

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

[50 U.S.C. App. § 2061 *et seq.*]

Title I - Priorities and Allocations

Sec. 101. PRIORITY IN CONTRACTS AND ORDERS [50 U.S.C. App. § 2071]

(a) Allocation of materials, services, and facilities

The President is authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) Critical and strategic materials

The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c) Domestic energy; materials, equipment, and services

(1) Notwithstanding any other provision of this Act [50 U.S.C. App. § 2061-2171], the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, materials, equipment, and services in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

(A) such materials, services, and facilities are scarce, critical, and essential—

(i) to maintain or expand exploration, production, refining, transportation;

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(3) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

Sec. 102. HOARDING OF DESIGNATED SCARCE MATERIALS [50 U.S.C. App. § 2072]

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation. In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [50 U.S.C. App. § 2061-2171]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [50 U.S.C. App. § 2071 and 2154].

Sec. 103. PENALTIES [50 U.S.C. App. § 2073]

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [50 U.S.C. App. § 2071-2078] 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.

Sec. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION [50 U.S.C. App. § 2074]

(a) Wage or price controls

No provision of this Act [50 U.S.C. App. 2061-2171] shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

(b) Chemical or biological weapons

No provision of title I of this Act [50 U.S.C. App. § 2071-2078] shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities, unless authorized by the President (or the President's designee who is serving in a position at level I of the Executive Schedule in accordance with section 5312 of title 5, United States Code) without further redelegation.

Sec. 105. PRESIDENTIAL POWER TO RATION GASOLINE AMONG CLASSES OF END-USERS UNAFFECTED [50 U.S.C. App. § 2075]

Nothing in this Act [50 U.S.C. App. § 2061-2171] shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.

Sec. 106. DESIGNATION OF ENERGY AS A STRATEGIC AND CRITICAL MATERIAL [50 U.S.C. App. § 2076]

For purposes of this Act [50 U.S.C. App. 2061-2171], "energy" shall be designated as a "strategic and critical material" after the date of the enactment of this section [June 30, 1980]: Provided, That no provision of this Act [50 U.S.C. App. § 2061-2171] shall, by virtue of such designation—

(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock (including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 [50 U.S.C. App. § 2095 and 2096] for synthetic fuel production.

Sec. 107. STRENGTHENING DOMESTIC CAPABILITY [50 U.S.C. App. § 2077]

(a) In general

Utilizing the authority of title III of this Act [50 U.S.C. App. § 2091-2099a] or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

(b) Critical components and critical technology items—

(1) Identification

(A) In general

The President, acting through the Secretary of Defense, shall identify critical components and critical technology items for each item on the Critical Items List of the Commanders-in-Chief of the Unified and Specified Commands and other items within the inventory of weapon systems and defense equipment.

(B) Definition

Any component identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code [10 U.S.C. 113(i)], or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 [19 U.S.C. 1862] shall be designated as a critical component for purposes of this Act [50 U.S.C. App. § 2061-2171], unless the President determines that the designation is unwarranted.

(2) Maintenance of reliable sources of supply

The President shall take appropriate actions to assure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency.

(3) Appropriate action

For purposes of this subsection, appropriate action may include—

(A) restricting contract solicitations to reliable sources;

(B) restricting contract solicitations to domestic sources pursuant to—

(i) section 2304(b)(1)(B) or section 2304(c)(3) of title 10, United States Code;

(ii) section 303(b)(1)(B) or section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 [41 U.S.C. 253(b)(1)(B) or 253(c)(3)]; or

(iii) other statutory authority;

(C) stockpiling critical components; and

(D) developing substitutes for a critical component or a critical technology item.

Sec. 108. MODERNIZATION OF SMALL BUSINESS SUPPLIERS [50 U.S.C. App. § 2078]

(a) In general

In providing any assistance under this Act [50 U.S.C. App. 2061-2171], the President shall accord a strong preference for small business concerns which are subcontractors or suppliers, and, to the maximum extent practicable, to such small business concerns located in areas of high unemployment or areas that have demonstrated a continuing pattern of economic decline, as identified by the Secretary of Labor.

(b) Modernization of equipment

(1) In general

Funds authorized under title III [50 U.S.C. App. § 2091-2099a] may be used to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act [50 U.S.C. App. § 2061-2171].

(2) Small business suppliers

In considering proposals for title III [50 U.S.C. App. § 2091-2099a] projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

(A) has the support of the department or agency which will provide the guarantee;

(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufacturing equipment being proposed for installation; and

(C) meets the requirements of section 301, 302, or 303 [50 U.S.C. App. § 2091, 2092, or 2093].