

“(1) employees of Federal agencies (including the Department of Defense, the Department of State, the Department of Commerce, the Department of Energy, the Department of the Treasury, the Department of the Interior, and the Federal Emergency Management Agency);

“(2) representatives of mining, processing, and fabricating industries and consumers that would be affected by the acquisition of materials for the stockpile or the disposal of materials from the stockpile; and

“(3) other interested persons or representatives of interested organizations.”

§ 98h-2. Reports to Congress

(a) Not later than January 15 of each year, the President shall submit to the Congress an annual written report detailing operations under this subchapter. Each such report shall include—

(1) information with respect to foreign and domestic purchases of materials during the preceding fiscal year;

(2) information with respect to the acquisition and disposal of materials under this subchapter by barter, as provided for in section 98e(c) of this title, during such fiscal year;

(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

(4) information with respect to the research and development activities conducted under sections 98a and 98g of this title;

(5) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made to the fund, and obligations to be made from the fund, during the current fiscal year; and

(6) such other pertinent information on the administration of this subchapter as will enable the Congress to evaluate the effectiveness of the program provided for under this subchapter and to determine the need for additional legislation.

(b)(1) Not later than February 15 of each year, the President shall submit to the appropriate committees of the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years.

(2) Each such report shall include details of all planned expenditures from the National Defense Stockpile Transaction Fund during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period. Each such report shall also contain details regarding the materials development and research projects to be conducted under section 98h(b)(2)(H) 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.

(3) 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.

(June 7, 1939, ch. 190, §11, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 324; amended Pub. L. 97-35, title II, §203(e), Aug. 13, 1981, 95 Stat. 382; Pub. L. 99-661, div. C, title II, §3207(a)(3), Nov. 14, 1986, 100 Stat. 4069; Pub. L. 100-180, div. C, title II, §3205, Dec. 4, 1987, 101 Stat. 1247; Pub. L. 100-456, div. A, title XV, §1503, Sept. 29, 1988, 102 Stat. 2086; Pub. L. 101-189, div. C, title XXXIII, §3315, Nov. 29, 1989, 103 Stat. 1688; Pub. L. 102-190, div. C, title XXXIII, §§3311(b), 3313(a), Dec. 5, 1991, 105 Stat. 1584; Pub. L. 103-35, title II, §204(d), May 31, 1993, 107 Stat. 103; Pub. L. 113-291, div. A, title X, §1071(j), Dec. 19, 2014, 128 Stat. 3512.)

PRIOR PROVISIONS

A prior section 11 of act June 7, 1939, ch. 190, formerly §10, as added July 23, 1946, ch. 590, 60 Stat. 596; renumbered §11, Pub. L. 92-156, title V, §503(1), Nov. 17, 1971, 85 Stat. 427, was set out as a Short Title note under section 98 of this title, prior to repeal by section 2(b)(2) of Pub. L. 96-41.

Provisions similar to those in this section were contained in former section 98c of this title prior to repeal by Pub. L. 96-41.

AMENDMENTS

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).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to 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.

§ 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.

(June 7, 1939, ch. 190, §12, as added Pub. L. 96-41, §2(a), July 30, 1979, 93 Stat. 324.)

§ 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.)

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”.

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 Congress 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) of this section.

(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) of this section 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.