the Secretary of Commerce to the Domestic and International Business Administration, within the Department of Commerce, eff. Nov. 17, 1972.

## § 2072. Hoarding of designated scarce materials

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation.

In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [sections 2061 to 2170, 2171, and 2172 of this Appendix]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [sections 2071 and 2154 of this Appendix].

(Sept. 8, 1950, ch. 932, title I, §102, 64 Stat. 799; July 31, 1951, ch. 275, title I, §101(b), 65 Stat. 132.)

## AMENDMENTS

1951—Act July 31, 1951, authorized President to prescribe conditions and exceptions allowing maintenance of substantial inventories of critical materials in certain cases.

## TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

## 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, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

## § 2073. Penalties

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [sections 2071 to 2078 of this Appendix] or any rule, regulation, or order thereunder, shall, upon conviction,