

analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

(3) Based on the strategy required by section 2501 of this title and on the assessments prepared pursuant to Executive order or section 2505 of this title—

(A) a map of the industrial base;

(B) a prioritized list of gaps or vulnerabilities in the national technology and industrial base, including—

(i) a description of mitigation strategies necessary to address such gaps or vulnerabilities;

(ii) the identification of the Secretary concerned or the head of the Defense Agency responsible for addressing such gaps or vulnerabilities; and

(iii) a proposed timeline for action to address such gaps or vulnerabilities; and

(C) any other steps necessary to foster and safeguard the national technology and industrial base.

(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.

(Added Pub. L. 104-201, div. A, title VIII, § 829(e), Sept. 23, 1996, 110 Stat. 2614; amended Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112-239, div. A, title XVI, § 1603(b), Jan. 2, 2013, 126 Stat. 2063; Pub. L. 116-92, div. A, title VIII, § 846(b), Dec. 20, 2019, 133 Stat. 1503.)

PRIOR PROVISIONS

A prior section 2504, added Pub. L. 102-484, div. D, title XLII, § 4214(a), Oct. 23, 1992, 106 Stat. 2666, established Center for Study of Defense Economic Adjustment, prior to repeal by Pub. L. 103-160, div. A, title XIII, § 1312(a)(1), Nov. 30, 1993, 107 Stat. 1786.

Another prior section 2504 was renumbered section 2531 of this title.

AMENDMENTS

2019—Par. (3). Pub. L. 116-92, § 846(b)(1), inserted “Executive order or” after “pursuant to”.

Par. (3)(A). Pub. L. 116-92, § 846(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a description of any mitigation strategies necessary to address any gaps or vulnerabilities in the national technology and industrial base; and”.

Par. (3)(B), (C). Pub. L. 116-92, § 846(b)(3), (4), added subpar. (B) and redesignated former subpar. (B) as (C).

2013—Pars. (2), (3). Pub. L. 112-239 added par. (3), redesignated former par. (3) as (2) and struck out former par. (2) which read as follows: “A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base.”

1999—Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

STRATEGY FOR SECURING THE DEFENSE SUPPLY CHAIN AND INDUSTRIAL BASE

Pub. L. 112-81, div. A, title VIII, § 852, Dec. 31, 2011, 125 Stat. 1517, as amended by Pub. L. 112-239, div. A, title

XVI, § 1603(d), Jan. 2, 2013, 126 Stat. 2063, which required a report on the sector-by-sector, tier-by-tier assessment of the industrial base undertaken by the Department of Defense, was repealed by Pub. L. 115-232, div. A, title VIII, § 812(b)(55), Aug. 13, 2018, 132 Stat. 1850.

§ 2504a. Unfunded priorities of the national technology and industrial base: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on the unfunded priorities to address gaps or vulnerabilities in the national technology and industrial base.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement of the national technology and industrial base that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(2) is necessary to address gaps or vulnerabilities in the national technology and industrial base; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement had emerged before the budget was formulated.

(Added Pub. L. 116-92, div. A, title VIII, § 846(c)(1), Dec. 20, 2019, 133 Stat. 1504.)

§ 2505. National technology and industrial base: periodic defense capability assessments

(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected

assessments of the capability of the national technology and industrial base to attain the national security objectives set forth in section 2501(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

(b) **ASSESSMENT PROCESS.**—The Secretary of Defense shall ensure that technology and industrial capability assessments—

(1) describe sectors or capabilities, their underlying infrastructure and processes;

(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment;

(3) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries supporting the sectors or capabilities in the assessment, evaluate the reasons for any variance from applicable preceding determinations, and identify the extent to which those industries are comprised of only one potential source in the national technology and industrial base or have multiple potential sources;

(4) determine the extent to which the requirements associated with defense acquisition programs can be satisfied by the present and projected performance capacities of industries that do not actively support Department of Defense acquisition programs and identify the barriers to the participation of those industries;

(5) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives; and

(6) consider the effects of the termination of major defense acquisition programs (as the term is defined in section 2430 of this title) or major automated information system programs (as defined in section 2445a¹ of this title) in the previous fiscal year on the sectors and capabilities in the assessment.

(c) **ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.**—Each assessment under subsection (a) shall include a separate discussion and presentation regarding the extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

(d) **ASSESSMENT OF EXTENT OF EFFECTS OF FOREIGN BOYCOTTS.**—Each assessment under sub-

section (a) shall include an examination of the extent to which the national technology and industrial base is affected by foreign boycotts. If it is determined that a foreign boycott (other than a boycott addressed in a previous assessment) is subjecting the national technology and industrial base to significant harm, the assessment shall include a separate discussion and presentation regarding that foreign boycott that shall, at a minimum—

(1) identify the sectors that are subject to such harm;

(2) describe the harm resulting from such boycott; and

(3) identify actions necessary to minimize the effects of such boycott on the national technology and industrial base.

(e) **INTEGRATED PROCESS.**—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.

(Added Pub. L. 102-484, div. D, title XLII, §4215, Oct. 23, 1992, 106 Stat. 2667; amended Pub. L. 103-35, title II, §201(g)(7), May 31, 1993, 107 Stat. 100; Pub. L. 104-201, div. A, title VIII, §829(c)(1), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111-23, title III, §303(b), May 22, 2009, 123 Stat. 1731; Pub. L. 111-383, div. A, title VIII, §895(c), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 112-239, div. A, title XVI, §1602, Jan. 2, 2013, 126 Stat. 2062; Pub. L. 114-92, div. A, title VIII, §876, Nov. 25, 2015, 129 Stat. 941.)

REFERENCES IN TEXT

Section 2445a of this title, referred to in subsec. (b)(6), was repealed by Pub. L. 114-328, div. A, title VIII, §846(1), Dec. 23, 2016, 130 Stat. 2292, effective Sept. 30, 2017.

PRIOR PROVISIONS

A prior section 2505 was renumbered section 2532 of this title.

AMENDMENTS

2015—Subsec. (b)(3) to (6). Pub. L. 114-92 added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

2013—Subsecs. (d), (e). Pub. L. 112-239 added subsec. (d) and redesignated former subsec. (d) as (e).

2011—Subsec. (b)(4). Pub. L. 111-383 inserted “or major automated information system programs (as defined in section 2445a of this title)” after “section 2430 of this title”.

2009—Subsec. (b)(4). Pub. L. 111-23 added par. (4).

1996—Pub. L. 104-201 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) providing for National Defense Technology and Industrial Base Council to prepare, at least annually through fiscal year 1997 and biennially thereafter, a comprehensive assessment of capability of the national technology and industrial base to attain national security objectives.

1993—Pub. L. 103-35 substituted “capability” for “capabilty” in section catchline.

PILOT PROGRAM ON STRENGTHENING MANUFACTURING IN THE DEFENSE INDUSTRIAL BASE

Pub. L. 115-91, div. A, title XVII, §1711, Dec. 12, 2017, 131 Stat. 1811, provided that:

“(a) **PILOT PROGRAM REQUIRED.**—The Secretary of Defense shall carry out a pilot program to assess the fea-

¹ See References in Text note below.

sibility and advisability of increasing the capability of the defense industrial base to support—

“(1) production needs to meet military requirements; and

“(2) manufacturing and production of emerging defense and commercial technologies.

“(b) AUTHORITIES.—The Secretary shall carry out the pilot program under the following:

“(1) Chapters 137 and 139 and sections 2371, 2371b, and 2373 of title 10, United States Code.

“(2) Such other legal authorities as the Secretary considers applicable to carrying out the pilot program.

“(c) ACTIVITIES.—Activities under the pilot program may include the following:

“(1) Use of contracts, grants, or other transaction authorities to support manufacturing and production capabilities in small- and medium-sized manufacturers.

“(2) Purchases of goods or equipment for testing and certification purposes.

“(3) Incentives, including purchase commitments and cost sharing with nongovernmental sources, for the private sector to develop manufacturing and production capabilities in areas of national security interest.

“(4) Issuing loans or providing loan guarantees to small- and medium-sized manufacturers to support manufacturing and production capabilities in areas of national security interest.

“(5) Giving awards to third party entities to support investments in small- and medium-sized manufacturers working in areas of national security interest, including debt and equity investments that would benefit missions of the Department of Defense.

“(6) Such other activities as the Secretary determines necessary.

“(d) TERMINATION.—The pilot program shall terminate on the date that is four years after the date of the enactment of this Act [Dec. 12, 2017].

“(e) BRIEFING REQUIRED.—No later than January 31, 2022, the Secretary of Defense shall provide a briefing to the Committees on Armed Services in the Senate and the House of Representatives on the results of the pilot program.”

STUDY OF BERYLLIUM INDUSTRIAL BASE

Pub. L. 108–136, div. A, title VIII, §824, Nov. 24, 2003, 117 Stat. 1547, required the Secretary of Defense to conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium and to submit a report on the results of the study to Congress not later than Mar. 31, 2005.

IMPLEMENTING REGULATIONS CONCERNING NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC ASSESSMENT

Pub. L. 102–484, div. D, title XLII, §4219, Oct. 23, 1992, 106 Stat. 2671, as amended by Pub. L. 103–35, title II, §202(a)(14), May 31, 1993, 107 Stat. 101, set forth requirements for the initial regulations prescribed to implement this section, prior to repeal by Pub. L. 104–201, div. A, title VIII, §829(h), Sept. 23, 1996, 110 Stat. 2614.

§ 2506. Department of Defense technology and industrial base policy guidance

(a) DEPARTMENTAL GUIDANCE.—The Secretary of Defense shall prescribe departmental guidance for the attainment of each of the national security objectives set forth in section 2501(a) of this title.

(b) PURPOSE OF GUIDANCE.—The guidance prescribed pursuant to subsection (a) shall provide for technological and industrial capability considerations to be integrated into the strategy, management, budget allocation, acquisition, and logistics support decision processes.

(Added Pub. L. 102–484, div. D, title XLII, §4216(a), Oct. 23, 1992, 106 Stat. 2668; amended Pub. L. 104–201, div. A, title VIII, §829(d), Sept. 23, 1996, 110 Stat. 2613; Pub. L. 111–383, div. A, title VIII, §895(d), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 115–91, div. A, title X, §1051(a)(18), Dec. 12, 2017, 131 Stat. 1561.)

PRIOR PROVISIONS

A prior section 2506 was renumbered section 2533 of this title.

AMENDMENTS

2017—Pub. L. 115–91 designated second sentence of subsec. (a) as subsec. (b) and inserted heading, substituted “The guidance prescribed pursuant to subsection (a)” for “Such guidance” in subsec. (b), and struck out former subsec. (b) which required the Secretary of Defense to report on the implementation of the departmental guidance in the annual report to Congress.

2011—Subsec. (a). Pub. L. 111–383 substituted “strategy, management, budget allocation,” for “budget allocation, weapons”.

1996—Pub. L. 104–201 substituted “Department of Defense technology and industrial base policy guidance” for “National technology and industrial base: periodic defense capability plan” in section catchline and amended text generally. Prior to amendment, text consisted of subssecs. (a) to (e) providing for the National Defense Technology and Industrial Base Council to prepare, at least annually through fiscal year 1997 and biennially thereafter, a multiyear plan for ensuring that the policies and programs of the Department of Defense, the Department of Energy, and other Federal departments and agencies were planned, coordinated, funded, and implemented in a manner designed to attain national security objectives.

IMPLEMENTING REGULATIONS CONCERNING NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC PLAN

Pub. L. 102–484, div. D, title XLII, §4220, Oct. 23, 1992, 106 Stat. 2675, set forth requirements for the initial regulations prescribed to implement this section, prior to repeal by Pub. L. 104–201, div. A, title VIII, §829(h), Sept. 23, 1996, 110 Stat. 2614.

§ 2507. Data collection authority of President

(a) AUTHORITY.—The President shall be entitled, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in the President’s discretion, to the enforcement or the administration of this chapter and the regulations issued under this chapter.

(b) CONDITION FOR USE OF AUTHORITY.—The President shall issue regulations insuring that the authority of this section will be used only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency.

(c) PENALTY FOR NONCOMPLIANCE.—Any person who willfully performs any act prohibited or willfully fails to perform any act required by the provisions of subsection (a), or any rule, regulation, or order thereunder, shall be fined under