

AMENDMENTS

2020—Pub. L. 116-260, § 7002(m)(2), in introductory provisions, substituted “It” for “The Congress declares that it” and “Implementation” for “The Congress further declares that implementation”.

Par. (3). Pub. L. 116-260, § 7002(b)(1)(A), added par. (3) and struck out former par. (3) which read as follows: “establish a long-range assessment capability concerning materials demands, supply and needs, and provide for the policies and programs necessary to meet those needs;”.

Pars. (7) to (13). Pub. L. 116-260, § 7002(b)(1)(B), (C), added pars. (7) to (13) and struck out former par. (7) which read as follows: “encourage Federal agencies to facilitate availability and development of domestic resources to meet critical materials needs.”

§ 1603. Implementation of policies

The President shall, through the Executive Office of the President, coordinate the responsible departments and agencies to implement the policy described in section 1602 of this title and shall—

(1) direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production;

(2) support basic and applied research and development to provide for, among other objectives—

(A) advanced science and technology for the exploration, discovery, and recovery of nonfuel materials;

(B) enhanced methods or processes for the more efficient production and use of renewable and nonrenewable resources;

(C) improved methods for the extraction, processing, use, recovery, and recycling of materials which encourage the conservation of materials, energy, and the environment; and

(D) improved understanding of current and new materials performance, processing, substitution, and adaptability in engineering designs;

(3) provide for improved collection, analysis, and dissemination of scientific, technical and economic materials information and data from Federal, State, and local governments and other sources as appropriate;

(4) assess the need for and make recommendations concerning the availability and adequacy of supply of technically trained personnel necessary for materials research, development, extraction, harvest and industrial practice, paying particular regard to the problem of attracting and maintaining high quality materials professionals in the Federal service;

(5) establish early warning systems for materials supply problems;

(6) recommend to the Congress appropriate measures to promote industrial innovation in materials and materials technologies;

(7) encourage cooperative materials research and problem-solving by—

(A) private corporations performing the same or related activities in materials industries; and

(B) Federal and State institutions having shared interests or objectives;

(8) assess Federal policies which adversely or positively affect all stages of the materials cycle, from exploration to final product recycling and disposal including but not limited to, financial assistance and tax policies for recycled and virgin sources of materials and make recommendations for equalizing any existing imbalances, or removing any impediments, which may be created by the application of Federal law and regulations to the market for materials; and

(9) assess the opportunities for the United States to promote cooperative multilateral and bilateral agreements for materials development in foreign nations for the purpose of increasing the reliability of materials supplies to the Nation.

(Pub. L. 96-479, § 4, Oct. 21, 1980, 94 Stat. 2306; Pub. L. 116-260, div. Z, title VII, § 7002(m)(3), Dec. 27, 2020, 134 Stat. 2576.)

Editorial Notes

AMENDMENTS

2020—Pub. L. 116-260, in introductory provisions, substituted “The” for “For the purpose of implementing the policies set forth in section 1602 of this title and the provisions of section 1604 of this title, the Congress declares that the” and “departments and agencies to implement the policy described in section 1602 of this title” for “departments and agencies.”.

§ 1604. Program administration**(a) President; preparation of plan and submission to Congress of report**

Within 1 year after December 27, 2020, the President shall submit to the Congress—

(1) a program plan to implement such existing or prospective proposals and organizational structures within the executive branch as he finds necessary to carry out the provisions set forth in sections 1602 and 1603 of this title. The plan shall include program and budget proposals and organizational structures providing for the following minimum elements:

(A) policy analysis and decision determination within the Executive Office of the President;

(B) continuing long-range analysis of materials use to meet national security, economic, industrial and social needs; the adequacy and stability of supplies; and the industrial and economic implications of supply shortages or disruptions;

(C) continuing private sector consultation in Federal materials programs; and

(D) interagency coordination at the level of the President’s Cabinet;

(2) recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs, including consideration of the establishment of a separate materials information agency patterned after the Bureau of Labor Statistics; and

(3) recommendations for legislation and administrative initiatives necessary to reconcile

policy conflicts and to establish programs and institutional structures necessary to achieve the goals of a national materials policy.

(b) Director of Office of Science and Technology Policy; coordination, etc., activities

In accordance with the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), the Director of the Office of Science and Technology Policy shall:

(1) through the National Science and Technology Council coordinate Federal materials research and development and related activities in accordance with the policies and objectives established in this chapter;

(2) place special emphasis on the long-range assessment of national materials needs related to scientific and technological concerns and the research and development, Federal and private, necessary to meet those needs; and

(3) prepare an assessment of national materials needs related to scientific and technological changes over the next five years. Such assessment shall be revised on an annual basis. Where possible, the Director shall extend the assessment in 10- and 25-year increments over the whole expected lifetime of such needs and technologies.

(c) Secretary of Commerce; consultative, etc., requirements; identification and assessment activities

The Secretary of Commerce, in consultation with such other members of the Cabinet as may be appropriate, shall—

(1) not later than 1 year after December 27, 2020, submit to the Congress a report that assesses critical materials needs and that recommends programs that would assist in meeting such needs, including an assessment of economic stockpiles; and

(2) assess the adequacy and stability of the supply of materials necessary to maintain national security, economic well-being, public health, and industrial production.

(d) Secretary of Defense and other Cabinet members; assessment, etc., activities

The Secretary of Defense, together with such other members of the Cabinet as are deemed necessary by the President, shall prepare a report assessing critical materials needs related to national security and identifying the steps necessary to meet those needs. The report shall include an assessment of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) [now 50 U.S.C. 4501 et seq.], and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. App. 98 et seq.) [50 U.S.C. 98 et seq.]. Such report shall be made available to the Congress within 1 year after December 27, 2020, and shall be revised periodically as deemed necessary.

(e) Secretary of the Interior; initiation of actions; report

The Secretary of the Interior shall promptly initiate actions to—

(1) improve the capacity of the United States Geological Survey to assess international minerals supplies;

(2) increase the level of mining and metallurgical research by the United States Geo-

logical Survey in critical and strategic minerals; and

(3) improve the availability and analysis of mineral data in Federal land use decision-making.

A report summarizing actions required by this subsection shall be made available to the Congress within 1 year after December 27, 2020.

(f) Secretary of the Interior; collection, evaluation, and analysis activities concerning information

In furtherance of the policies of this chapter, the Secretary of the Interior shall collect, evaluate, and analyze information concerning mineral occurrence, production, and use from industry, academia, and Federal and State agencies. Notwithstanding the provisions of section 552 of title 5, data and information provided to the Department by persons or firms engaged in any phase of mineral or mineral-material production or large-scale consumption shall not be disclosed outside of the Department of the Interior in a nonaggregated form so as to disclose data and information supplied by a single person or firm, unless there is no objection to the disclosure of such data and information by the donor: *Provided, however,* That the Secretary may disclose nonaggregated data and information to Federal defense agencies, or to the Congress upon official request for appropriate purposes.

(Pub. L. 96-479, § 5, Oct. 21, 1980, 94 Stat. 2307; Pub. L. 116-260, div. Z, title VII, § 7002(m)(1) Dec. 27, 2020, 134 Stat. 2575.)

Editorial Notes

REFERENCES IN TEXT

The National Science and Technology Policy, Organization, and Priorities Act of 1976, referred to in subsec. (b), is Pub. L. 94-282, May 11, 1976, 90 Stat. 459, as amended, which is classified principally to chapter 79 (§6601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6601 of Title 42 and Tables.

The Defense Production Act of 1950, referred to in subsec. (d), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which was classified to section 2061 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 55 (§4501 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (d), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96-41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of Title 50. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

2020—Pub. L. 116-260, § 7002(m)(1)(A), which directed substitution of “date of enactment of the Energy Act of 2020” for “date of enactment of this Act” wherever appearing, was executed by substituting “December 27, 2020” for “October 21, 1980” in subsections (a), (d), and (e). Substitutions in subsections (d) and (e) were made for original text reading “enactment of this Act” and “the enactment of this Act”, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 116-260, § 7002(m)(1)(B), substituted “National Science and Technology Council”

for “Federal Coordinating Council for Science, Engineering, and Technology”.

Subsec. (c). Pub. L. 116-260, §7002(m)(1)(C)(i), in introductory provisions, struck out “the Federal Emergency Management Administration, the Secretary of the Interior, the Secretary of Defense, the Director of the Central Intelligence Agency, and” before “such” and substituted “appropriate, shall—” for “appropriate shall—”.

Subsec. (c)(1). Pub. L. 116-260, §7002(m)(1)(C)(ii), (iii), (iv)(II), (III), redesignated par. (2) as (1), substituted “that assesses” for “which assesses” and “and that” for “in the case identified in paragraph (1) of this subsection, and which”, and struck out former par. (1) which read as follows: “within 3 months after October 21, 1980, identify and submit to the Congress a specific materials needs case related to national security, economic well-being and industrial production which will be the subject of the report required by paragraph (2) of this subsection;”.

Pub. L. 116-260, §7002(m)(1)(C)(iv)(I), which directed substitution of “not later than 1 year after the date of the enactment of the Energy Act of 2020” for “within 1 year after October 21, 1980”, was executed by substituting “not later than 1 year after December 27, 2020” for text in original which had read “within 1 year after the date of enactment of this Act” and had been translated to “within 1 year after October 21, 1980”, and by making such substitution prior to similar amendment by §7002(m)(1)(A), to reflect the probable intent of Congress. See first 2020 Amendment note above.

Subsec. (c)(2). Pub. L. 116-260, §7002(m)(1)(C)(v), added par. (2). Former par. (2) redesignated (1).

Subsec. (c)(3). Pub. L. 116-260, §7002(m)(1)(C)(ii), struck out par. (3) which read as follows: “continually thereafter identify and assess additional cases, as necessary, to ensure an adequate and stable supply of materials to meet national security, economic well-being and industrial production needs.”

Subsec. (e). Pub. L. 116-260, §7002(m)(1)(D), substituted “United States Geological Survey” for “Bureau of Mines” in pars. (1) and (2).

§ 1605. Applicability to other statutory national mining and minerals policies

Nothing in this chapter shall be interpreted as changing in any manner or degree the provisions of and requirements of section 21a of this title. For the purposes of achieving the objectives set forth in section 1602 of this title, the Congress declares that the President shall direct (1) the Secretary of the Interior to act immediately within the Department’s statutory authority to attain the goals contained in section 21a of this title and (2) the Executive Office of the President to act immediately to promote the goals contained in section 21a of this title among the various departments and agencies.

(Pub. L. 96-479, §6, Oct. 21, 1980, 94 Stat. 2309.)

§ 1606. Mineral security

(a) Definitions

In this section:

(1) Byproduct

The term “byproduct” means a critical mineral—

(A) the recovery of which depends on the production of a host mineral that is not designated as a critical mineral; and

(B) that exists in sufficient quantities to be recovered during processing or refining.

(2) Critical material

The term “critical material” means—

(A) any non-fuel mineral, element, substance, or material that the Secretary of Energy determines—

(i) has a high risk of a supply chain disruption; and

(ii) serves an essential function in 1 or more energy technologies, including technologies that produce, transmit, store, and conserve energy; or

(B) a critical mineral.

(3) Critical mineral

(A) In general

The term “critical mineral” means any mineral, element, substance, or material designated as critical by the Secretary under subsection (c).

(B) Exclusions

The term “critical mineral” does not include—

(i) fuel minerals;

(ii) water, ice, or snow;

(iii) common varieties of sand, gravel, stone, pumice, cinders, and clay.

(4) Indian Tribe

The term “Indian Tribe” has the meaning given the term in section 5304 of title 25.

(5) Secretary

The term “Secretary” means the Secretary of the Interior.

(6) State

The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands; and

(G) the United States Virgin Islands.

(7) Institution of higher education

The term “institution of higher education” means—

(A) an institution of higher education (as defined in section 1001(a) of title 20); or

(B) a postsecondary vocational institution (as defined in section 1002(c) of title 20).

(b) Omitted

(c) Critical mineral designations

(1) Draft methodology and list

The Secretary, acting through the Director of the United States Geological Survey (referred to in this subsection as the “Secretary”), shall publish in the Federal Register for public comment—

(A) a description of the draft methodology used to identify a draft list of critical minerals;

(B) a draft list of minerals, elements, substances, and materials that qualify as critical minerals; and

(C) a draft list of critical minerals recovered as byproducts and their host minerals.

(2) Availability of data

If available data is insufficient to provide a quantitative basis for the methodology devel-