

“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).

#### (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) 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.
- (4) The military, industrial, and essential civilian requirements to support the national emergency.
- (5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(7) Civilian austerity measures required during the mobilization period and military conflict.

#### (c) Period within which to replace or replenish materials

The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military