

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.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4) and (b), was in the original "this Act", meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2062 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

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 this chapter.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-558, title III, § 304, Oct. 28, 1992, 106 Stat. 4226, provided that: "This Act [see Tables for classification] 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

[part A (§§ 101-107) of title I of Pub. L. 96-294, see Tables for classification] 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 [see Tables for classification] shall take effect as of the close of July 31, 1955."

DOMESTIC MINERALS PROGRAM EXTENSION

Act Aug. 7, 1953, ch. 339, 67 Stat. 417, provided: "That this Act may be cited as the 'Domestic Minerals Program Extension Act of 1953'.

"DECLARATION OF POLICY

"SEC. 2. It is recognized that the continued dependence on overseas sources of supply for strategic or critical minerals and metals during periods of threatening world conflict or of political instability within those nations controlling the sources of supply of such materials gravely endangers the present and future economy and security of the United States. It is therefore declared to be the policy of the Congress that each department and agency of the Federal Government charged with responsibilities concerning the discovery, development, production, and acquisition of strategic or critical minerals and metals shall undertake to decrease further and to eliminate where possible the dependency of the United States on overseas sources of supply of each such material.

"SEC. 3. In accordance with the declaration of policy set forth in section 2 of this Act, the termination dates of all purchase programs designed to stimulate the domestic production of tungsten, manganese, chromite, mica, asbestos, beryl, and columbium-tantalum-bearing ores and concentrates and established by regulations issued pursuant to the Defense Production Act of 1950, as amended [50 U.S.C. 4501 et seq.], shall be extended an additional two years: *Provided*, That this section is not intended and shall not be construed to limit or restrict the regulatory agencies from extending the termination dates of these programs beyond the two-year extension periods provided by this section or from increasing the quantity of materials that may be delivered and accepted under these programs as permitted by existing statutory authority: *Provided further*, That the extended termination date provided by this section for the columbium-tantalum purchase program shall not apply to the purchase of columbium-tantalum-bearing ores and concentrates of foreign origin.

"SEC. 4. In order that those persons who produce or who plan to produce under purchase programs established pursuant to Public Law 774 (Eighty-first Congress) [50 U.S.C. 4501 et seq.] and Public Law 96 (Eighty-second Congress) [act July 31, 1951, ch. 275, 65 Stat. 131, see Tables for classification] may be in position to plan their investment and production with due regard to requirements, the responsible agencies controlling such purchase programs are directed to publish at the end of each calendar quarter the amounts of each of the ores and concentrates referred to in section 3 purchased in that quarter and the total amounts of each which have been purchased under the program."

[Act Aug. 7, 1953, ch. 339, set out above, was formerly classified to sections 2181 to 2183 of the former Appendix to this title and to provisions set out as a note under section 2181 of the former Appendix to this title prior to editorial reclassification as this note.]

SUBCHAPTER I—PRIORITIES AND ALLOCATIONS

§ 4511. 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 chapter, 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) issue, and annually review and update whenever appropriate, final rules, in accordance with section 553 of title 5, 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; Pub. L. 113-172, §3, Sept. 26, 2014, 128 Stat. 1897.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2071 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (d)(1). Pub. L. 113-172 substituted “issue, and annually review and update whenever appropriate, final rules” for “not later than 270 days after the date of enactment of the Defense Production Act Reauthorization of 2009, issue final rules”.

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 December 22, 1975, 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; and

nance 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 [see Tables for classification] shall take effect on October 20, 1990.”

DELEGATION OF FUNCTIONS

Functions of President under this chapter 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 4553 of this title.

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) [now 50 U.S.C. 4511], 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 [50 U.S.C. 4501 et seq.] 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 [50 U.S.C. 4511(c)], 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.”

§ 4512. Hoarding of designated scarce materials

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable de-

mands 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 chapter. This section shall not be construed to limit the authority contained in sections 4511 and 4554 of this title.

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

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2072 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

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

DELEGATION OF FUNCTIONS

Functions of President under this chapter 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.

§ 4513. Penalties

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this subchapter or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(Sept. 8, 1950, ch. 932, title I, § 103, 64 Stat. 799.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

CODIFICATION

Section was formerly classified to section 2073 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.