

(j) “National defense” means programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Such term includes emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5195 et seq., and critical infrastructure protection and restoration.

(k) “Offsets” means compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services as defined by the Arms Export Control Act, 22 U.S.C. 2751 et seq., and the International Traffic in Arms Regulations, 22 C.F.R. 120.1–130.17.

(l) “Special priorities assistance” means action by resource departments to assist with expediting deliveries, placing rated orders, locating suppliers, resolving production or delivery conflicts between various rated orders, addressing problems that arise in the fulfillment of a rated order or other action authorized by a delegated agency, and determining the validity of rated orders.

(m) “Strategic and critical materials” means materials (including energy) that (1) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (2) are not found or produced in the United States in sufficient quantities to meet such need and are vulnerable to the termination or reduction of the availability of the material.

(n) “Water resources” means all usable water, from all sources, within the jurisdiction of the United States, that can be managed, controlled, and allocated to meet emergency requirements, except “water resources” does not include usable water that qualifies as “food resources.”

SEC. 802. *General.* (a) Except as otherwise provided in section 802(c) of this order, the authorities vested in the President by title VII of the Act, 50 U.S.C. App. 2151 et seq. [now 50 U.S.C. 4551 et seq.], are delegated to the head of each agency in carrying out the delegated authorities under the Act [50 U.S.C. 4501 et seq.] and this order, by the Secretary of Labor in carrying out part VI of this order, and by the Secretary of the Treasury in exercising the functions assigned in Executive Order 11858 [50 U.S.C. 4565 note], as amended.

(b) The authorities that may be exercised and performed pursuant to section 802(a) of this order shall include:

(1) the power to redelegate authorities, and to authorize the successive redelegation of authorities to agencies, officers, and employees of the Government; and

(2) the power of subpoena under section 705 of the Act, 50 U.S.C. App. 2155 [now 50 U.S.C. 4555], with respect to (i) authorities delegated in parts II, III, and section 702 of this order, and (ii) the functions assigned to the Secretary of the Treasury in Executive Order 11858 [50 U.S.C. 4565 note], as amended, provided that the subpoena power referenced in subsections (i) and (ii) shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been defined either by the appropriate officer identified in section 802(a) of this order or by such other person or persons as the officer shall designate.

(c) Excluded from the authorities delegated by section 802(a) of this order are authorities delegated by parts IV and V of this order, authorities in section[s] 721 and 722 of the Act, 50 U.S.C. App. 2170–2171 [now 50 U.S.C. 4565, 4567], and the authority with respect to fixing compensation under section 703 of the Act, 50 U.S.C. App. 2153 [now 50 U.S.C. 4553].

SEC. 803. *Authority.* (a) Executive Order 12919 of June 3, 1994, and sections 401(3)–(4) of Executive Order 12656 of November 18, 1988, [42 U.S.C. 5195 note] are revoked. All other previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in ef-

fect except as they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or other assignment of authority under the Act [50 U.S.C. 4501 et seq.].

(b) Nothing in this order shall affect the authorities assigned under Executive Order 11858 of May 7, 1975, as amended [50 U.S.C. 4565 note], except as provided in section 802 of this order.

(c) Nothing in this order shall affect the authorities assigned under Executive Order 12472 of April 3, 1984, as amended [former 42 U.S.C. 5195 note].

SEC. 804. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## § 4554. Regulations and orders

### (a) In general

Subject to section 4559 of this title and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out this chapter.

### (b) Procurement regulations

Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act [now 41 U.S.C. 1302, 1303], and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act [see 41 U.S.C. 1121 et seq., 1302, 1303].

(Sept. 8, 1950, ch. 932, title VII, § 704, 64 Stat. 816; July 31, 1951, ch. 275, title I, § 109(c), 65 Stat. 139; Pub. L. 102–558, title I, § 134, Oct. 28, 1992, 106 Stat. 4212.)

### TERMINATION OF SECTION

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

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning act Sept. 8, 1950, ch. 932, 64 Stat. 798, known as the Defense Production Act of 1950, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4501 of this title and Tables.

Sections 6 and 25 of the Office of Federal Procurement Policy Act, referred to in subsec. (b), were sections 6 and 25 of Pub. L. 93–400, which were classified to sections 405 and 421, respectively, of former Title 41, Public Contracts, and were repealed and largely restated in subchapter II (§ 1121 et seq.) of chapter 11 and as sections 1302 and 1303 of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

#### CODIFICATION

Section was formerly classified to section 2154 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

1992—Pub. L. 102-558 amended section generally, substituting present provisions for provisions authorizing promulgation of rules, regulations, and orders by the President in order to carry out this chapter.

1951—Act July 31, 1951, limited authority to regulate natural gas where a State agency is handling the matter.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 4502 of this title.

**Executive Documents**

## DELEGATION OF FUNCTIONS

Authority of President to implement the Defense Production Act of 1950 (this chapter) in this subchapter—

(1) with respect to hoarding of health and medical resources necessary to respond to the spread of COVID-19 within the United States delegated to Secretary of Health and Human Services, see section 2(a)(ii) of Ex. Ord. 13910, Mar. 23, 2020, 85 F.R. 17001, set out as a note under section 4512 of this title;

(2) with respect to responding to the spread of COVID-19 within the United States delegated to Secretary of Health and Human Services and Secretary of Homeland Security, see section 2(a) of Ex. Ord. No. 13911, Mar. 27, 2020, 85 F.R. 18403, set out as a note under section 4511 of this title; and

(3) in addition to the delegation of authority in Ex. Ord. No. 13911, delegated to Chief Executive Officer of the United States International Development Finance Corporation, see section 2 of Ex. Ord. No. 13922, May 14, 2020, 85 F.R. 30583, set out as a note under section 4532 of this title.

Functions of President under this chapter relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

**§ 4555. Investigations; records; reports; subpoenas; right to counsel****(a) Authority of President to obtain information; enforcement of subpoenas**

The President shall be entitled, while this chapter is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this chapter and the regulations or orders issued thereunder. The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative

data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

**(b) Production of documentary evidence; reimbursement of witnesses**

The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**(c) Performance of prohibited act or failure to perform required act**

Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$10,000 or imprisoned for not more than one year or both.

**(d) Protection of confidentiality; sanction for violation**

Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year, or both.

**(e) Right to record of testimony and representation by counsel**

Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

(Sept. 8, 1950, ch. 932, title VII, § 705, 64 Stat. 816; July 31, 1951, ch. 275, title I, § 109(d), 65 Stat. 139; June 30, 1952, ch. 530, title I, § 117, 66 Stat. 306; June 30, 1953, ch. 171, § 9, 67 Stat. 131; Pub. L. 91-452, title II, § 251, Oct. 15, 1970, 84 Stat. 931; Pub. L. 102-558, title I, § 142, Oct. 28, 1992, 106 Stat. 4217; Pub. L. 108-195, § 4, Dec. 19, 2003, 117 Stat. 2893.)

## TERMINATION OF SECTION

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