SEC. ___ . REVISIONS TO THE STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.

(a) MATERIALS CONSTITUTING THE NATIONAL DEFENSE STOCKPILE.—Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended—

(1) in subsection (b)—

(A) by inserting "strategic and critical" before "material"; and

(B) by striking "required for the stockpile shall" and inserting "suitable for transfer to or disposal through the stockpile may"; and

(2) in subsection (c)—

(A) by striking "(1)" and all that follows through "(2)";

(B) by inserting "strategic and critical" before "materials"; and

(C) by striking "this subsection" and inserting "subsection (b)" .

(b) QUALIFICATION OF DOMESTIC SOURCES.—Section 15 of such Act (50 U.S.C. 98h-6) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) by qualifying existing domestic facilities and domestically produced strategic and critical materials to meet the requirements of defense and essential civilian industries in times of national emergencies when existing domestic sources of supply are either insufficient or vulnerable to single points of failure.";

(2) in subsection (b), by inserting “paragraph (1) or (2) of” in the first sentence after “made under”; and

(3) in subsection (c)—

(A) by inserting “paragraph (1) or (2) of” in paragraph (1) after “transactions under”; and

(B) by adding at the end the following new paragraph:

“(3) The President may enter into obligations to qualify domestic facilities and domestically produced strategic and critical materials when it would be cost effective relative to stockpiling material. Such obligations may be entered into on a reimbursable basis and the proceeds covered into the National Defense Stockpile Transaction Fund under section 9.”.

Section-by-Section Analysis

This proposal would amend the Strategic and Critical Materials Stock Piling Act (Act) to provide greater flexibility in the management of National Defense Stockpile (Stockpile). If enacted, the proposed changes to section 4 of the Act would provide the same authority for the Stockpile Manager to review, acquire, and manage disposal of excess strategic and critical materials for other Federal agencies as exists for materials managed by the Department of Energy. The changes would enable the Stockpile Manager to transfer required materials into inventory at little or no cost. They also would give the Stockpile Manager authority to recover and sell strategic and critical materials that are not in short supply and place the proceeds in the Stockpile Transaction Fund to purchase needed strategic and critical materials.

The proposed amendment to section 15 of the Act would enable the Stockpile Manager to fund qualification of domestically-produced materials. Qualification refers to the inspection, testing, and certification of the facilities used for production, and the materials produced, to insure required specifications are met, such as standards of concentration, purity, or composition. Qualification programs would be executed only after a business case analysis is performed which indicates that qualification program is a better return on investment than traditional stockpiling for a particular material.

Budgetary Implications: The budgetary implications for the changes to the two sections need to be considered separately. For the changes to Section 4, a business case analysis will be conducted prior to execution of any programs under this authority, but in general all of these programs will be cost positive for the Stockpile Transaction Fund. If the Stockpile Manager

were allowed to receive excess material that was not required for the Stockpile, excess material could be accepted and then sold, with the revenue returned to the Stockpile Transaction Fund.

For example, the Army typically generates at least 500 kg of excess germanium a year (embedded in components). DLA could collaborate on a program with the Army which to recovery and transfer this germanium to the Stockpile. Material transferred to the Stockpile inventory during the first year or two of the program would go into long-term storage to offset the 640 kg Stockpile requirement for germanium metal identified in the 2015 Report on Stockpile Requirements. The new proposed authority would allow the program to continue transferring germanium to DLA beyond the Stockpile requirement level by allowing material to be disposed through the Stockpile. This would create a stable secondary supply of germanium metal for industry as well as fund the reclamation costs and add revenue to the Stockpile Transaction Fund. A value for 500 kg of reclaimed germanium is approximately $550,000 at $1100 per kg.

A second example is that the Air Force currently has excess titanium alloy components that are not required for the Stockpile but could be reclaimed, accepted into the Stockpile, and then sold. This would generate approximately $50,000 per year in additional revenue.

The cost to execute transfers is generally only shipping and handling. These minor costs would be approximately $6,000 per year for germanium and $8,000 for titanium and would come from an already programmed material handling budget.

Example Transfer for Disposal Income ($Millions)							
Material	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**Total**	**Appropriation**
FY 2017 Budget	**$67.56**	**$67.61**	**$57.92**	**$50.30**	**$51.11**	**$294.50**	National Defense Stockpile Transaction Fund
Revenue from Reclaimed Germanium Under Proposed Changes to Section 4	$0.55	$0.55	$0.55	$0.55	$0.55	**$2.75**	National Defense Stockpile Transaction Fund
Shipping and Handling Costs for Germanium	($0.01)	($0.01)	($0.01)	($0.01)	($0.01)	**($0.03)**	National Defense Stockpile Transaction Fund
Revenue from Reclaimed Aerospace Titanium Under Proposed Changes to Section 4	$0.05	$0.05	$0.05	$0.05	$0.05	**$0.25**	National Defense Stockpile Transaction Fund
Shipping and Handling Costs for Titanium	($0.01)	($0.01)	($0.01)	($0.01)	($0.01)	**($0.04)**	National Defense Stockpile Transaction Fund
Impact to Program from Proposed Changes to Section 4	**$0.59**	**$0.59**	**$0.59**	**$0.59**	**$0.59**	**$2.93**	National Defense Stockpile Transaction Fund

For the proposed changes to Section 15, a mandatory business case analysis would determine if a particular qualification program is cost efficient. This business case would compare costs of traditional stockpiling versus the cost of qualifying a domestic source as described in the proposed language for Section 15(c)(3). Stockpiling requires significant resources for material acquisition costs, as well as ancillary costs for storage and material handling. The business case would compare the cost of stockpiling the foreign material, versus the cost of qualifying a domestic source of alternate material. Qualification programs could only be executed if a cost avoidance and cost benefit was identified.

DLA has been working with DOD and industry to identify potential qualification programs. Aerospace Grade Rayon is a synthetic fiber used in applications such as solid rocket motor nozzles and heat shields. The US relies on foreign sources for Aerospace Grade Rayon.

An alternative to rayon fiber is produced domestically and could be used in place of Aerospace Grade Rayon. Before the domestic fiber can be used, it must be qualified to meet DoD specifications and requirements. It is estimated that it would cost $1.33 million to qualify the fiber for defense applications. It would cost approximately $8.5 million to purchase a one-year quantity (all platforms) of Aerospace Grade Rayon and add to the Stockpile inventory. Qualification would therefore represent a cost avoidance of $7.19 million.

Example Qualification of Domestic Sources of Supply ($Millions)							
Material	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**Total**	**Appropriation**
FY 2017 Budget	**$67.56**	**$67.61**	**$57.92**	**$50.30**	**$51.11**	**$294.50**	National Defense Stockpile Transaction Fund
ALT 1: Qualification of Domestic Material Under Proposed Changes to Section 15	0.00	($0.66)	($0.67)	0.00	0.00	**($1.33)**	National Defense Stockpile Transaction Fund
ALT 2: Stockpiling of Foreign Fiber	0.00	($2.13)	($2.13)	($2.13)	($2.13)	**($8.52)**	National Defense Stockpile Transaction Fund
Net Impact to Program from Proposed Changes to Section 15	**0.00**	**$1.47**	**$1.46**	**$2.13**	**$2.13**	**$7.19**	National Defense Stockpile Transaction Fund

Changes to Existing Law: The proposal would make the following changes in provisons of existing law:

THE STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT
(50 U.S.C. 98 et seq).
(As amended)

SHORT TITLE

SECTION 1. [50 U.S.C. 98] This Act may be cited as the "Strategic and Critical Materials Stock Piling Act".

FINDINGS AND PURPOSE

SEC. 2. [50 U.S.C. 98a] (a) The Congress finds that the natural resources of the United States in certain strategic and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this Act to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources or a single point of failure for supplies of such materials in times of national emergency.

(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

MATERIALS TO BE ACQUIRED: PRESIDENTIAL AUTHORITY AND GUIDELINES

SEC. 3. [50 U.S.C. 98b] (a) Subject to subsection (c) of this section, the President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this Act, and (2) the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 4 of this Act, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the "stockpile").

(b) The President shall make the determinations required to be made under subsection (a) on the basis of the principles stated in section 2(c).

(c)(1) The quantity of any material to be stockpiled under this Act, as in effect on September 30, 1987, may be changed only as provided in this subsection or as otherwise provided by law enacted after December 4, 1987.

(2) The President shall notify Congress in writing of any change proposed to be made in the quantity of any material to be stockpiled. The President may make the change after the end of the 45-day period beginning on the date of the notification. The President shall include a full explanation and justification for the proposed change with the notification.

MATERIALS CONSTITUTING THE NATIONAL DEFENSE STOCKPILE

SEC. 4. [50 U.S.C. 98c] (a) The stockpile consists of the following materials:

(1) Materials acquired under this Act and contained in the national stockpile on July 29, 1979.

(2) Materials acquired under this Act after July 29, 1979.

(3) Materials in the supplemental stockpile established by section 1704(b) of the Agricultural Trade Development and Assistance Act of 1954 (as in effect from September 21, 1959, through December 31, 1966) on July 29, 1979.

(4) Materials acquired by the United States under the provisions of section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 663 of the Foreign Assistance Act of 1961 (22 U.S.C. 2423) that have been determined to be strategic and critical materials for the purposes of this Act and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of section 103(a) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes," approved August 28, 1954 (7 U.S.C. 1743(a)), and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 103(a) of such Act of August 28, 1954.

(9) Materials transferred to the stockpile under subsection (b).

(10) Materials transferred to the stockpile under subsection (c).

(b) Notwithstanding any other provision of law, any strategic and critical material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is ~~required for~~ suitable for transfer or disposal through the stockpile may be transferred to the stockpile. Any such **t**ransfer shall be made without reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this Act.

(c)~~(1) The Secretary of Energy, in consultation with the Secretary of Defense, shall transfer to the stockpile for disposal in accordance with this Act uncontaminated materials that are in the Department of Energy inventory of materials for the production of defense-related items, are excess to the requirements of the Department for that purpose, and are suitable for transfer to the stockpile and disposal through the stockpile.~~

~~(2)~~ The Secretary of Defense shall determine whether strategic and critical materials are suitable for transfer to the stockpile under ~~this subsection~~ subsection (b), are suitable for disposal through the stockpile, and are uncontaminated.

AUTHORITY FOR STOCKPILE OPERATIONS

SEC. 5. [50 U.S.C. 98d] (a)(1) Except for acquisitions made under the authority of paragraph (3) or (4) of section 6(a), no funds may be obligated or appropriated for acquisition of any material under this Act unless funds for such acquisition have been authorized by law. Funds appropriated for such acquisition (and for transportation and other incidental expenses related to such acquisition) shall remain available until expended, unless otherwise provided in appropriation Acts.

(2) If for any fiscal year the President proposes certain stockpile transactions in the annual materials plan submitted to Congress for that year under section 11(b) and after that plan is

submitted the President proposes (or Congress requires) a significant change in any such transaction, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 45 days has passed from the date of the receipt of such statement by such committees.

(b) Except for disposals made under the authority of paragraph (3), (4) or (5) of section 6(a) or under section 7(a), no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available to carry out the purposes for which appropriated for a period of two fiscal years, if so provided in appropriation Acts.

STOCKPILE MANAGEMENT

SEC. 6. [50 U.S.C. 98e] (a) The President shall —

(1) acquire the materials determined under section 3(a) to be strategic and critical materials;
(2) provide for the proper storage, security, and maintenance of materials in the stockpile;
(3) provide for the upgrading, refining or processing of any material in the stockpile (notwithstanding any intermediate stockpile quantity established for such material) when necessary to convert such material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency;
(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration or technological obsolescence of such material by replacement of such material with an equivalent quantity of substantially the same material or better material;
(5) provide for the appropriate recovery of any strategic and critical materials under section 3(a) that may be avaialble from excess materials made avaialble for recovery purposes by other Federal agencies;
(6) subject to the notification required by subsection (d)(2), provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and
(7) subject to the provisions of section 5(b), dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Except as provided in subsections (c) and (d), acquisition of strategic and critical materials under this Act shall be made in accordance with established Federal procurement practices, and, except as provided in subsections (c) and (d) and in section 7(a), disposal of strategic and critical materials from the stockpile shall be made in accordance with the next sentence. To the maximum extent feasible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials; and
(2) efforts shall be made in the acquisition and disposal of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

(c)(1) The President shall encourage the use of barter in the acquisition under subsection (a)(1) of strategic and critical materials for, and the disposal under subsection (a)(5) or (a)(6) of materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

(2) Materials in the stockpile (the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law) shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of upgrading, refining, processing, or rotating materials, under this Act.

(3) Notwithstanding section 3(c) or any other provision of law, whenever the President provides under subsection (a)(3) for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.

(4) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d)(1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1) or (2) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed acquisition or disposal at least 45 days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a)(5) only if such congressional committees are notified in writing of the proposed disposal at least 45 days before any obligation of the United States is incurred in connection with such disposal.

(3) The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

SPECIAL DISPOSAL AUTHORITY OF THE PRESIDENT

SEC. 7. [50 U.S.C. 98f] (a) Materials in the stockpile may be released for use, sale, or other disposition —

(1) on the order of the President, at any time the President determines the release of such materials is required for purposes of the national defense;

(2) in time of war declared by the Congress or during a national emergency, on the order of any officer or employee of the United States designated by the President to have authority to issue disposal orders under this subsection, if such officer or employee determines that the release of such materials is required for purposes of the national defense; and

(3) on the order of the Under Secretary of Defense for Acquisition, Technology, and

Logistics if the President has designated the Under Secretary to have authority to issue release orders under this subsection and, in the case of any such order, if the Under Secretary determines that the release of such materials is required for use, manufacture, or production for purposes of national defense.

(b) Any order issued under subsection (a) shall be promptly reported by the President, or by the officer or employee issuing such order, in writing, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

MATERIALS DEVELOPMENT AND RESEARCH

SEC. 8. [50 U.S.C. 98g] (a)(1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, preparation, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, or in its territories or possessions, (B) are essential to the national defense, industrial, and essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

(2) Such investigations shall be carried out in order to —

(A) determine and develop new domestic sources of supply of such ores and mineral substances;

(B) devise new methods for the treatment and utilization of lower grade reserves of such ores and mineral substances; and

(C) develop substitutes for such essential ores and mineral products.

(3) Investigations under paragraph (1) may be carried out on public lands and, with the consent of the owner, on privately owned lands for the purpose of exploring and determining the extent and quality of deposits of such minerals, the most suitable methods of mining and beneficiating such minerals, and the cost at which the minerals or metals may be produced.

(b) The President shall make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 3(a) of this Act to be a strategic and critical material or substitutes therefore.

(c) The President shall make scientific, technologic, and economic investigations concerning the feasibility of —

(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b)) determined pursuant to section 3(a) to be strategic and critical materials; and

(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

(d) The President shall encourage the conservation of domestic sources of any material determined pursuant to section 3(a) to be a strategic and critical material by making grants or awarding contracts for research regarding the development of:

(1) substitutes for such material; or

(2) more efficient methods of production or use of such material.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SEC. 9. [50 U.S.C. 98h] (a) There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the "fund").

(b)(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 6(a) shall be covered into the fund.

(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(A) The acquisition, maintenance, and disposal of strategic and critical materials under section 6(a).

(B) Transportation, storage, and other incidental expenses related to such acquisition, maintenance, and disposal.

(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

(D) Encouraging the appropriate conservation of strategic and critical materials.

(E) Testing and quality studies of stockpile materials.

(F) Studying future material and mobilization requirements for the stockpile.

(G) Activities authorized under section 15.

(H) Contracting under competitive procedures for materials development and research to—

(i) improve the quality and availability of materials stockpiled from time to time in the stockpile; and

(ii) develop new materials for the stockpile.

(I) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

(J) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.

(K) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the government under an administrative decision or negotiated agreement.

(L) Pay of employees of the National Defense Stockpile Program.

(M) Other expenses of the National Defense Stockpile program.

(3) Moneys in the fund shall remain avialable until expended.

(c) All moneys received from the sale of materials being rotated under the provisions of section 6(a)(4) or disposed of under section 7(a) shall be covered into the fund and shall be available only for the acquisition of replacement materials.

(d) If, during a fiscal year, the National Defense Stockpile Manager barters materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall —

(1) be applied toward the total value of materials that are authorized to be disposed of

from the stockpile during that fiscal year;

(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2) of this section; and

(3) not increase or decrease the balance in the fund.

ADVISORY COMMITTEES

SEC. 10. [50 U.S.C. 98h-1] (a) The President may appoint advisory committees composed of individuals with expertise relating to materials in the stockpile or with expertise in stockpile management to advise the President with respect to the acquisition, transportation, processing, refining, storage, security, maintenance, rotation, and disposal of such materials under this Act.

(b) Each member of an advisory committee established under subsection (a) of this section while serving on the business of the advisory committee away from such member's home or regular place of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons intermittently employed in the Government service.

(c)(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

(2) The Committee shall advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan submitted to Congress under section 11(b), or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

(3) The annual materials plan or the revision of such plan, as the case may be, shall contain—

(A) the views of the Committee on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile;

(B) the recommendations submitted by the Committee under paragraph (2); and

(C) for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.

(4) In developing recommendations for the National Defense Stockpile Manager under paragraph (2), the Committee shall consult from time to time with representatives of producers, processors, and consumers of the types of materials stored in the stockpile.

REPORTS TO CONGRESS

SEC. 11. [50 U.S.C. 98h-2] (a) Not later than January 15 of each year, the President shall submit to the Congress an annual written report detailing operations under this Act. Each such

report shall include—

(1) information with respect to foreign and domestic purchases of materials during the preceding fiscal year;

(2) information with respect to the acquisition and disposal of materials under this Act by barter, as provided for in section 6(c) of this Act, during such fiscal year;

(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

(4) information with respect to the research and development activities conducted under sections 2 and 8;

(5) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made to the fund, and obligations to be made from the fund, during the current fiscal year; and

(6) such other pertinent information on the administration of this Act as will enable the Congress to evaluate the effectiveness of the program provided for under this Act and to determine the need for additional legislation.

(b)(1) Not later than February 15 of each year, the President shall submit to the appropriate committees of the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years.

(2) Each such report shall include details of all planned expenditures from the National Defense Stockpile Transaction Fund during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period. Each such report shall also contain details regarding the materials development and research projects to be conducted under section 9(b)(2)(G) during the fiscal years covered by the report. With respect to each development and research project, the report shall specify the amount planned to be expended from the fund, the material intended to be developed, the potential military or defense industrial applications for that material, and the development and research methodologies to be used.

(3) Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.

DEFINITIONS

SEC. 12. [50 U.S.C. 98h-3] For the purposes of this Act:

(1) The term “strategic and critical materials” means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) the term “national emergency” means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS

Sec. 13. [50 U.S.C. 98h-4] The President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this subchapter, if such material is the product of any foreign country or area not listed in general note 3(b) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of a country or area listed in such general note is not prohibited by any provision of law.

BIENNIAL REPORT ON STOCKPILE REQUIREMENTS

SEC. 14. [50 U.S.C. 98h-5] (a) Not later than January 15 of every other year, the Secretary of Defense shall submit to Congress a report on stockpile requirements. Each such report shall include--

(1) the Secretary's recommendations with respect to stockpile requirements; and

(2) the matters required under subsection (b).

(b) Each report under this section shall set forth the national emergency planning assumptions used by the Secretary in making the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumptions to be set forth include assumptions relating to each of the following:

(1) The length and intensity of the assumed military conflict.

(2) The military force structure to be mobilized.

(3) The losses anticipated from enemy action.

(4) The military, industrial, and essential civilian requirements to support the national emergency.

(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(7) Civilian austerity measures required during the mobilization period and military conflict.

(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b) of this section, as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements.

(e) The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.

DEVELOPMENT OF DOMESTIC SOURCES

SEC. 15. [50 U.S.C. 98h-6] Subject to subsection (c) and to the extent the President determines such action is required for the national defense, the President shall encourage the development and appropriate conservation of domestic sources for materials determined pursuant to section 3(a) to be strategic and critical materials—

(1) by purchasing, or making a commitment to purchase, strategic and critical materials of domestic origin when such materials are needed for the stockpile; ~~and~~

(2) by contracting with domestic facilities, or making a commitment to contract with domestic facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage and subsequent disposition~~.~~; and

(3) by qualifying existing domestic facilities and domestically produced strategic and critical materials to meet the requirments of defense and essential civilian industries in times of national emergencies when existing domestic sources of supply are either insufficient or vulnerable to single points of failure.

(b) A contract or commitment made under paragraph (1) or (2) of subsection (a) may not exceed five years from the date of the contract or commitment. Such purchases and commitments to purchase may be made for such quantities and on such terms and conditions, including advance payments, as the President considers to be necessary.

(c)(1) Descriptions of proposed transactions under paragraph (1) or (2) of subsection (a) shall be included in the appropriate annual materials plan submitted to Congress under section 11(b). Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in the manner provided by section 5(a)(2).

(2) The authority of the President to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund are adequate to meet such obligations. Payments required to be as a result of obligations incurred under this section shall be made from amounts in the fund.

(3) The President may enter into obligations to qualify domestic facilities and domestically produced strategic and critical materials when it would be cost effective relative to stockpiling material. Such obligations may be entered into on a reimbursable basis and the proceeds covered into the National Defense Stockpile Transaction Fund under section 9.

(d) The authority of the President under subsection (a) includes the authority to pay—

(1) the expenses of transporting materials; and

(2) other incidental expenses related to carrying out such subsection.

(e) The President shall include in the reports required under section 11ae information with respect to activities conducted under this section.

NATIONAL DEFENSE STOCKPILE MANAGER

SEC. 16. [50 U.S.C. 98h-7] (a) The President shall designate a single Federal office to have responsibility for performing the functions of the President under this Act, other than under sections 7(a)(1) and 13. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

(b) The individual holding the office designated by the President under subsection (a) shall be known for purposes of functions under this Act as the "National Defense Stockpile Manager."

(c) The President may delegate functions of the President under this Act (other than under sections 7(a)(1) and 13) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order. The President may not delegate functions of the President under sections 7(a)(1) and 13.

United States Code Citations

Section 2—50 U.S.C. 98a
Section 3—50 U.S.C. 98b
Section 4—50 U.S.C. 98c
Section 5—50 U.S.C. 98d
Section 6—50 U.S.C. 98e
Section 7—50 U.S.C. 98f
Section 8—50 U.S.C. 98g
Section 9—50 U.S.C. 98h
Section 10—50 U.S.C. 98h-1
Section 11—50 U.S.C. 98h-2
Section 12—50 U.S.C. 98h-3
Section 13—50 U.S.C. 98h-4
Section 14—50 U.S.C. 98h-5
Section 15—50 U.S.C. 98h-6
Section 16—50 U.S.C. 98h-7