

[§ 186. Repealed. Pub. L. 113–291, div. A, title IX, § 901(c), Dec. 19, 2014, 128 Stat. 3463]

Section, added Pub. L. 108–375, div. A, title III, § 332(b)(1), Oct. 28, 2004, 118 Stat. 1854; amended Pub. L. 110–417, [div. A], title IX, § 904, Oct. 14, 2008, 122 Stat. 4567; Pub. L. 111–383, div. A, title X, § 1075(b)(9), Jan. 7, 2011, 124 Stat. 4369, related to Defense Business System Management Committee.

§ 187. Strategic Materials Protection Board

(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Strategic Materials Protection Board.

(2) The Board shall be composed of the following:

(A) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy, who shall be the chairman of the Board.

(B) The Administrator of the Defense Logistics Agency Strategic Materials, or any successor organization, who shall be the vice chairman of the Board.

(C) A designee of the Assistant Secretary of the Army for Acquisition, Logistics, and Technology.

(D) A designee of the Assistant Secretary of the Navy for Research, Development, and Acquisition.

(E) A designee of the Assistant Secretary of the Air Force for Acquisition.¹

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

(1) determine the need to provide a long term secure supply of materials designated as critical to national security to ensure that national defense needs are met;

(2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the nonavailability of such material would have;

(3) recommend a strategy to the Secretary to ensure a secure supply of materials designated as critical to national security;

(4) recommend such other strategies to the Secretary as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security; and

(5) publish not less frequently than once every two years in the Federal Register recommendations regarding materials critical to national security, including a list of specialty metals, if any, recommended for addition to, or removal from, the definition of “specialty metal” for purposes of section 4863 of this title.

(c) MEETINGS.—The Board shall meet as determined necessary by the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy but not less frequently than once every two years to make recommendations regarding materials critical to national security as described in subsection (b)(5).

(d) REPORTS.—(1) Subject to paragraph (2), after each meeting of the Board, the Board shall prepare a report containing the results of the

meeting and such recommendations as the Board determines appropriate. Each such report shall be submitted to the congressional defense committees, together with comments and recommendations from the Secretary of Defense, not later than 90 days after the meeting covered by the report.

(2) In any year in which the Board meets more than once, each report prepared by the Board as required by paragraph (1) may be combined into one annual report and submitted as provided by paragraph (1) not later than 90 days after the last meeting of the year.

(e) DEFINITIONS.—In this section:

(1) The term “materials critical to national security” means materials—

(A) upon which the production or sustainment of military equipment is dependent; and

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

(2) The term “military equipment” means equipment used directly by the armed forces to carry out military operations.

(3) The term “secure supply”, with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.

(Added Pub. L. 109–364, div. A, title VIII, § 843(a), Oct. 17, 2006, 120 Stat. 2338; amended Pub. L. 111–383, div. A, title VIII, § 829, Jan. 7, 2011, 124 Stat. 4272; Pub. L. 112–239, div. A, title IX, § 901(c), Jan. 2, 2013, 126 Stat. 1864; Pub. L. 114–328, div. A, title X, § 1081(a)(2), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 116–92, div. A, title XVII, § 1731(a)(11), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title XVIII, § 1870(c)(6)(C), Jan. 1, 2021, 134 Stat. 4285.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(5). Pub. L. 116–283 substituted “section 4863” for “section 2533b”.

2019—Subsec. (a)(2)(C). Pub. L. 116–92 substituted “Assistant Secretary of the Army for Acquisition, Logistics, and Technology” for “Assistant Secretary of the Army for Acquisition, Technology, and Logistics”.

2016—Subsec. (a)(2)(C). Pub. L. 114–328 substituted “Acquisition, Technology, and Logistics” for “Acquisition, Logistics, and Technology”.

2013—Subsec. (a)(2). Pub. L. 112–239, § 901(c)(1), amended par. (2) generally. Prior to amendment, par. (2) related to composition of the Strategic Materials Protection Board.

Subsec. (b)(3), (4). Pub. L. 112–239, § 901(c)(2), substituted “Secretary” for “President”.

Subsec. (c). Pub. L. 112–239, § 901(c)(3), substituted “Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy” for “Secretary of Defense”.

Subsec. (d). Pub. L. 112–239, § 901(c)(4), amended subsec. (d) generally. Prior to amendment, text read as follows: “After each meeting of the Board, the Board shall prepare and submit to Congress a report containing the results of the meeting and such recommendations as the Board determines appropriate.”

2011—Subsec. (b). Pub. L. 111–383, § 829(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to duties of the Strategic Materials Protection Board.

¹ See Change of Name note below.

Subsec. (e). Pub. L. 111-383, §829(a), added subsec. (e).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Assistant Secretary of the Air Force for Acquisition deemed to be a reference to the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics, see section 934(b) of Pub. L. 114-328, set out as a note under section 9016 of this title.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

FIRST MEETING OF BOARD

Pub. L. 109-364, div. A, title VIII, §843(c), Oct. 17, 2006, 120 Stat. 2339, provided that: “The first meeting of the Strategic Materials Protection Board, established by section 187 of title 10, United States Code (as added by subsection (a)) shall be not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].”

§ 188. Interagency Council on the Strategic Capability of the National Laboratories

(a) ESTABLISHMENT.—There is an Interagency Council on the Strategic Capability of the National Laboratories (in this section referred to as the “Council”).

(b) MEMBERSHIP.—The membership of the Council is comprised of the following:

- (1) The Secretary of Defense.
- (2) The Secretary of Energy.
- (3) The Secretary of Homeland Security.
- (4) The Director of National Intelligence.
- (5) The Administrator for Nuclear Security.
- (6) Such other officials as the President considers appropriate.

(c) STRUCTURE AND PROCEDURES.—The President may determine the chair, structure, staff, and procedures of the Council.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

- (1) Identifying and considering the science, technology, and engineering capabilities of the national laboratories that could be leveraged by each participating agency to support national security missions.
- (2) Reviewing and assessing the adequacy of the national security science, technology, and engineering capabilities of the national laboratories for supporting national security missions throughout the Federal Government.
- (3) Establishing and overseeing means of ensuring that—
 - (A) capabilities identified by the Council under paragraph (1) are sustained to an appropriate level; and
 - (B) each participating agency provides the appropriate level of institutional support to sustain such capabilities.
- (4) In accordance with acquisition rules regarding federally funded research and development centers, establishing criteria for when each participating agency should seek to use the services of the national laboratories, including the identification of appropriate mission areas and capabilities.
- (5) Making recommendations to the President and Congress regarding regulatory or statutory changes needed to better support—

(A) the strategic capabilities of the national laboratories; and

(B) the use of such laboratories by each participating agency.

(6) Other actions the Council considers appropriate with respect to—

(A) the sustainment of the national laboratories; and

(B) the use of the strategic capabilities of such laboratories.

(e) STREAMLINED PROCESS.—With respect to the participating agency for which a member of the Council is the head of, each member of the Council shall—

(1) establish processes to streamline the consideration and approval of procuring the services of the national laboratories on appropriate matters; and

(2) ensure that such processes are used in accordance with the criteria established under subsection (d)(4).

(f) DEFINITIONS.—In this section:

(1) The term “participating agency” means a department or agency of the Federal Government that is represented on the Council by a member under subsection (b).

(2) The term “national laboratories” means—

(A) each national security laboratory (as defined in section 3281(1) of the National Nuclear Security Administration Act (50 U.S.C. 2471(1))); and

(B) each national laboratory of the Department of Energy.

(Added Pub. L. 112-239, div. A, title X, §1040(a), Jan. 2, 2013, 126 Stat. 1928.)

Statutory Notes and Related Subsidiaries

CONSTRUCTION

Pub. L. 112-239, div. A, title X, §1040(d), Jan. 2, 2013, 126 Stat. 1931, provided that: “Nothing in section 188 of title 10, United States Code, as added by subsection (a), shall be construed to limit section 309 of the Homeland Security Act of 2002 (6 U.S.C. 189).”

REPORT

Pub. L. 112-239, div. A, title X, §1040(c), Jan. 2, 2013, 126 Stat. 1930, provided that:

“(1) IN GENERAL.—Not later than September 30, 2013, the Interagency Council on the Strategic Capability of the National Laboratories established under section 188 of title 10, United States Code, as added by subsection (a), shall submit to the appropriate congressional committees a report describing and assessing the following:

“(A) The actions taken to implement the requirements of such section 188 and the charter titled ‘Governance Charter for an Interagency Council on the Strategic Capability of DOE National Laboratories as National Security Assets’ signed by the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, and the Director of National Intelligence in July 2010.

“(B) The effectiveness of the Council in accomplishing the purpose and objectives of such section and such Charter.

“(C) Efforts to strengthen work-for-others programs at the national laboratories.

“(D) Efforts to make work-for-others opportunities at the national laboratories more cost-effective.

“(E) Ongoing and planned measures for increasing cost-sharing and institutional support investments at the national laboratories from other agencies.