

**(g) Substitutes**

When, in the judgement of the President, it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials, critical components, critical technology items, and other industrial resources.

(Sept. 8, 1950, ch. 932, title III, §303, as added Pub. L. 111-67, §7, Sept. 30, 2009, 123 Stat. 2013; amended Pub. L. 113-172, §4(a), 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. (f)(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.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (f), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96-41, §2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of this title. For complete classification of this Act to the Code, see section 98 of this title and Tables.

**CODIFICATION**

Section was formerly classified to section 2093 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

**PRIOR PROVISIONS**

A prior section 303 of act Sept. 8, 1950, ch. 932, title III, 64 Stat. 801; July 31, 1951, ch. 275, title I, §103(a), 65 Stat. 133; June 30, 1953, ch. 171, §§5, 6, 67 Stat. 130; Aug. 9, 1955, ch. 655, §3, 69 Stat. 580; June 29, 1956, ch. 474, §2, 70 Stat. 408; Pub. L. 88-343, §2, June 30, 1964, 78 Stat. 235; Pub. L. 92-325, §1, June 30, 1972, 86 Stat. 390; Pub. L. 94-273, §2(29), Apr. 21, 1976, 90 Stat. 376; Pub. L. 96-41, §3(c), July 30, 1979, 93 Stat. 325; Pub. L. 96-294, title I, §104(d), June 30, 1980, 94 Stat. 618; Pub. L. 98-265, §§3(c), 4(c), Apr. 17, 1984, 98 Stat. 150, 151; Pub. L. 102-558, title I, §121(c), (d), Oct. 28, 1992, 106 Stat. 4204, 4206; Pub. L. 107-47, §4(3), Oct. 5, 2001, 115 Stat. 260, related to purchase of raw materials and installation of equipment, prior to the general amendment of title III of this Act by Pub. L. 111-67.

**AMENDMENTS**

2014—Subsec. (a)(5). Pub. L. 113-172, §4(a)(1)(A), substituted “, on a non-delegable basis, determines, with appropriate explanatory material and in writing,” for “determines” in introductory provisions.

Subsec. (a)(5)(C). Pub. L. 113-172, §4(a)(1)(B)-(D), added subpar. (C).

Subsec. (a)(6)(C). Pub. L. 113-172, §4(a)(2), added subpar. (C).

**EFFECTIVE DATE OF 2014 AMENDMENT**

Pub. L. 113-172, §4(b), Sept. 26, 2014, 128 Stat. 1897, provided that: “Section 303(a)(6)(C) of the Defense Production Act of 1950 [50 U.S.C. 4533(a)(6)(C)], as added by subsection (a)(2), shall not apply to a project undertaken pursuant to a determination made before the date of the enactment of this Act [Sept. 26, 2014].”

**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 303(a), 304, 305(b), and 306-308 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16654, 16655, set out as a note under section 4553 of this title.

**AUTHORIZATION TO TAKE ACTIONS TO CORRECT THE INDUSTRIAL RESOURCE SHORTFALL FOR HIGH-PURITY BERYLLIUM METAL**

Pub. L. 111-84, div. A, title VIII, §842, Oct. 28, 2009, 123 Stat. 2418, provided that: “Notwithstanding any limitation in section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) [now 50 U.S.C. 4533], an action may be taken under such section to correct an industrial resource shortfall or domestic industrial base shortfall for high-purity beryllium metal if such action does not cause the aggregate outstanding amount of all such actions for such shortfall to exceed ‘\$85,000,000.’”

**RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS**

Pub. L. 108-195, §3, Dec. 19, 2003, 117 Stat. 2892, provided that:

“(a) IN GENERAL.—Notwithstanding the limitation contained in [former] section 303(a)(6)(C) of the Defense Production Act of 1950 ([former] 50 U.S.C. App. 2093(a)(6)(C)), the President may take actions under section 303 of the Defense Production Act of 1950 to correct the industrial resource shortfall for radiation-hardened electronics, to the extent that such Presidential actions do not cause the aggregate outstanding amount of all such actions to exceed \$200,000,000.

“(b) REPORT BY THE SECRETARY.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Dec. 19, 2003], the Secretary of Defense shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing—

“(1) the current state of the domestic industrial base for radiation-hardened electronics;

“(2) the projected requirements of the Department of Defense for radiation-hardened electronics;

“(3) the intentions of the Department of Defense for the industrial base for radiation-hardened electronics; and

“(4) the plans of the Department of Defense for use of providers of radiation-hardened electronics beyond the providers with which the Department had entered into contractual arrangements under the authority of the Defense Production Act of 1950 [50 U.S.C. 4501 et seq.], as of the date of the enactment of this Act.”

Pub. L. 107-314, div. A, title VIII, §829, Dec. 2, 2002, 116 Stat. 2618, provided that: “Notwithstanding the limitation in [former] section 303(a)(6)(C) of the Defense Production Act of 1950 ([former] 50 U.S.C. App. 2093(a)(6)(C)), action or actions may be taken under section 303 of that Act to correct the industrial resource shortfall for radiation-hardened electronics, if such actions do not cause the aggregate outstanding amount of all such actions to exceed \$106,000,000.”

**§ 4534. Defense Production Act Fund****(a) Establishment of Fund**

There is established in the Treasury of the United States a separate fund to be known as the “Defense Production Act Fund” (in this section referred to as the “Fund”).

**(b) Moneys in Fund**

There shall be credited to the Fund—

(1) all moneys appropriated for the Fund, as authorized by section 4561 of this title; and

(2) all moneys received by the Fund on transactions entered into pursuant to section 4533 of this title.

**(c) Use of Fund**

The Fund shall be available to carry out the provisions and purposes of this subchapter, subject to the limitations set forth in this chapter and in appropriations Acts.

**(d) Duration of Fund**

Moneys in the Fund shall remain available until expended.

**(e) Fund balance**

The Fund balance at the close of each fiscal year shall not exceed \$750,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds \$750,000,000, the amount in excess of \$750,000,000 shall be paid into the general fund of the Treasury.

**(f) Fund manager**

The President shall designate a Fund manager. The duties of the Fund manager shall include—

- (1) determining the liability of the Fund in accordance with subsection (g);
- (2) ensuring the visibility and accountability of transactions engaged in through the Fund; and
- (3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

**(g) Liabilities against Fund**

When any agreement entered into pursuant to this subchapter after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.

(Sept. 8, 1950, ch. 932, title III, §304, as added Pub. L. 111-67, §7, Sept. 30, 2009, 123 Stat. 2017.)

## TERMINATION OF SECTION

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

## REFERENCES IN TEXT

This chapter, referred to in subsec. (c), 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 2094 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

## PRIOR PROVISIONS

Prior sections 304 to 310 of act Sept. 8, 1950, ch. 932, were omitted in the general amendment of title III of the Act by Pub. L. 111-67.

Section 304, act Sept. 8, 1950, ch. 932, title III, 64 Stat. 802; June 2, 1951, ch. 121, Ch. XI, 65 Stat. 61; July 31, 1951, ch. 275, title I, §103(b), (c), 65 Stat. 134; Pub. L. 86-560, §2, June 30, 1960, 74 Stat. 282; Pub. L. 88-343, §3, June 30, 1964, 78 Stat. 235; Pub. L. 93-426, §2, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 102-558, title I, §122, Oct. 28, 1992, 106 Stat. 4206; Pub. L. 107-47, §4(4), Oct. 5, 2001, 115 Stat. 260, related to Defense Production Act Fund.

Section 305, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 619; amended Pub. L. 107-314, div. A, title X,

§1062(o)(3), Dec. 2, 2002, 116 Stat. 2653, related to synthetic fuel production.

Section 306, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 623; amended Pub. L. 107-314, div. A, title X, §1062(o)(3), Dec. 2, 2002, 116 Stat. 2653, related to synthetic fuel production subsequent to determinations respecting a national energy supply shortage of defense fuels.

Section 307, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 628; amended Pub. L. 102-558, title I, §151, Oct. 28, 1992, 106 Stat. 4218, related to synthetic fuel action.

Section 308, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 96-294, title I, §104(e), June 30, 1980, 94 Stat. 631, related to definitions of “Government synthetic fuel project”, “synthetic fuel”, “synthetic fuel project”, and “United States”.

Section 309, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 98-265, §6, Apr. 17, 1984, 98 Stat. 152; amended Pub. L. 99-441, §4, Oct. 3, 1986, 100 Stat. 1117; Pub. L. 102-558, title I, §124, Oct. 28, 1992, 106 Stat. 4207; Pub. L. 107-47, §4(5), Oct. 5, 2001, 115 Stat. 260, related to annual report on impact of offsets. See section 4568 of this title.

Section 310, act Sept. 8, 1950, ch. 932, title III, as added Pub. L. 102-558, title I, §125, Oct. 28, 1992, 106 Stat. 4208, related to civil-military integration.

## DEFENSE PRODUCTION ACT FUND MANAGER

Secretary of Defense designated Defense Production Act Fund Manager in accordance with subsec. (f) of this section, see section 309 of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16655, set out as a note under section 4553 of this title.

## EXECUTIVE ORDER NO. 12346

Ex. Ord. No. 12346, Feb. 8, 1982, 47 F.R. 5993, related to the transition of synthetic fuel responsibilities from the Department of Energy to the United States Synthetic Fuels Corporation, revoked Ex. Ord. No. 12242, and provided that the provisions of Ex. Ord. No. 12242 would continue in full force and effect with respect to any loan guarantee issued under its provisions.

## SUBCHAPTER III—GENERAL PROVISIONS

## CODIFICATION

Subchapter is comprised of the portions of title VII of act Sept. 8, 1950, ch. 932, as amended, that had not previously been repealed when title VII was editorially reclassified as this subchapter.

**§ 4551. Small business****(a) Participation**

Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation’s industrial base and technology base undertaken pursuant to this chapter.

**(b) Administration of chapter**

In administering the programs, implementing regulations, policies, and procedures under this chapter, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

**(c) Advisory committee participation**

Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this chapter.

**(d) Information**

Information about this chapter and activities undertaken in accordance with this chapter