

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVII, §1701(f)(10), (s)(2)(B), Dec. 27, 2021, 135 Stat. 2140, 2149, added items 4814 and 4820 and struck out former item 4814 “Annual report to Congress”.

§ 4811. National security strategy for national technology and industrial base

(a) NATIONAL SECURITY STRATEGY FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. The Secretary shall submit such strategy to Congress not later than 180 days after the date of submission of the national security strategy report required under section 108 of the National Security Act of 1947 (50 U.S.C. 3043). Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:

(1) Supplying, equipping, and supporting the force structure of the armed forces that is necessary to achieve—

(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title; and

(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of this title.

(2) Sustaining production, maintenance, repair, logistics, and other activities in support of military operations of various durations and intensity.

(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

(4) Reconstituting within a reasonable period the capability to develop, produce, and support supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency, or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

(5) Providing for the development, manufacture, and supply of items and technologies critical to the production and sustainment of advanced military weapon systems within the national technology and industrial base.

(6) Providing for the generation of services capabilities that are not core functions of the armed forces and that are critical to military operations within the national technology and industrial base.

(7) Providing for the development, production, and integration of information technology within the national technology and industrial base.

(8) Maintaining critical design skills to ensure that the armed forces are provided with

systems capable of ensuring technological superiority over potential adversaries.

(9) Ensuring reliable sources of materials that are critical to national security, such as specialty metals, essential minerals, armor plate, and rare earth elements.

(10) Reducing, to the maximum extent practicable, the presence of counterfeit parts in the supply chain and the risk associated with such parts.

(11) Providing for the provision of drugs, biological products, vaccines, and critical medical supplies required to enable combat readiness and protect the health of the armed forces.

(b) CIVIL-MILITARY INTEGRATION POLICY.—The Secretary of Defense shall ensure that the United States attains the national technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

(1) Relying, to the maximum extent practicable, upon the commercial national technology and industrial base that is required to meet the national security needs of the United States.

(2) Reducing the reliance of the Department of Defense on technology and industrial base sectors that are economically dependent on Department of Defense business.

(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

(c) DEPARTMENT OF DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICY GUIDANCE.—

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

(2) PURPOSE OF GUIDANCE.—The guidance prescribed pursuant to paragraph (1) 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, §4211, Oct. 23, 1992, 106 Stat. 2662, §2501; amended Pub. L. 103–35, title II, §201(c)(7), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title XI, §1182(a)(10), title XIII, §1313, Nov. 30, 1993, 107 Stat. 1771, 1786; Pub. L. 104–106, div. A, title X, §1081(a), Feb. 10, 1996, 110 Stat. 452; Pub. L. 104–201, div. A, title VIII, §829(a), Sept. 23, 1996, 110 Stat. 2612; Pub. L. 111–23, title III, §303(a), May 22, 2009, 123 Stat. 1731; Pub. L. 111–383, div. A, title VIII, §895(b), Jan. 7, 2011, 124 Stat. 4314; Pub. L. 112–239, div. A, title XVI, §1603(a)(1), Jan. 2, 2013, 126 Stat. 2062; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title VIII, §882, Dec. 23, 2016, 130 Stat. 2316; Pub. L. 116–92, div. A, title VIII, §846(a), Dec. 20, 2019, 133 Stat. 1503; renumbered §4811 and amended Pub. L. 116–283, div. A, title VII, §713(a), title XVIII, §1867(b), (c)(1), Jan. 1, 2021, 134 Stat. 3692, 4281.)

Editorial Notes**CODIFICATION**

The text of subsecs. (a) and (b) of section 2506 of this title, which were transferred to this section and redesignated as pars. (1) and (2), respectively, of subsec. (c), by Pub. L. 116–283, § 1867(c)(1)(B), was based on Pub. L. 102–484, div. D, title XLII, § 4216(a), Oct. 23, 1992, 106 Stat. 2668; 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; Pub. L. 116–283, div. A, title XVIII, § 1867(c)(1)(B), Jan. 1, 2021, 134 Stat. 4281.

AMENDMENTS

2021—Pub. L. 116–283, § 1867(b), renumbered section 2501 of this title as this section.

Subsec. (a)(11). Pub. L. 116–283, § 713(a), added par. (11).
Subsec. (c). Pub. L. 116–283, § 1867(c)(1)(B), transferred subsecs. (a) and (b) of section 2506 of this title to subsec. (c), redesignated such provisions as pars. (1) and (2), respectively, and realigned margins.

Pub. L. 116–283, § 1867(c)(1)(A), added subsec. (c).
Subsec. (c)(1). Pub. L. 116–283, § 1867(c)(1)(B)(i), substituted “subsection (a)” for “section 2501(a) of this title”.

Subsec. (c)(2). Pub. L. 116–283, § 1867(c)(1)(B)(ii), substituted “paragraph (1)” for “subsection (a)”.

2019—Subsec. (a). Pub. L. 116–92 inserted “The Secretary shall submit such strategy to Congress not later than 180 days after the date of submission of the national security strategy report required under section 108 of the National Security Act of 1947 (50 U.S.C. 3043).” after first sentence.

2016—Subsec. (b). Pub. L. 114–328, in introductory provisions, substituted “The Secretary of Defense shall ensure that the United States attains” for “It is the policy of Congress that the United States attain”.

2014—Subsec. (a)(1)(A). Pub. L. 113–291 substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Pub. L. 112–239, § 1603(a)(1)(A), substituted “strategy for” for “objectives concerning” in section catchline.

Subsec. (a). Pub. L. 112–239, § 1603(a)(1)(B)(i), (ii), substituted “Strategy” for “Objectives” in heading and “The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:” for “It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:” in introductory provisions.

Subsec. (a)(9), (10). Pub. L. 112–239, § 1603(a)(1)(B)(iii), added pars. (9) and (10).

2011—Subsec. (a)(1). Pub. L. 111–383, § 895(b)(1), substituted “Supplying, equipping, and supporting” for “Supplying and equipping” in introductory provisions.

Subsec. (a)(2). Pub. L. 111–383, § 895(b)(2), substituted “logistics, and other activities in support of” for “and logistics for”.

Subsec. (a)(4). Pub. L. 111–383, § 895(b)(3), substituted “, produce, and support” for “and produce”.

Subsec. (a)(6) to (8). Pub. L. 111–383, § 895(b)(4), added pars. (6) and (7) and redesignated former par. (6) as (8).

2009—Subsec. (a)(6). Pub. L. 111–23 added par. (6).

1996—Pub. L. 104–106, § 1081(a)(2), substituted “National security objectives concerning national technology and industrial base” for “Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion” as section catchline.

Subsec. (a). Pub. L. 104–106, § 1081(a)(1)(A)(i), substituted “National Security” for “Defense Policy” in heading.

Subsec. (a)(5). Pub. L. 104–201 added par. (5).

Pub. L. 104–106, § 1081(a)(1)(A)(ii), struck out par. (5) which read as follows: “Furthering the missions of the Department of Defense through the support of policy objectives and programs relating to the defense reinvestment, diversification, and conversion objectives specified in subsection (b).”

Subsecs. (b), (c). Pub. L. 104–106, § 1081(a)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which stated policy objectives of Congress relating to defense reinvestment, diversification, and conversion.

1993—Subsec. (a)(1)(A). Pub. L. 103–35 substituted “section 108” for “section 104”.

Subsec. (a)(5). Pub. L. 103–160, § 1313, added par. (5).

Subsec. (b)(2). Pub. L. 103–160, § 1182(a)(10), substituted “that, by reducing the public sector demand for capital, increases the amount of capital available” for “and thereby free up capital”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 1867(b), (c)(1) of 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.

DEMONSTRATION PROGRAM ON DOMESTIC PRODUCTION OF RARE EARTH ELEMENTS FROM COAL BYPRODUCTS

Pub. L. 117–81, div. A, title III, § 320, Dec. 27, 2021, 135 Stat. 1634, provided that:

“(a) **DEMONSTRATION PROGRAM REQUIRED.**—Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall commence carrying out a demonstration program on recovering rare earth elements and critical minerals from acid mine drainage and other coal byproducts.

“(b) **PARTNERSHIP.**—In carrying out the demonstration program required by subsection (a), the Secretary shall seek to enter into a partnership with one or more institutions of higher education that can demonstrate techniques for recovering rare earth elements and critical minerals from acid mine drainage and other coal byproducts, as the Secretary considers applicable.

“(c) **ELEMENTS.**—The demonstration program required by subsection (a) shall address the following:

“(1) The efficacy of separating rare earth elements and critical minerals from acid mine drainage.

“(2) The feasibility of bringing such technology to commercialized scale.

“(3) Domestic locations that are appropriate for the deployment of such technology.

“(4) The ability of such technology to meet the requirements of the defense industrial base to supplement the rare earth element and critical mineral needs of the Department of Defense.

“(d) **DURATION.**—The demonstration program required by subsection (a) shall be carried out during the one-year period beginning on the date of the commencement of the demonstration program.

“(e) **BRIEFING.**—Not later than 120 days after the date of the completion of the demonstration program required by subsection (a), the Secretary and the program manager of the institute of higher education with whom the Secretary partners pursuant to subsection (b) shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the elements of the demonstration program set forth under subsection (c).”

ASSESSMENT OF REQUIREMENTS FOR CERTAIN ITEMS TO ADDRESS SUPPLY CHAIN VULNERABILITIES

Pub. L. 117–81, div. A, title VIII, § 844, Dec. 27, 2021, 135 Stat. 1841, provided that:

“(a) **DEFINITIONS.**—In this section, the term ‘dual-use’ has the meaning given in section 2500 of title 10, United States Code [now 10 U.S.C. 4801].

“(b) **ASSESSMENT.**—The Secretary of Defense shall assess the requirements of the Department of Defense for

dual-use items covered by section 2533a of title 10, United States Code [now 10 U.S.C. 4862].

“(c) POLICIES.—The Secretary of Defense shall develop or revise and implement relevant policies to track and reduce fluctuations in supply chain forecasting and encourage predictable demand requirements for annual procurements of such dual-use items by the Office the Secretary of Defense, each military department, and the Defense Logistics Agency.

“(d) REPORT AND BRIEFINGS.—

“(1) ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than December 31, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the assessment conducted under subsection (b).

“(B) FORM.—The report required by subparagraph (A) shall be submitted in an unclassified form, but may include a classified annex to the extent required to protect the national security of the United States.

“(2) QUARTERLY BRIEFINGS.—

“(A) IN GENERAL.—Not later than March 1, 2023, and quarterly thereafter until March 1, 2026, each Secretary of a military department and the Director of the Defense Logistics Agency shall brief the Under Secretary of Defense for Acquisition and Sustainment on the fluctuations in supply chain forecasting and demand requirements for each dual-use item covered by section 2533a of title 10, United States Code [now 10 U.S.C. 4862].

“(B) DOCUMENTATION.—Each briefing under subparagraph (A) shall be accompanied by documentation regarding the particular points of discussion for that briefing, including the fluctuations described in such subparagraph, expressed as a percentage.”

PLAN AND REPORT ON REDUCTION OF RELIANCE ON SERVICES, SUPPLIES, OR MATERIALS FROM COVERED COUNTRIES

Pub. L. 117–81, div. A, title VIII, § 847, Dec. 27, 2021, 135 Stat. 1843, provided that:

“(a) PLAN.—The Secretary of Defense, in consultation with the Secretary of State, shall develop and implement a plan to—

“(1) reduce the reliance of the United States on services, supplies, or materials obtained from sources located in geographic areas controlled by covered countries; and

“(2) mitigate the risks to national security and the defense supply chain arising from the reliance of the United States on such sources for services, supplies, or materials to meet critical defense requirements.

“(b) REPORT.—Not later than two years after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report describing the plan required under subsection (a).

“(c) COVERED COUNTRY DEFINED.—In this section, the term ‘covered country’ means North Korea, China, Russia, and Iran.”

REQUIREMENT FOR INDUSTRY DAYS AND REQUESTS FOR INFORMATION TO BE OPEN TO ALLIED DEFENSE CONTRACTORS

Pub. L. 117–81, div. A, title VIII, § 854, Dec. 27, 2021, 135 Stat. 1849, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], each service acquisition executive shall implement a requirement that industry days and requests for information regarding acquisition programs and research and development efforts of the Department of Defense shall, to the maximum extent practicable, be open to

defense contractors of the national technology and industrial base, including when such contractors are acting as subcontractors in partnership with a United States contractor, provided such access is granted only if the Secretary of Defense or the relevant Secretary concerned determines that there is reciprocal access for United States companies to equivalent information related to contracting opportunities in the associated country that is part of the national technology and industrial base.

“(b) DEFINITIONS.—In this section:

“(1) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The term ‘national technology and industrial base’ has the meaning given the term in section 2500 of title 10, United States Code [now 10 U.S.C. 4801].

“(2) SECRETARY CONCERNED; SERVICE ACQUISITION EXECUTIVE.—The terms ‘Secretary concerned’ and ‘service acquisition executive’ have the meanings given such terms in section 101(a) of title 10, United States Code.”

NATIONAL SECURITY INNOVATION PARTNERSHIPS

Pub. L. 116–283, div. A, title II, § 219, Jan. 1, 2021, 134 Stat. 3463, provided that:

“(a) ESTABLISHMENT.—The Secretary of Defense shall establish an activity—

“(1) to support partnerships between the Department of Defense and academic institutions, private sector firms in defense and commercial sectors, commercial accelerators and incubators, commercial innovation hubs, public sector organizations, and non-profit entities with missions relating to national security innovation;

“(2) to expand the national security innovation base, including through engagement with academia, defense industry, commercial industry, government organizations, and the venture capital community;

“(3) to accelerate the transition of technologies and services into acquisition programs and operational use;

“(4) to work in coordination with the Under Secretary of Defense for Personnel and Readiness, other organizations within the Office of the Secretary, and the Armed Forces to create new pathways and models of national security service that facilitate employment within the Department;

“(5) to facilitate engagement with entities described in paragraph (1) for the purpose of developing solutions to national security and defense problems articulated by entities within the Department, including through programs such as the Hacking for Defense program;

“(6) to establish physical locations throughout the United States to support partnerships with academic, government, and private sector industry partners; and

“(7) to enhance the capabilities of the Department in market research, industrial and technology base awareness, source selection, partnerships with private sector capital, and access to commercial technologies.

“(b) AUTHORITIES.—In addition to the authorities provided under this section, in carrying out this section, the Secretary of Defense may use the following authorities:

“(1) Section 1599g of title 10, United States Code, relating to public-private talent exchanges.

“(2) Section 2368 of title 10, United States Code [now 10 U.S.C. 4124], relating to Centers for Science, Technology, and Engineering Partnerships.

“(3) Section 2374a of title 10, United States Code [now 10 U.S.C. 4025], relating to prizes for advanced technology achievements.

“(4) Section 2474 of title 10, United States Code, relating to Centers of Industrial and Technical Excellence.

“(5) Section 2521 of title 10, United States Code [now 10 U.S.C. 4841, 4842], relating to the Manufacturing Technology Program.

“(6) Subchapter VI of chapter 33 of title 5, United States Code, relating to assignments to and from States.

“(7) Chapter 47 of title 5, United States Code, relating to personnel research programs and demonstration projects.

“(8) Section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a) and section 6305 of title 31, United States Code, relating to cooperative research and development agreements.

“(9) Such other authorities as the Secretary considers appropriate.

“(c) IMPLEMENTATION.—

“(1) SUPPORT FROM OTHER DEPARTMENT OF DEFENSE ORGANIZATIONS.—The Secretary of Defense may direct other organizations and elements of the Department of Defense to provide personnel, resources, and other support to the activity established under this section, as the Secretary determines appropriate.

“(2) IMPLEMENTATION PLAN.—

“(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementing the activity established under this section.

“(B) ELEMENTS.—The plan required under subparagraph (A) shall include the following:

“(i) Plans that describe any support that will be provided for the activity by other organizations and elements of the Department of Defense under paragraph (1).

“(ii) Plans for the implementation of the activity, including plans for—

“(I) future funding and administrative support of the activity;

“(II) integration of the activity into the programming, planning, budgeting, and execution process of the Department of Defense;

“(III) integration of the activity with the other programs and initiatives within the Department that have missions relating to innovation and outreach to the academic and the private sector; and

“(IV) performance indicators by which the activity will be assessed and evaluated.

“(iii) A description of any additional authorities the Secretary may require to effectively carry out the responsibilities under this section.”

ASSESSMENT OF RESEARCH AND DEVELOPMENT, MANUFACTURING, AND PRODUCTION CAPABILITIES

Pub. L. 116-283, div. A, title VIII, §846(a), Jan. 1, 2021, 134 Stat. 3767, provided that:

“(1) IN GENERAL.—In developing the strategy required by section 2501 of title 10, United States Code [now 10 U.S.C. 4811], carrying out the program for analysis of the national technology and industrial base required by section 2503 of such title [now 10 U.S.C. 4813], and performing the assessments required under section 2505 of such title [now 10 U.S.C. 4816], the Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Research and Engineering, shall assess the research and development, manufacturing, and production capabilities of the national technology and industrial base (as defined in section 2500 of such title [now 10 U.S.C. 4801]) and other allies and partner countries.

“(2) IDENTIFICATION OF SPECIFIC TECHNOLOGIES, COMPANIES, LABORATORIES, AND FACTORIES.—The map of the industrial base described in section 2504 of title 10, United States Code [now 10 U.S.C. 4814], shall highlight specific technologies, companies, laboratories, and factories of, or located in, the national technology and industrial base of potential value to current and future Department of Defense plans and programs.”

RECOMMENDATIONS FOR ADDITIONAL MEMBERS OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Pub. L. 116-283, div. A, title VIII, §846(d), Jan. 1, 2021, 134 Stat. 3768, provided that:

“(1) IN GENERAL.—The Secretary of Defense, in consultation with the heads of any relevant Federal agencies, shall establish a process to consider the inclusion of additional member countries in the national technology and industrial base.

“(2) ELEMENTS.—The process developed under paragraph (1) shall include an analysis of—

“(A) the national security and foreign policy impacts, costs, and benefits to the United States and allied countries of the inclusion of any such additional member countries in the national technology and industrial base;

“(B) the economic impacts, costs, and benefits to entities within the United States and allied countries of the inclusion of any such additional member countries into the national technology and industrial base, including an assessment of—

“(i) specific shortfalls in the technological and industrial capacities of current member countries of the national technology and industrial base that would be addressed by inclusion of such additional member countries;

“(ii) specific areas in the industrial bases of current member countries of the national technology and industrial base that would likely be impacted by additional competition if such additional member countries were included in the national technology and industrial base; and

“(iii) costs to reconstitute capability should such capability be lost to competition; and

“(C) other factors as determined relevant by the Secretary.

“(3) CONCURRENCE.—For the purposes of the process developed under paragraph (1), the Secretary of Defense may recommend the inclusion of an additional member country in the national technology and industrial base only with the concurrence of the Secretary of State.”

SUPPLY OF STRATEGIC AND CRITICAL MATERIALS FOR THE DEPARTMENT OF DEFENSE

Pub. L. 116-283, div. A, title VIII, §848, Jan. 1, 2021, 134 Stat. 3769, provided that:

“(a) PREFERENCE FOR SOURCING FROM THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall, to the maximum extent practicable, acquire strategic and critical materials required to meet the defense, industrial, and essential civilian needs of the United States in the following order of preference:

“(1) From sources located within the United States.

“(2) From sources located within the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]).

“(3) From other sources as appropriate.

“(b) STATEMENT OF POLICY.—

“(1) IN GENERAL.—The Secretary of Defense shall pursue the following goals:

“(A) Not later than January 1, 2035, ensuring access to secure sources of supply for strategic and critical materials that will—

“(i) fully meet the demands of the domestic defense industrial base;

“(ii) eliminate the dependence of the United States on potentially vulnerable sources of supply for strategic and critical materials; and

“(iii) ensure that the Department of Defense is not reliant upon potentially vulnerable sources of supply for the processing or manufacturing of any strategic and critical materials deemed essential to national security by the Secretary of Defense.

“(B) Provide incentives for the defense industrial base to develop robust processing and manufacturing capabilities in the United States to refine strategic and critical materials for Department of Defense purposes.

“(C) Maintain secure sources of supply for strategic and critical materials required to maintain current military requirements in the event that international supply chains are disrupted.

“(2) METHODS.—The Secretary of Defense shall achieve the goals described in paragraph (1) through—

“(A) the development of guidance in consultation with appropriate officials of the Department of State, the Joint Staff, and the Secretaries of the military departments;

“(B) the continued and expanded use of existing programs, such as the National Defense Stockpile;

“(C) the continued use of authorities under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.); and

“(D) other methods, as the Secretary of Defense deems appropriate.”

ANALYSES OF CERTAIN ACTIVITIES FOR ACTION TO ADDRESS SOURCING AND INDUSTRIAL CAPACITY

Pub. L. 116-283, div. A, title VIII, §849, Jan. 1, 2021, 134 Stat. 3770, as amended by Pub. L. 117-81, div. A, title VIII, §842, Dec. 27, 2021, 135 Stat. 1840, provided that:

“(a) ANALYSIS REQUIRED.—

“(1) IN GENERAL.—The Secretary of Defense, acting through the Undersecretary of Defense for Acquisition and Sustainment and other appropriate officials, shall review the items under subsection (c) to determine and develop appropriate actions, consistent with the policies, programs, and activities required under chapter 148 of title 10, United States Code [see chapters 381 to 385, and chapter 389, of this title], chapter 83 of title 41, United States Code, and the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.), including—

“(A) restricting procurement, with appropriate waivers for cost, emergency requirements, and non-availability of suppliers, including restricting procurement to—

“(i) suppliers in the United States;

“(ii) suppliers in the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]);

“(iii) suppliers in other allied nations; or

“(iv) other suppliers;

“(B) increasing investment through use of research and development or procurement activities and acquisition authorities to—

“(i) expand production capacity;

“(ii) diversify sources of supply; or

“(iii) promote alternative approaches for addressing military requirements;

“(C) prohibiting procurement from selected sources or nations;

“(D) taking a combination of actions described under subparagraphs (A), (B), and (C); or

“(E) taking no action.

“(2) CONSIDERATIONS.—The analyses conducted pursuant to paragraph (1) shall consider national security, economic, and treaty implications, as well as impacts on current and potential suppliers of goods and services.

“(b) REPORTING ON ANALYSES, RECOMMENDATIONS, AND ACTIONS.—

“(1) INTERIM BRIEF.—With respect to items listed in paragraphs (1) through (13) of subsection (c), not later than January 15, 2022, and with respect to items listed in paragraphs (14) through (19) of such subsection, not later than January 15, 2023, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

“(A) a summary of the findings of the analyses undertaken for each item pursuant to subsection (a);

“(B) relevant recommendations resulting from the analyses; and

“(C) descriptions of specific activities undertaken as a result of the analyses, including schedule and resources allocated for any planned actions.

“(2) REPORTING.—With respect to items listed in paragraphs (1) through (13) of subsection (c), during the 2022 calendar year, and with respect to items listed in paragraphs (14) through (19) of such subsection, during the 2023 calendar year shall include the anal-

yses conducted under subsection (a), and any relevant recommendations and descriptions of activities resulting from such analyses, as appropriate, in each of the following:

“(A) The annual report to Congress required under section 2504 of title 10 [now 10 U.S.C. 4814], United States Code.

“(B) The annual report on unfunded priorities of the national technology and industrial base required under section 2504a of such title [now 10 U.S.C. 4815].

“(C) Department of Defense technology and industrial base policy guidance prescribed under section 2506 of such title [now 10 U.S.C. 4811(c)].

“(D) Activities to modernize acquisition processes to ensure integrity of industrial base pursuant to section 2509 of such title [now 10 U.S.C. 4819].

“(E) Defense memoranda of understanding and related agreements considered in accordance with section 2531 of such title [now 10 U.S.C. 4851].

“(F) Industrial base or acquisition policy changes.

“(G) Legislative proposals for changes to relevant statutes which the Department shall consider, develop, and submit to the Committees on Armed Services of the Senate and House of Representatives not less frequently than once per fiscal year.

“(H) Quarterly briefings on the national technology and industrial base required under section 2504 of such title [now 10 U.S.C. 4814], as amended by section 842 of this Act.

“(I) Other actions as the Secretary of Defense determines appropriate.

“(c) LIST OF HIGH PRIORITY GOODS AND SERVICES FOR ANALYSES, RECOMMENDATIONS, AND ACTIONS.—The items described in this subsection are the following:

“(1) Goods and services covered under existing restrictions, where a waiver, exception, or domestic non-availability determination has been applied.

“(2) Printed circuit boards and other electronics components, consistent with the requirements of other provisions of this Act.

“(3) Pharmaceuticals, including active pharmaceutical ingredients.

“(4) Medical devices.

“(5) Therapeutics.

“(6) Vaccines.

“(7) Diagnostic medical equipment and consumables, including reagents and swabs.

“(8) Ventilators and related products.

“(9) Personal protective equipment.

“(10) Strategic and critical materials, including rare earth materials.

“(11) Natural or synthetic graphite.

“(12) Coal-based rayon carbon fibers.

“(13) Aluminum and aluminum alloys.

“(14) Beef products.

“(15) Molybdenum and molybdenum alloys.

“(16) Optical transmission equipment, including optical fiber and cable equipment.

“(17) Armor on tactical ground vehicles.

“(18) Graphite processing.

“(19) Advanced AC-DC power converters.”

SUPPORT FOR DEFENSE MANUFACTURING COMMUNITIES TO SUPPORT THE DEFENSE INDUSTRIAL BASE

Pub. L. 115-232, div. A, title VIII, §846, Aug. 13, 2018, 132 Stat. 1881, provided that:

“(a) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary of Defense may, in coordination with the Secretary of Commerce and working in coordination with the defense manufacturing institutes, establish within the Department of Defense a program to make long-term investments in critical skills, facilities, research and development, and small business support in order to strengthen the national security innovation base by designating and supporting consortiums as defense manufacturing communities.

“(2) DESIGNATION.—The program authorized by this section shall be known as the ‘Defense Manufacturing

Community Support Program' (in this section referred to as the 'Program').

“(b) DESIGNATION OF DEFENSE MANUFACTURING COMMUNITIES COMPLEMENTARY TO DEFENSE MANUFACTURING INSTITUTES.—

“(1) IN GENERAL.—The Secretary of Defense may designate eligible consortiums as defense manufacturing communities through a competitive process, and in coordination with the defense manufacturing institutes.

“(2) ELIGIBLE CONSORTIUMS.—The Secretary may establish eligibility criteria for a consortium to participate in the Program. In developing such criteria, the Secretary may consider the merits of—

“(A) including members from academia, defense industry, commercial industry, and State and local government organizations;

“(B) supporting efforts in geographical regions that have capabilities in key technologies or industrial base supply chains that are determined critical to national security;

“(C) optimal consortium composition and size to promote effectiveness, collaboration, and efficiency; and

“(D) complementarity with defense manufacturing institutes.

“(3) DURATION.—Each designation under paragraph (1) shall be for a period of five years.

“(4) RENEWAL.—

“(A) IN GENERAL.—The Secretary may renew a designation made under paragraph (1) for up to two additional two-year periods. Any designation as a defense manufacturing community or renewal of such designation that is in effect before the date of the enactment of this Act [Aug. 13, 2018] shall count toward the limit set forth in this subparagraph.

“(B) EVALUATION FOR RENEWAL.—The Secretary shall establish criteria for the renewal of a consortium. In establishing such criteria, the Secretary may consider—

“(i) the performance of the consortium in meeting the established goals of the Program;

“(ii) the progress the consortium has made with respect to project-specific metrics, particularly with respect to those metrics that were designed to help communities track their own progress;

“(iii) whether any changes to the composition of the eligible consortium or revisions of the plan for the consortium would improve the capabilities of the defense industrial base;

“(iv) the effectiveness of coordination with defense manufacturing institutes; and

“(v) such other criteria as the Secretary considers appropriate.

“(5) APPLICATION FOR DESIGNATION.—An eligible consortium seeking a designation under paragraph (1) shall submit an application to the Secretary at such time and in such manner as the Secretary may require. In developing such procedures, the Secretary may consider the inclusion of—

“(A) a description of the regional boundaries of the consortium, and the defense manufacturing capacity of the region;

“(B) an evidence-based plan for enhancing the defense industrial base through the efforts of the consortium;

“(C) the investments the consortium proposes and the strategy of the consortium to address gaps in the defense industrial base;

“(D) a description of the outcome-based metrics, benchmarks, and milestones that will track and the evaluation methods that will be used to gauge performance of the consortium;

“(E) how the initiatives will complement defense manufacturing institutes; and

“(F) such other matters as the Secretary considers appropriate.

“(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—Under the Program, the Secretary of Defense may award financial or technical

assistance to a member of a consortium designated as a defense manufacturing community under the Program as appropriate for purposes of the Program.

“(2) USE OF FUNDS.—A recipient of financial or technical assistance under the Program may use such financial or technical assistance to support an investment that will improve the defense industrial base.

“(3) INVESTMENTS SUPPORTED.—Investments supported under this subsection may include activities not already provided for by defense manufacturing institutes on—

“(A) equipment or facility upgrades;

“(B) workforce training, retraining, or recruitment and retention, including that of women and underrepresented minorities;

“(C) business incubators;

“(D) advanced research and commercialization, including with Federal laboratories and depots;

“(E) supply chain development; and

“(F) small business assistance.

“(d) RECEIPT OF TRANSFERRED FUNDS.—The Secretary of Defense may accept amounts transferred to the Secretary from the head of another agency or a State or local governmental organization to carry out this section.”

ENHANCED ANALYTICAL AND MONITORING CAPABILITY OF THE DEFENSE INDUSTRIAL BASE

Pub. L. 115–91, div. A, title X, §1071, Dec. 12, 2017, 131 Stat. 1582, provided that:

“(a) PROCESS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a process, or designate an existing process, for enhancing the ability of the Department of Defense to analyze, assess, and monitor the vulnerabilities of, and concentration of purchases in, the defense industrial base.

“(2) ELEMENTS.—The process required by subsection (a) shall include the following elements:

“(A) Designation of a senior official responsible for overseeing the development and implementation of the process.

“(B) Development or integration of tools to support commercial due diligence and business intelligence or to otherwise analyze and monitor commercial activity to understand business relationships affecting the defense industrial base.

“(C) Development of risk profiles of products, services, or entities based on business intelligence, commercial due diligence tools and data services.

“(D) As the Secretary determines necessary, integration with intelligence sources to develop threat profiles of entities attempting transactions with a defense industrial base companies [sic].

“(E) Other matters as the Secretary deems necessary.

“(3) NOTIFICATION.—Not later than 90 days after establishing or designating the process required by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives notice in writing that such process has been established or otherwise designated. Such notification shall include the following:

“(A) Identification of the official required to be designated under paragraph (2)(A).

“(B) Identification of the tools described in paragraph (2)(B) that are currently available to [the] Department of Defense and any other tools available commercially or otherwise that might contribute to enhancing the analytic capability of the process.

“(C) Identification of, or recommendations for, any statutory changes needed to improve the effectiveness of the process.

“(D) Projected resources necessary to purchase any commercially available tools identified under subparagraph (B) and to carry out any statutory changes identified under subparagraph (C).

“(b) REPORTING.—

“(1) CONSOLIDATED REPORT ON VULNERABILITIES OF, AND CONCENTRATION OF PURCHASES IN, THE DEFENSE INDUSTRIAL BASE.—

“(A) REPORT REQUIRED.—For each of fiscal years 2018 through 2023, the Secretary of Defense shall submit to the appropriate congressional committees a consolidated report that combines all of the reports required to be provided to Congress for that fiscal year on the adequacy of, vulnerabilities of, and concentration of purchases in the defense industrial sector. Such consolidated report shall include each of the following:

“(i) The report required under section 721(m) of the Defense Production Act of 1950 (50 U.S.C. 4565(m)) (relating to concentrations of purchases of the defense industrial base).

“(ii) The report required under section 723(a) of the Defense Production Act of 1950 (50 U.S.C. 4568(a)) (relating to offsets in defense production).

“(iii) The report required under section 2504 of title 10, United States Code [now 10 U.S.C. 4814] (relating to annual industrial capabilities).

“(iv) Any other reports the Secretary determines appropriate.

“(B) DEADLINE.—A consolidated report under subparagraph (A) shall be submitted by not later than March 31 of the fiscal year following the fiscal year for which the report is submitted.

“(2) REVIEW OF TECHNOLOGY PROTECTION POLICY.—Not later than 270 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the appropriate congressional committees a report describing any need for reforms of policies governing the export of technology or related intellectual property, along with any proposed legislative changes the Secretary believes are necessary.

“(3) FORM OF REPORTS.—Each report submitted under this subsection shall be in unclassified form, but may contain a classified annex.

“(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

“(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.”

[For termination, effective Dec. 30, 2021, of reporting requirements in section 1071(b)(1) of Pub. L. 115-91, set out above, see section 1702(a), (b), of Pub. L. 116-92, set out as a Termination of Reporting Requirements note under section 111 of this title.]

GREATER INTEGRATION OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Pub. L. 114-328, div. A, title VIII, § 881, Dec. 23, 2016, 130 Stat. 2315, as amended by Pub. L. 116-283, div. A, title XVIII, § 1866(d)(3), Jan. 1, 2021, 134 Stat. 4280, provided that:

“(a) PLAN REQUIRED.—Not later than January 1, 2018, the Secretary of Defense shall develop a plan to reduce the barriers to the seamless integration between the persons and organizations that comprise the national technology and industrial base (as defined in section 4801 of title 10, United States Code). The plan shall include at a minimum the following elements:

“(1) A description of the various components of the national technology and industrial base, including government entities, universities, nonprofit research entities, nontraditional and commercial item contractors, and private contractors that conduct commercial and military research, produce commercial items that could be used by the Department of Defense, and produce items designated and controlled under section 38 of the Arms Export Control Act [22 U.S.C. 2778] (also known as the ‘United States Munitions List’).

“(2) Identification of the barriers to the seamless integration of the transfer of knowledge, goods, and services among the persons and organizations of the national technology and industrial base.

“(3) Identification of current authorities that could contribute to further integration of the persons and organizations of the national technology and industrial base, and a plan to maximize the use of those authorities.

“(4) Identification of changes in export control rules, procedures, and laws that would enhance the civil-military integration policy objectives set forth in section 4811(b) of title 10, United States Code, for the national technology and industrial base to increase the access of the Armed Forces to commercial products, services, and research and create incentives necessary for nontraditional and commercial item contractors, universities, and nonprofit research entities to modify commercial products or services to meet Department of Defense requirements.

“(5) Recommendations for increasing integration of the national technology and industrial base that supplies defense articles to the Armed Forces and enhancing allied interoperability of forces through changes to the text or the implementation of—

“(A) section 126.5 of title 22, Code of Federal Regulations (relating to exemptions that are applicable to Canada under the International Traffic in Arms Regulations);

“(B) the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney on September 5, 2007;

“(C) the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007; and

“(D) any other agreements among the countries comprising the national technology and industrial base.

“(b) AMENDMENT TO DEFINITION OF NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—[Amended section 4801 of this title.]

“(c) REPORTING REQUIREMENT.—The Secretary of Defense shall report on the progress of implementing the plan in subsection (a) in the report required under section 4814 of title 10, United States Code.”

DEPARTMENT OF DEFENSE TECHNOLOGY OFFSET PROGRAM TO BUILD AND MAINTAIN THE MILITARY TECHNOLOGICAL SUPERIORITY OF THE UNITED STATES

Pub. L. 114-92, div. A, title II, § 218, Nov. 25, 2015, 129 Stat. 772, as amended by Pub. L. 116-283, div. A, title XVIII, § 1841(e)(2), Jan. 1, 2021, 134 Stat. 4244; Pub. L. 117-81, div. A, title XVII, § 1701(u)(2)(F)(ii), Dec. 27, 2021, 135 Stat. 2152, provided that:

“(a) PROGRAM ESTABLISHED.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a technology offset program to build and maintain the military technological superiority of the United States by—

“(A) accelerating the fielding of offset technologies that would help counter technological advantages of potential adversaries of the United States, including directed energy, low-cost, high-speed munitions, autonomous systems, undersea warfare, cyber technology, and intelligence data analytics, developed using research funding of the Department of Defense and accelerating the commercialization of such technologies; and

“(B) developing and implementing new policies and acquisition and business practices.

“(2) GUIDELINES.—Not later than one year after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall issue guidelines for the operation of the program established under paragraph (1), including—

“(A) criteria for an application for funding by a military department, Defense Agency, or a combatant command;

“(B) the purposes for which such a department, agency, or command may apply for funds and appropriate requirements for technology development or commercialization to be supported using program funds;

“(C) the priorities, if any, to be provided to field or commercialize offset technologies developed by certain types of research funding of the Department; and

“(D) criteria for evaluation of an application for funding or changes to policies or acquisition and business practices by such a department, agency, or command for purposes of the program.

“(b) APPLICATIONS FOR FUNDING.—

“(1) IN GENERAL.—Under the program established under subsection (a)(1), not less frequently than annually, the Secretary shall solicit from the heads of the military departments, the Defense Agencies, and the combatant commands applications for funding to be used to enter into contracts, cooperative agreements, or other transaction agreements entered into pursuant to section 4022 of title 10, United States Code, as added by section 815, with appropriate entities for the fielding or commercialization of technologies.

“(2) TREATMENT PURSUANT TO CERTAIN CONGRESSIONAL RULES.—Nothing in this section shall be interpreted to require any official of the Department of Defense to provide funding under this section to any Congressional earmark as defined pursuant to clause 9 of rule XXI of the Rules of the House of Representatives or any congressionally directed spending item as defined pursuant to paragraph 5 of rule XLIV of the Standing Rules of the Senate.

“(c) FUNDING.—

“(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2016 for research, development, test, and evaluation, Defense-wide, not more than \$300,000,000 may be used for each such fiscal year for the program established under subsection (a)(1).

“(2) AMOUNT FOR DIRECTED ENERGY.—Of the funds specified in paragraph (1) for any of fiscal years 2016 through 2020, not more than \$150,000,000 may be used for each such fiscal year for activities in the field of directed energy.

“(d) TRANSFER AUTHORITY.—

“(1) IN GENERAL.—The Secretary may transfer funds available for the program established under subsection (a)(1) to the research, development, test, and evaluation accounts of a military department, Defense Agency, or a combatant command pursuant to an application, or any part of an application, that the Secretary determines would support the purposes of the program.

“(2) SUPPLEMENT NOT SUPPLANT.—The transfer authority provided in paragraph (1) is in addition to any other transfer authority available to the Secretary of Defense.

“(e) TERMINATION.—

“(1) IN GENERAL.—The authority to carry out the program under subsection (a)(1) shall terminate on September 30, 2020.

“(2) TRANSFER AFTER TERMINATION.—Any amounts made available for the program that remain available for obligation on the date on which the program terminates may be transferred under subsection (d) during the 180-day period beginning on the date of the termination of the program.”

EXPANSION OF THE INDUSTRIAL BASE

Pub. L. 111-383, div. A, title VIII, §891, Jan. 7, 2011, 124 Stat. 4310, provided that:

“(a) PROGRAM TO EXPAND INDUSTRIAL BASE REQUIRED.—The Secretary of Defense shall establish a program to expand the industrial base of the Department of Defense to increase the Department’s access to innovation and the benefits of competition.

“(b) IDENTIFYING AND COMMUNICATING WITH FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.—The program established under subsection (a) shall use tools and resources available within the Federal Government and available from the private sector to provide a capability for identifying and communicating with firms that are not traditional suppliers, including commercial firms and firms of all business sizes, that are engaged in markets of importance to the Department of Defense in which such firms can make a significant contribution.

“(c) OUTREACH TO LOCAL FIRMS NEAR DEFENSE INSTALLATIONS.—The program established under subsection (a) shall include outreach, using procurement technical assistance centers, to firms of all business sizes in the vicinity of Department of Defense installations regarding opportunities to obtain contracts and subcontracts to perform work at such installations.

“(d) INDUSTRIAL BASE REVIEW.—The program established under subsection (a) shall include a continuous effort to review the industrial base supporting the Department of Defense, including the identification of markets of importance to the Department of Defense in which firms that are not traditional suppliers can make a significant contribution.

“(e) FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.—For purposes of this section, a firm is not a traditional supplier of the Department of Defense if it does not currently have contracts and subcontracts to perform work for the Department of Defense with a total combined value in excess of \$500,000.

“(f) PROCUREMENT TECHNICAL ASSISTANCE CENTER.—In this section, the term ‘procurement technical assistance center’ means a center operating under a cooperative agreement with the Defense Logistics Agency to provide procurement technical assistance pursuant to the authority provided in [former] chapter 142 of title 10, United States Code [see chapter 388 of this title].”

EXECUTIVE AGENT FOR PRINTED CIRCUIT BOARD TECHNOLOGY

Pub. L. 110-417, [div. A], title II, §256, Oct. 14, 2008, 122 Stat. 4404, provided that:

“(a) EXECUTIVE AGENT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall designate a senior official of the Department of Defense to act as the executive agent for printed circuit board technology.

“(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

“(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and in accordance with Directive 5101.1, the Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

“(2) SPECIFICATION.—The roles and responsibilities of the executive agent designated under subsection (a) shall include each of the following:

“(A) Development and maintenance of a printed circuit board and interconnect technology roadmap that ensures that the Department of Defense has access to the manufacturing capabilities and technical expertise necessary to meet future military requirements regarding such technology.

“(B) Development of recommended funding strategies necessary to meet the requirements of the roadmap developed under subparagraph (A).

“(C) Assessment of the vulnerabilities, trustworthiness, and diversity of the printed circuit board supply chain, including the development of trustworthiness requirements for printed circuit boards used in defense systems, and to develop strategies to address matters that are identified as a result of such assessment.

“(D) Such other roles and responsibilities as the Secretary of Defense considers appropriate.

“(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Depart-

ment of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘Directive 5101.1’ means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

“(2) The term ‘executive agent’ has the meaning given the term ‘DoD Executive Agent’ in Directive 5101.1.”

ESSENTIAL ITEMS IDENTIFICATION AND DOMESTIC PRODUCTION CAPABILITIES IMPROVEMENT PROGRAM

Pub. L. 108-136, div. A, title VIII, subtitle B, part I, Nov. 24, 2003, 117 Stat. 1542, as amended by Pub. L. 109-364, div. A, title VIII, §841, Oct. 17, 2006, 120 Stat. 2335; Pub. L. 111-84, div. A, title VIII, §846, Oct. 28, 2009, 123 Stat. 2420; Pub. L. 112-81, div. A, title X, §1062(g)(2), Dec. 31, 2011, 125 Stat. 1585; Pub. L. 113-291, div. A, title X, §1071(b)(5)(A), (d)(1)(C), Dec. 19, 2014, 128 Stat. 3506, 3509; Pub. L. 116-283, div. A, title XVIII, §1866(d)(4), Jan. 1, 2021, 134 Stat. 4280; Pub. L. 117-81, div. A, title XVII, §1701(b)(21)(B), Dec. 27, 2021, 135 Stat. 2135, provided that:

“SEC. 811. CONSISTENCY WITH UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

“No provision of this subtitle [subtitle B (§§811-828) of title VIII of div. A of Pub. L. 108-136, see Tables for classification] or any amendment made by this subtitle shall apply to the extent the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under an international agreement.

“SEC. 812. ASSESSMENT AND ANNUAL REPORT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES AND ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

“(a) ASSESSMENT PROGRAM.—(1) The Secretary of Defense shall establish a program to assess—

“(A) the degree to which the United States is dependent on foreign sources of supply; and

“(B) the capabilities of the United States defense industrial base to produce military systems necessary to support the national security objectives set forth in section 4811 of title 10, United States Code.

“(2) For purposes of the assessment program, the Secretary shall use existing data, as required under subsection (b), and submit an annual report, as required under subsection (c).

“(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than \$25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

“(A) Whether the contractor is a United States or foreign contractor.

“(B) The principal place of business of the contractor and the principal place of performance of the contract.

“(C) Whether the contract was awarded on a sole source basis or after receipt of competitive offers.

“(D) The dollar value of the contract.

“(2) The Federal Procurement Data System described in section 1122(a)(4)(A) of title 41, United States Code, or any successor system, shall collect from contracts described in paragraph (1) the information specified in that paragraph.

“(3) Information obtained in the implementation of this section is subject to the same limitations on disclosure, and penalties for violation of such limitations, as is provided under section 4818 of title 10, United States Code. Such information also shall be exempt

from release under section 552 of title 5, United States Code.

“(4) For purposes of meeting the requirements set forth in this section, the Secretary of Defense may not require the provision of information beyond the information that is currently provided to the Department of Defense through existing data collection systems by non-Federal entities with respect to contracts and subcontracts with the Department of Defense or any military department.

“[(c) Repealed. Pub. L. 112-81, div. A, title X, §1062(g)(2), Dec. 31, 2011, 125 Stat. 1585.]

“(d) PUBLIC AVAILABILITY.—The Secretary of Defense shall make the report submitted under subsection (c) publicly available to the maximum extent practicable.

“(e) APPLICABILITY.—This section shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

“[SEC. 813. Repealed. Pub. L. 111-84, div. A, title VIII, §846, Oct. 28, 2009, 123 Stat. 2420.]

“SEC. 814. PRODUCTION CAPABILITIES IMPROVEMENT FOR CERTAIN ESSENTIAL ITEMS USING DEFENSE INDUSTRIAL BASE CAPABILITIES FUND.

“(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Industrial Base Capabilities Fund (hereafter in this section referred to as the ‘Fund’).

“(b) MONEYS IN FUND.—There shall be credited to the Fund amounts appropriated to it.

“(c) USE OF FUND.—The Secretary of Defense is authorized to use all amounts in the Fund, subject to appropriation, for the purposes of enhancing or reconstituting United States industrial capability to produce items on the military system essential item breakout list (as described in section 812(b)) or items subject to section 4864 of title 10, United States Code, in the quantity and of the quality necessary to achieve national security objectives.

“(d) LIMITATION ON USE OF FUND.—Before the obligation of any amounts in the Fund, the Secretary of Defense shall submit to Congress a report describing the Secretary’s plans for implementing the Fund established in subsection (a), including the priorities for the obligation of amounts in the Fund, the criteria for determining the recipients of such amounts, and the mechanisms through which such amounts may be provided to the recipients.

“(e) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until expended.

“(f) FUND MANAGER.—The Secretary of Defense shall designate a Fund manager. The duties of the Fund manager shall include—

“(1) ensuring the visibility and accountability of transactions engaged in through the Fund; and

“(2) reporting to Congress each year regarding activities of the Fund during the previous fiscal year.”

DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS

Pub. L. 103-337, div. A, title XI, §1118, Oct. 5, 1994, 108 Stat. 2870, provided that: “At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code [see chapters 381 to 385, and chapter 389, of this title], the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title [now 10 U.S.C. 4811(a)] or a particular policy objective set forth in [former] section 2501(b) of such title.”

NATIONAL SHIPBUILDING INITIATIVE

Pub. L. 103-160, div. A, title XIII, §§1351-1354, Nov. 30, 1993, 107 Stat. 1809, 1810, as amended by Pub. L. 104-201,

div. A, title X, §1073(e)(1)(F), (2)(B), (3), Sept. 23, 1996, 110 Stat. 2658, provided that:

“SEC. 1351. SHORT TITLE.

“This subtitle [subtitle D, §§1351–1363 of title XIII of div. A of Pub. L. 103–160, see Tables for classification] may be cited as the ‘National Shipbuilding and Shipyard Conversion Act of 1993’.

“SEC. 1352. NATIONAL SHIPBUILDING INITIATIVE.

“(a) ESTABLISHMENT OF PROGRAM.—There shall be a National Shipbuilding Initiative program, to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient, internationally competitive industry.

“(b) ADMINISTERING DEPARTMENTS.—The program shall be carried out—

“(1) by the Secretary of Defense, with respect to programs under the jurisdiction of the Secretary of Defense; and

“(2) by the Secretary of Transportation, with respect to programs under the jurisdiction of the Secretary of Transportation.

“(c) PROGRAM ELEMENTS.—The National Shipbuilding Initiative shall consist of the following program elements:

“(1) FINANCIAL INCENTIVES PROGRAM.—A financial incentives program to provide loan guarantees to initiate commercial ship construction for domestic and export sales, encourage shipyard modernization, and support increased productivity.

“(2) TECHNOLOGY DEVELOPMENT PROGRAM.—A technology development program, to be carried out within the Department of Defense by the Defense Advanced Research Projects Agency, to improve the technology base for advanced shipbuilding technologies and related dual-use technologies through activities including a development program for innovative commercial ship design and production processes and technologies.

“(3) NAVY’S AFFORDABILITY THROUGH COMMONALITY PROGRAM.—Enhanced support by the Secretary of Defense for the shipbuilding program of the Department of the Navy known as the Affordability Through Commonality (ATC) program, to include enhanced support (A) for the development of common modules for military and commercial ships, and (B) to foster civil-military integration into the next generation of Naval surface combatants.

“(4) NAVY’S MANUFACTURING TECHNOLOGY AND TECHNOLOGY BASE PROGRAMS.—Enhanced support by the Secretary of Defense for, and strengthened funding for, that portion of the Manufacturing Technology program of the Navy, and that portion of the Technology Base program of the Navy, that are in the areas of shipbuilding technologies and ship repair technologies.

“SEC. 1353. DEPARTMENT OF DEFENSE PROGRAM MANAGEMENT THROUGH DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

“The Secretary of Defense shall designate the Defense Advanced Research Projects Agency of the Department of Defense as the lead agency of the Department of Defense for activities of the Department of Defense which are part of the National Shipbuilding Initiative program. Those activities shall be carried out as part of defense conversion activities of the Department of Defense.

“SEC. 1354. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY FUNCTIONS AND MINIMUM FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.

“(a) DARPA FUNCTIONS.—The Secretary of Defense, acting through the Director of the Defense Advanced Research Projects Agency, shall carry out the following functions with respect to the National Shipbuilding Initiative program:

“(1) Consultation with the Maritime Administration, the Office of Economic Adjustment, the Na-

tional Economic Council, the National Shipbuilding Research Project, the Coast Guard, the National Oceanic and Atmospheric Administration, appropriate naval commands and activities, and other appropriate Federal agencies on—

“(A) development and transfer to the private sector of dual-use shipbuilding technologies, ship repair technologies, and shipbuilding management technologies;

“(B) assessments of potential markets for maritime products; and

“(C) recommendation of industrial entities, partnerships, joint ventures, or consortia for short- and long-term manufacturing technology investment strategies.

“(2) Funding and program management activities to develop innovative design and production processes and the technologies required to implement those processes.

“(3) Facilitation of industry and Government technology development and technology transfer activities (including education and training, market assessments, simulations, hardware models and prototypes, and national and regional industrial base studies).

“(4) Integration of promising technology advances made in the Technology Reinvestment Program of the Defense Advanced Research Projects Agency into the National Shipbuilding Initiative to effect full defense conversion potential.

“(b) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—

“(1) MAXIMUM DEPARTMENT OF DEFENSE SHARE.—The Secretary of Defense shall ensure that the amount of funds provided by the Secretary to a non-Federal government participant does not exceed 50 percent of the total cost of technology development and technology transfer activities.

“(2) REGULATIONS.—The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of calculating the share of the partnership costs that has been or is being undertaken by such participants. In prescribing the regulations, the Secretary may determine that a participant that is a small business concern may use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of partnership activities. Any such funds so used may be included in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity contribution in the program from non-Federal sources.”

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS

Pub. L. 102–484, div. D, title XLII, §4239, Oct. 23, 1992, 106 Stat. 2694, provided that: “Not later than 120 days after the date of enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.”

§ 4812. National Defense Technology and Industrial Base Council

(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.