

# **Strategic and Critical Materials Operations Report To Congress**

**Operations under the Strategic and Critical  
Materials Stockpiling Act during  
Fiscal Year 2012**



**Office of the Under Secretary of Defense  
for Acquisition, Technology, and Logistics**

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# I. THE STRATEGIC AND CRITICAL MATERIALS STOCKPILING PROGRAM

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## OVERVIEW

The Strategic and Critical Materials Stock Piling Act (50 U.S.C. § 98 *et seq.*) provides 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 preclude, when possible, a dangerous and costly dependence upon foreign sources of such materials during and immediately following a national emergency. Such materials when acquired and stored constitute and are collectively known as the National Defense Stockpile (or the “stockpile”).

By Executive Order, the Secretary of Defense is designated as the NDS Manager, with management responsibilities delegated to the Under Secretary of Defense for Acquisition, Technology and Logistics. The operational activities of the NDS are delegated to the Director of the Defense Logistics Agency (DLA). The Defense National Stockpile Center (now DLA Strategic Materials) was established as a field activity to manage the operations of the NDS program, including the acquisition, storage, management, and disposal of materials.

Not later than January 15 of each year, the Stockpile Manager is required to submit to the Congress a written report detailing operations of the stockpile. This report has been prepared to satisfy this requirement. Per the section 11(a) of Stock Piling Act or 50 U.S.C. 98h-2(a), the report is to 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 subchapter 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 of this Act;
- (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 subchapter as will enable the Congress to evaluate the effectiveness of the program provided for under this subchapter and to determine the need for additional legislation.

The Stock Piling Act provides guidance, procedures and authorities under which risks and vulnerabilities associated with supplies of materials for military, industrial, and essential civilian needs during a national emergency are identified and addressed. Recently, the stockpile began a transformation, moving away from a static list of materials and the “buy and hold” approach of the past, toward a more flexible and dynamic materials risk management model.

Reconfiguration was necessary to allow the stockpile to better understand and respond to evolving materials requirements and more quickly adapt to world market conditions in an era of economic globalization characterized by rapid economic growth consumption of raw materials in China and other emerging countries. Successful implementation necessitates broader participation within the Department of Defense. For example, DLA Strategic Materials continues to reach out to all of the Military Services, as well as other Federal Agencies and international groups, to ensure there is collaboration on matters of assessment of strategic and critical material needs. Federal agencies and entities involved include the Executive Office of the President’s National Science and Technology Policy Office, the Department of Energy’s National Nuclear Security Administration, the Missile Defense Agency, and others. International collaborative efforts include NATO’s Science and Technology Organization’s Applied Vehicle Technology and the United Kingdom’s Defense Science and Technology Laboratory.

DLA Strategic Materials sees this collaboration as an important aspect of its mission to collect information regarding the Nation’s material needs. The knowledge can be applied to best practices through collaboration to help reduce duplication of effort and encourage consolidated buying efforts.

Incremental implementation of the reconfiguration of the stockpile is well under way. A Directorate of Strategic Planning and Market Research has recently been established to serve as the focal point for matters involving or affecting composition and disposition of the NDS. The new Directorate will conduct research into defense, essential civilian, and industrial base material requirements and provide advice with regard to the consumption, availability, and supply chain stability of strategic and critical materials.

Strategic Planning and Market Research will also provide recommendations regarding the type, form and quantity of materials to be added to, or removed from the NDS. The Directorate will be responsible for developing acquisition, rotation, conversion and disposal strategies for materials held in the NDS and incorporating these plans and recommendations into the Annual Materials Plan.

The form in which materials are maintained within the NDS is often of great significance. The specific goal in materials stockpiling is to acquire and retain designated materials that have been processed to those forms, structure and shape which serves to best meet current and anticipated future applications, as dictated by the continuous evolution of technology. Only in this manner may retained materials be efficiently used when required.

To this end, DLA Strategic Materials has awarded multiple contracts, which upgrade on-hand materials to meet current state-of-the-art technology applications. A portion of the germanium inventory, currently held as cast metal ingots, is to be converted to epitaxial wafers

for use as substrates required by National Security Space photovoltaic solar cell applications. In addition, a “pilot” program is being conducted using Beryllium Hot-Pressed Powder Billets. This project upgrades bulk metal to metal powders which support metal forming technologies required to meet final product specification for many modern DoD applications.

Recent studies have shown that rare earth materials are required for the production and sustainment of U.S. military equipment, and that there is the possibility of interruptions or shortages in the supply of certain rare earth materials as a result of actions or events outside the control of the U.S. government. Although it is recognized that global market forces are leading to positive changes in rare earth supply chains and a sufficient supply of most of these special elements will likely be available for DoD purposes, concerns with regard to the supplies of certain heavy rare earth elements (REE) along with associated higher-value added metals, compounds and other processed materials remain. The heavy REE are present in minute concentrations in the principal ore currently being mined and processed at domestic facilities. Domestic sources of ores containing higher concentrations of these elements have been exploited in the past; however, the minerals also contain quantities of naturally-occurring radioactive elements which complicate handling and processing.

DLA Strategic Materials has awarded three research projects focused on domestic supplies of heavy REE and associated supply chains. One research project will investigate an ore body with a very complex mineralogy and evaluate extraction of the heavy REE from the mixture utilizing an advanced separation method that incorporates nanotechnology to improve selectivity and efficiency. The other projects are to more closely examine requirements for “processed” materials containing heavy REE, such as yttrium and dysprosium, in important applications and address gaps in the supply chains, technical hurdles, intellectual property concerns, and other issues that affect the domestic availability of materials and components.

## **STATUS OF THE STOCKPILE INVENTORY**

The total inventory of the NDS represented a market value of \$1.39 billion on September 30, 2012.

NDS inventory quantities shown in Table 1 do not include quantities of materials that have been sold, but have not yet been shipped from NDS depots. Table 2 lists quantities of materials that have been sold, but not shipped as of the end of the fiscal year.

The NDS no longer has any materials on consignment or loan. Inventory values are based on September 30, 2012, prices at which comparable materials are being traded. In the absence of current trading data, market values are estimated. The market values are not necessarily the amount that would be realized if the materials were sold.

The NDS goals shown in Table 1 are derived by subtracting the quantity identified in the 2011 Biennial Report on Stockpile Requirements (2011 Requirements Report) from the total inventory. If the quantity from the 2011 Requirements Report is greater than the inventory, the entire inventory is designated as goal material. Throughout the years, quantities designated as goal have been reduced for those materials for which disposal has been authorized in the National Defense Authorization Acts for fiscal Years 1998, 1999, 2000, 2001, and 2002.

When the NDS contains more than one form of a primary material, the inventory group may include the different forms of the material.

**TABLE 1: NDS INVENTORY AND GOALS**  
**Inventory Quantities and Market Value as of September 30, 2012**  
**(Millions of Dollars)**

<b>Material</b>	<b>Unit</b>	<b>Total Inventory</b>	<b>*Goal</b>	<b>Total Inventory Market Value</b>
Beryl	ST	1	1	\$0.00
Beryllium Metal	ST	98.5	70	\$32.17
Chromium - Ferro High Carbon	ST	104,963	0	\$171.62
Chromium - Ferro Low Carbon	ST	56,039	0	\$194.44
Chromium Metal-combo electro & alumin	ST	4,512	0	\$63.39
Cobalt	LB Co	663,709	0	\$14.59
Columbium Metal Ingots	LB Cb	22,156	22,156	\$0.84
Germanium Metal	KG	16,362	16,362	\$20.73
Manganese Ferro High Carbon	ST	383,528	0	\$527.75
Manganese Metallurgical Grade Ore	SDT	322,025	0	\$1.58
Mercury	LB	9,781,604	0	\$0.00
Platinum	Tr Oz	8,380	0	\$12.78
Platinum - Iridium	Tr Oz	568	568	\$0.39
Quartz Crystals	LB	15,729	0	\$0.19
Talc - Block & Lump	ST	954	0	\$0.20
Talc - Ground	ST	685	0	\$0.08
Tantalum Carbide Powder	LB Ta	3,777	3,777	\$0.28
Tin	MT	4,020	4,020	\$88.53
Tungsten Metal Powder	LB W	267,536	0	\$2.50
Tungsten Ores & Concentrates	LB W	31,296,946	21,890,577	\$246.42
Zinc	ST	7,993	0	\$15.98
<b>Total Inventory Market Value</b>				<b>\$1,394.44</b>

\*Goals based on 2011 Biennial Report on Stockpile Requirements

**TABLE 2: INVENTORY SOLD BUT NOT SHIPPED**  
**(Shipping to occur in accordance with specific contract provisions)**  
**As of September 30, 2012**

<b>MATERIAL</b>	<b>UNIT</b>	<b>QUANTITY</b>
Ferrochromium Low Carbon	ST	280
Tungsten Metal Powder	LB W	8,204
Tungsten Ores and Concentrates	LB W	1,175,844

## **II. STOCKPILE ACQUISITION, UPGRADING, AND DISPOSAL PROGRAMS**

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### **ANNUAL MATERIALS PLAN (AMP)**

The AMP lists the maximum quantity of each commodity that may be sold or bought by the Department of Defense in a given fiscal year. Before any materials may be bought or sold, Congress must enact specific enabling legislation. In accordance with section 11(b) of the Stock Piling Act, the Department of Defense develops and submits the AMP to Congress by February 15<sup>th</sup> of each year for the following fiscal year and 4 succeeding years. Prior to submission, the AMP is coordinated with the Market Impact Committee, an interagency committee that advises the Department of Defense on the projected domestic and foreign economic effects of the proposed NDS transactions. The FY 2012 AMP is shown in Table 3 .

### **ACQUISITIONS AND UPGRADES**

DLA Strategic Materials awarded three contracts for the upgrade of materials. Two Germanium upgrade contracts, totaling approximately 3,000 kilograms, are for the conversion of metal ingots into epitaxial ready (epi-ready) wafers for use as substrates for photovoltaic solar cells used in National Security Space applications. Beryllium metal in the form of hot pressed powder billets (2,171 pounds) will result in an upgrade to forms aligned with current specifications for many modern DoD applications.

## SALES OF EXCESS INVENTORY

The NDS sold \$79.5 million of excess materials during FY 2012. Sales for FY 1997 through 2012, totalling \$6 billion, are shown in Chart 1.

CHART 1: PRIOR YEAR SALES

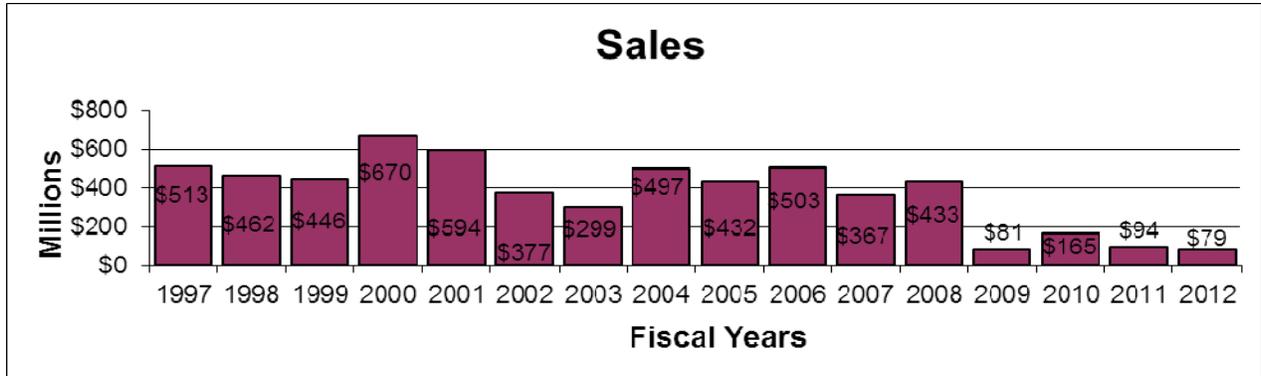
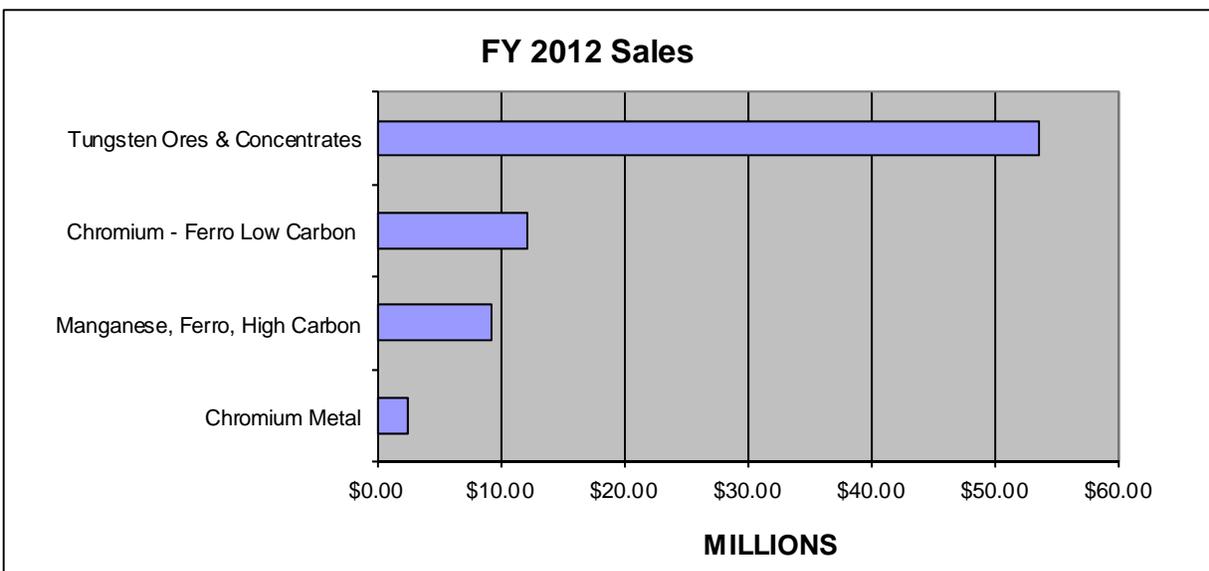


Table 4 on page 8 lists all NDS sales for FY 2012. A summary of these sales is shown in Chart 2. Dollar amounts are based on awarded contracts. The top selling materials in FY 2012 were Tungsten Ores and Concentrates, and Low Carbon Ferrochromium. Combined, they accounted for \$65.7 million and 83 percent of total sales.

CHART 2: FISCAL YEAR 2012 SALES



**TABLE 3 – ANNUAL MATERIALS Plan (AMP) FOR FY 2012  
AND SUCCEEDING 4 YEARS**

(AMP reflects maximum quantity to be upgraded, bartered, sold, transferred,  
or otherwise disposed of in each FY)

Column A	B	C	D	E	F	G
Material	Unit	FY 2012 Quantity	FY 2013 Quantity	FY 2014 Quantity	FY 2015 Quantity	FY 2016 Quantity
Beryl Ore	ST	0	0	0	0	0
Beryllium Metal	ST	52	0	0	0	0
Chromium, Ferro	ST	100,000	70,247	-	-	-
Chromium, Metal	ST	500	500	500	500	500
Cobalt	LB Co	663,709	-	-	-	-
Columbium Metal Ingots	LB Cb	0	0	0	0	0
Germanium	Kg	3,000	0	0	0	0
Iridium	TrOz	0	0	0	0	0
Manganese, Ferro	ST	100,000	100,000	100,000	100,000	7,050
Manganese, Metallurgical Grade	SDT	100,000	100,000	100,000	22,024	-
Mercury	LB	0	0	0	0	0
Platinum	Tr Oz	8,380	-	-	-	-
Quartz	LB	0	0	0	0	0
Talc	ST	1,000	639	-	-	-
Tantalum Carbide Powder	LB Ta	0	0	0	0	0
Tin	MT	804	804	804	804	804
Tungsten Metal Powder	LB W	300,000	77,433	-	-	-
Tungsten Ores & Concentrates	LB W	8,000,000	7,554,711	0	0	0
Zinc	ST	8,255	-	-	-	-

**Notes:**

- Where the inventory exceeds the Shortfall, it is Surplus, and an amount is entered.
- When the inventory is less than the Shortfall, no amount is entered (it is held in reserve)
- The amounts of Surplus material have been vetted and approved by the Market Impact Committee, ensuring the disposal of these amounts will not adversely affect markets.
- Dashes in outyear columns denote depletion of inventory based on anticipated rates of disposal, sale, etc.
- Zeroes indicate material remains in inventory but is being held.
- Amounts in Columns C through G are transaction limits or reflect the remaining inventory available for sale.

**TABLE 4: FISCAL YEAR 2012 SALES – NDS**

<b>Principal Sales Program Transaction Fund #1</b>			
<b>MATERIALS</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>SALES VALUE</b>
MANGANESE, FERRO HIGH CARBON	ST	8,500	\$9,245,500.00
<b>SUBTOTAL Transaction Fund #1:</b>			<b>\$9,245,500.00</b>
<b>Foreign Military Sales Transaction Fund #2 – CLOSED</b>			
<b>HHS &amp; Treasury General Fund Sales Program Fund #3 (P.L. 104-201)</b>			
<b>MATERIALS</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>SALES VALUE</b>
TUNGSTEN, O & C	LBW	3,553,078.14	\$53,550,595.41
TUNGSTEN METAL POWDER	LBW	86,105	\$2,151,668.91
<b>SUBTOTAL Transaction Fund #3:</b>			<b>\$55,702,264.32</b>
<b>Spectrum Sales Program Transaction Fund #4 (P.L.-105-261)</b>			
<b>MATERIALS</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>SALES VALUE</b>
CHROMIUM - METAL	ST	161	\$2,374,703.00
CHROMIUM - FERRO LOW CARBON	ST	4,690	\$12,142,739.28
<b>SUBTOTAL Transaction Fund #4:</b>			<b>\$14,517,442.28</b>
<b>COBALT POST FMS Transaction Fund #5 (P.L.-105-85)</b>			
<b>MATERIALS</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>SALES VALUE</b>
COBALT	LbCo		0
<b>SUBTOTAL Transaction Fund #5:</b>			<b>0</b>
		<b>TOTAL SALES</b>	<b>\$79,465,206.60</b>
<p>1). The Principal Sales Program Transaction Fund Account # 1 consists of all commodities authorized for sale that are not specifically earmarked for any particular revenue goal. Revenues from the Principal Program are used to fund NDS operations and management by the DLA.</p>			
<p>2). The Foreign Military Sales (FMS) Program Transaction Fund Account # 2 authorized the sale of specific quantities of 11 NDS commodities as offsets to fund the FMS program. The program is now CLOSED.</p>			
<p>3). The Health and Human Services (HHS) and Treasury General Fund Program Transaction Fund Account # 3 authorized the transfer to the Department of Health and Human Services of revenues from the sale of specific quantities of 27 NDS commodities. The program began in FY 1999 and extends through 2016. After fiscal year revenues are met, the remainder will be transferred to the Treasury General Fund.</p>			
<p>4). The Spectrum Program Transaction Fund Account # 4 authorizes the sale of specific quantities of 4 NDS commodities. The program started in FY 2000 and extends through 2016. These revenues are to reclaim certain radio frequencies that are reserved for the Department of Defense but were surrendered for civilian use, and to fund various military personnel benefit programs.</p>			
<p>5). The Cobalt Post FMS Program authorized the sale of 14,058,014 pounds of cobalt contained in the NDS. The National Defense Authorization Act of Fiscal Year 2010 has extended the program through 2011. Receipts are to be deposited in the General Fund of the Treasury.</p>			

# III: FINANCIAL STATUS OF THE NDS TRANSACTION FUND

## OVERVIEW

The FY 2012 Transaction Fund financial status (Table 5) portrays the collections and disbursement activity. All proceeds from the sale of excess materials (reimbursements collected) are posted in the Transaction Fund.

**TABLE 5: FINANCIAL STATUS OF THE NDS TRANSACTION FUND**  
**October 1, 2010 to September 30, 2012**  
 (Millions of Dollars)

TRANSACTION	FY 11	FY 12
Beginning Unobligated Balance	417.3	356.9
Collections from Sales of Material	94.7	61.9
Prior-Year Recovery of Obligations	0	*1.9
<b>Subtotal</b>	512.0	420.7
<b>Transfers to Receipt Accounts</b>		
Spectrum/HHS Programs	116.8	78.8
Cobalt Program	0	(2.5)
<b>Total Transfers</b>	116.8	76.3
<b>DLA Strategic Materials Operations</b>		
Disbursements from Obligations	(38.3)	(43.4)
<b>ENDING UNOBLIGATED BALANCE**</b>	<b>356.9</b>	<b>**301.0</b>
* The recovery of \$1.9 million represents prior-year obligations no longer required and closed by the Program Managers. These prior-year obligations are not available as resource authority (available to be spent) in FY12, therefore they must be recovered to the Transaction Fund. ** Future estimated storage and disposal outlays will further reduce T-Fund unobligated balances.		

Table 5: Sales generated post mid-year FY 2012 generated collections of \$61.9 million. Transfers to two Congressionally mandated programs totaled \$78.8 million, however, an adjustment in FY 2012 in the amount of -\$2.5 million to correct a prior-year payment transfer error in a third program resulted in a financial reported net posting of \$76.3 million. Holdover from prior year Sales contributed to meeting the planned payment transfer commitment.

All data shown in Table 5 are sourced to the official accounting records, as reported to the U.S. Treasury by the Defense Finance and Accounting Service. In addition to expenses for NDS operations, future anticipated storage and disposal expenses totaling \$82.9 million that the NDS is likely to incur for mercury management will further reduce transaction fund balances. These are costs for all related mercury management requirements including transferring the entire inventory into new containers, long term consolidated storage at the Hawthorne Army Depot, Hawthorne, Nevada, and restoration of the current storage locations (expensed over the next 40 years).

## **IV: OTHER PERTINENT INFORMATION ON ADMINISTRATION OF THE NDS**

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### **REPORTS TO CONGRESS**

During Fiscal Year 2012, three reports on REE were prepared in response to Congressional Reporting Requirements.

#### **Rare Earth Materials in Defense Applications**

This report was prepared pursuant to section 843 of Public Law 111-383, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and page 174 of Senate Report 111-201, accompanying S.3454, the National Defense Authorization Act for Fiscal Year 2011. The Act required the Secretary of Defense to submit a report to Congress on the supply and demand for rare earth materials in defense applications and Senate Report 111-201 requested discussion of national security issues related to rare earth materials in the defense supply chain.

#### **Assessment of Feasibility and Advisability of Establishment of Rare Earth Material Inventory**

This report was prepared in response to section 853 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), which required: (1) the DLA to conduct an assessment of the feasibility and advisability of establishing an inventory of rare earth materials and to submit the results of that assessment to the Secretary of Defense, and (2) the Secretary of Defense to submit a report to the congressional defense committees on the findings and recommendations from the assessment, any actions the Secretary intends to take as a result of the assessment, and any recommendations for legislative or regulatory changes, to ensure the long-term availability of rare earth materials.

This report also responded to a request by the Senate Armed Services Committee in its report (Senate Report 112-26, page 65) to accompany S.1253, the National Defense Authorization Act for Fiscal Year 2012, concerning recent impacts in rare earth metals markets.

#### **Feasibility and Desirability of Recycling, Recovery and Reprocessing Rare Earth Elements**

This report was prepared in response to the conference report, House Report 112-329, page 718, to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012. The conferees required the Secretary of Defense to submit a report to Congress on the feasibility and desirability of recycling, recovering, and reprocessing REE, including fluorescent lighting in DoD facilities, batteries, and neodymium iron boron magnets.

## ENVIRONMENTAL ACTIVITIES

During FY 2012, significant improvements occurred in the DLA Strategic Materials environmental program. A new root cause analysis procedure was adopted, the hazardous communications program was updated, and progress was made on the following environmental projects:

- In coordination with state environmental agencies, remediation work was accomplished at current and former storage sites located at Somerville, New Jersey; Warren, Ohio; and Large, Pennsylvania;
- Environmental and operational planning occurred for the installation and operation of a Mercury Management Transfer Station (MMTS). The MMTS will be used in conjunction with a long-term project involving transfer of the entire mercury inventory (4,890 tons) into new containers;
- Sampling and analysis of Manganese Ore at Wenden, Arizona, was completed by a U.S. Army Corps of Engineers (USACE) contractor;
- Environmental liability cost estimates were updated to address project progress and project completions;
- An underground storage tank was removed at the Hammond Depot, Hammond, Indiana;
- External program audits were conducted at the Scotia Depot, Scotia, New York, under the auspices of USACE and the U.S. Army Institute of Public Health;
- Internal audits were conducted at the Hammond Depot, Hammond, Indiana, and Warren Depot, Warren, Ohio, by staff environmental protection specialists;
- Stormwater sampling was conducted at Point Pleasant, West Virginia storage site;
- The stormwater permit was closed out at a former storage site (Somerville, New Jersey); and
- More than 100 updates were added to the "I Am The Key" website. The website hosts an Environmental Safety and Occupational Health Management System that has been in place since September 2004.

# APPENDIX A: THE STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT (50 U.S.C. § 98 et seq.)

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SEC. 1. This Act may be cited as the “Strategic and Critical Materials Stock Piling Act.”

## Findings And Purpose

SEC. 2. (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 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. (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. (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 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 the stockpile shall be transferred to the stockpile. Any such transfer 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 materials are suitable for transfer to the stockpile under this subsection, are suitable for disposal through the stockpile, and are uncontaminated.

### **Authority for Stockpile Operations**

SEC. 5. (a)(1) Except for acquisitions made under the authority of paragraph (3) or (4) of section 6(a) of this Act, 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) of this Act 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) of this Act, 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. (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) subject to the notification required by subsection (d)(2) of this section, 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

(6) 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 this section of strategic and critical materials for, and the disposal under subsection (a)(5) or (a)(6) of this section 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) of this Act or any other provision of law, whenever the President provides under subsection (a)(3) of this section 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 National Security 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) of this section 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. (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; and

(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.

(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 National Security of the House of Representatives.

## **Materials Development and Research**

SEC. 8. (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. (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) Testing and quality studies of stockpile materials.

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

(F) Activities authorized under section 15 of this Act.

(G) 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.

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

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

(J) 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.

(K) Pay of employees of the National Defense Stockpile program.

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

(3) Moneys in the fund shall remain available 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 barter 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. (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) 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, United States Code, 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) of this Act, 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. (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 of this Act;

(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) of this Act 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) of this Act, 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) of this Act, as appropriate.

## Definitions

SEC. 12. 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. 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 Act, 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. (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), 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. (a) 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 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.

(b) A contract or commitment made under 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 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.

(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 11(a) information with respect to activities conducted under this section.

## **National Defense Stockpile Manager**

SEC. 16. (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 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 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 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

**APPENDIX B:**  
**EXCERPTS FROM THE NATIONAL DEFENSE**  
**AUTHORIZATION ACT FOR FISCAL YEAR 2012**  
**Public Law 112-81**

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**SEC. 853. ASSESSMENT OF  
FEASIBILITY AND ADVISABILITY OF  
ESTABLISHMENT OF RARE EARTH  
MATERIAL INVENTORY.**

(a) Requirement.--Not later than 180 days after the date of the enactment of this Act, the Administrator of the Defense Logistics Agency Strategic Materials shall submit to the Secretary of Defense an assessment of the feasibility and advisability of establishing an inventory of rare earth materials necessary to ensure the long-term availability of such rare earth materials. The assessment shall--

(1) identify and describe the steps necessary to create an inventory of rare earth materials, including oxides, metals, alloys, and magnets, to support national defense requirements and ensure reliable sources of such materials for defense purposes;

(2) provide a detailed cost-benefit analysis of creating such an inventory in accordance with Office of Management and Budget Circular A-94;

(3) provide an analysis of the potential market effects, including effects on the pricing and commercial availability of such rare earth materials, associated with creating such an inventory;

(4) identify and describe the mechanisms available to the Administrator to make such an inventory accessible, including by purchase, to entities requiring such rare earth materials to support national defense requirements, including producers of end items containing rare earth materials;

(5) provide a detailed explanation of the ability of the Administrator to authorize the sale of excess materials to support a Rare Earth Material Stockpile Inventory Program;

(6) analyze any potential requirements to amend or revise the Defense Logistics Agency Strategic Materials Annual Material Plan for fiscal year 2012 and subsequent years to reflect an inventory of rare earth materials to support national defense requirements;

(7) identify and describe the steps necessary to develop or maintain a competitive, multi-source

supply-chain to avoid reliance on a single source of supply;

(8) identify and describe supply sources considered by the Administrator to be reliable, including an analysis of the capabilities of such sources to produce such materials in forms required for military applications in the next five years, as well as the security of upstream supply for these sources of material; and

(9) include such other considerations and recommendations as necessary to support the establishment of such inventory.

(b) Findings and Recommendations.--

(1) In general.-- Not later than 90 days after the date on which the assessment is submitted under subsection (a), the Secretary of Defense shall submit to the congressional defense committees--

(A) the findings and recommendations from the assessment required under subsection (a);

(B) a description of any actions the Secretary intends to take regarding the plans, strategies, policies, regulations, or resourcing of the Department of Defense as a result of the findings and recommendations from such assessment; and

(C) any recommendations for legislative or regulatory changes needed to ensure the long-term availability of such rare earth materials.

(c) Definitions.--In this section:

(1) The term "rare earth" means any of the following chemical elements in any of their physical forms or chemical combinations and alloys:

- |                  |                |
|------------------|----------------|
| (A) Scandium     | (J) Gadolinium |
| (B) Yttrium      | (K) Terbium    |
| (C) Lanthanum    | (L) Dysprosium |
| (D) Cerium       | (M) Holmium    |
| (E) Praseodymium | (N) Erbium     |
| (F) Neodymium    | (O) Thulium    |
| (G) Promethium   | (P) Ytterbium  |
| (H) Samarium     | (Q) Lutetium   |
| (I) Europium     |                |

(2) The term "capability" means the required facilities, manpower, technological knowledge, and

intellectual property necessary for the efficient and effective production of rare earth materials

**SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds.--During fiscal year 2012, the National Defense Stockpile Manager may obligate up to \$ 50,107,320 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (*50 U.S.C. 98h*) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.--The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional

obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.--The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 1412. <50 USC 98d note> REVISION TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

Section 3402(b) of the National Defense Authorization Act for fiscal year 2000 (Public Law 106-65; *50 U.S.C. 98d* note), as most recently amended by section 1412 of the Ike Skelton National Defense Authorization Act for fiscal year 2011 (Public Law 111-383; 124 Stat. 4412), is further amended by striking "\$ 730,000,000 by the end of fiscal year 2013" in paragraph (5) and inserting "\$ 830,000,000 by the end of fiscal year 2016".

# APPENDIX C: PREVIOUS YEARS' NATIONAL DEFENSE AUTHORIZATION ACTS

## NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2011

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### **SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) **OBLIGATION OF STOCKPILE FUNDS.**—During fiscal year 2011, the National Defense Stockpile Manager may obligate up to \$41,181,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.**—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional

obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS.**—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### **SEC. 1412. REVISION TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

Section 3402(b)(5) of the National Defense Authorization Act for fiscal year 2000 (50 U.S.C. 98d note), as most recently amended by section 1412(a) of the National Defense Authorization Act for fiscal year 2008 (Public Law 110–181; 122 Stat. 418), is amended by striking “\$710,000,000” and inserting “\$730,000,000”.

# EXCERPTS FROM THE NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2010

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## **SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds.--During fiscal year 2010, the National Defense Stockpile Manager may obligate up to \$ 41,179,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (*50 U.S.C. 98h*) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.--The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.--The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

## **SEC. 1412. EXTENSION OF PREVIOUSLY AUTHORIZED DISPOSAL OF COBALT FROM NATIONAL DEFENSE STOCKPILE.**

Section 3305(a)(5) of the National Defense Authorization Act for fiscal year 1998 (Public Law 105-85; *50 U.S.C. 98d* note), as most recently amended by section 1412(b) of the Duncan Hunter National Defense Authorization Act for fiscal year

2009 (Public Law 110-417; 122 Stat. 4648), is further amended by striking "during fiscal year 2009" and inserting "by the end of fiscal year 2011".

## **SEC. 1413. REPORT ON IMPLEMENTATION OF RECONFIGURATION OF THE NATIONAL DEFENSE STOCKPILE.**

(a) Report Required.--Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on any actions the Secretary plans to take in response to the recommendations contained in the report entitled "Reconfiguration of the National Defense Stockpile Report to Congress" dated April 2009 and submitted by the Under Secretary of Defense for Acquisition, Logistics, and Technology, as required by House Report 109-89, House Report 109-452, and Senate Report 110-115.

(b) Contents of Report.-- The report required by subsection (a) shall include the Secretary's recommendations for changes, based on the findings of the April 2009 report, to statutes, regulations, and policies, which the Secretary determines are necessary to enable the implementation of the recommendations contained in the April 2009 report or to improve Federal Government management of the National Defense Stockpile in the interest of the National Security Strategy.

(c) Congressional Notification.--The Secretary may not take any action regarding the implementation of any initiative recommended in the report required by subsection (a) until 45 days after the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives such report.

**EXCERPTS FROM THE  
DUNCAN HUNTER NATIONAL DEFENSE  
AUTHORIZATION FOR FISCAL YEAR 2009  
Public Law 110-417**

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**SEC. 1002. ONE-TIME SHIFT OF  
MILITARY RETIREMENT PAYMENTS.**

(a) Reduction of Payments.—Notwithstanding any other provision of law, any amounts that would otherwise be payable from the fund to individuals for the month of August 2013 (with disbursements scheduled for September 2013) shall be reduced by 1 percent.

(b) Reversion.—Beginning on September 1, 2013 (with disbursements beginning in October 2013), amounts payable to individuals from the fund shall revert back to amounts as specified in law as if the reduction in subsection (a) did not take place.

(c) Refund.—Any individual who has a payment reduced under subsection (a) shall receive a one-time payment, from the fund, in an amount equal to the amount of such reduction. This one-time payment shall be included with disbursements from the fund scheduled for October 2013.

(d) Fund.—In this section, the term “fund” refers to the Department of Defense Military Retirement Fund established by section 1461 of title 10, United States Code.

(e) Transfer.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall transfer \$40,000,000 from the unobligated balances of the National Defense Stockpile Transaction Fund to the Miscellaneous Receipts Fund of the United States Treasury to offset estimated costs arising from section 702 and the amendments made by such section.

**SEC. 1403. DEFENSE HEALTH  
PROGRAM.**

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2009 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of \$24,966,917,000, of which —

(1) \$24,467,074,000 is for Operation and Maintenance,

(2) \$195,938,000 is for Research, Development, Test, and Evaluation, and

(3) \$303,905,000 is for Procurement.

(b) Source of Certain Funds.—Of the amount available under subsection (a), \$1,300,000,000 shall, to the extent provided in advance in an Act making appropriations for fiscal year 2009, be available by transfer from the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h).

**SEC. 1411. AUTHORIZED USES OF  
NATIONAL DEFENSE STOCKPILE  
FUNDS.**

(a) Obligation of Stockpile Funds.—During fiscal year 2009, the National Defense Stockpile Manager may obligate up to \$41,153,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 1412. REVISIONS TO PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

(a) Fiscal year 1999 Disposal Authority.—Section 3303(a)(7) of the Strom Thurmond National Defense Authorization Act for fiscal year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as most recently amended by section 1412(b) of the National Defense Authorization Act for fiscal year 2008 (Public Law 110-181; 122 Stat. 418), is further amended by striking “\$1,066,000,000 by the end of

fiscal year 2015” and inserting “\$1,386,000,000 by the end of fiscal year 2016”.

(b) Fiscal year 1998 Disposal Authority.—Section 3305(a)(5) of the National Defense Authorization Act for Fiscal year 1998 (Public Law 105-85; 50 U.S.C. 98d note), as most recently amended by section 3302(b) of the John Warner National Defense Authorization Act for fiscal year 2007 (Public Law 109-364; 120 Stat. 2513), is further amended by striking “2008” and inserting “2009”.

# THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

## Public Law 110-181

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### **SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) **OBLIGATION OF STOCKPILE FUNDS.**-- During fiscal year 2008, the National Defense Stockpile Manager may obligate up to \$44,825,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.**--The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS.**--The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### **SEC. 1412. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.**

(a) **FISCAL YEAR 2000 DISPOSAL AUTHORITY.**--Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1788) and section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3545), is amended by striking "\$600,000,000 before" in paragraph (5) and inserting "\$710,000,000 by".

(b) **FISCAL YEAR 1999 DISPOSAL AUTHORITY.** -- Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108-375; 118 Stat. 2193), section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3545), and section 3302(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2513), is amended by striking "\$1,016,000,000 by the end of fiscal year 2014" in paragraph (7) and inserting "\$1,066,000,000 by the end of fiscal year 2015".

### **SEC. 1413. DISPOSAL OF FERROMANGANESE.**

(a) **DISPOSAL AUTHORIZED.**--The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2008.

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(b) **CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.**--

(1) **IN GENERAL.**--If the Secretary of Defense enters into a contract for the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2008, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) **ADDITIONAL AMOUNTS.**--If the Secretary enters into a contract for the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2008, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) **CERTIFICATION.**--The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits to the Committee on Armed

Services of the Senate and the Committee on Armed Services of the House of Representatives, written certification that--

(1) the disposal of the additional ferromanganese from the National Defense Stockpile under such paragraph is in the interest of national defense;

(2) the disposal of the additional ferromanganese under such paragraph will not cause disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese under such paragraph is consistent with the requirements and purpose of the National Defense Stockpile.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.--In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

## **SEC. 1414. DISPOSAL OF CHROME METAL.**

(a) DISPOSAL AUTHORIZED.--The Secretary of Defense may dispose of up to 500 short tons of chrome metal from the National Defense Stockpile during fiscal year 2008.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.--

(1) IN GENERAL.--If the Secretary of Defense completes the disposal of the total quantity of chrome metal authorized for disposal by subsection (a) before September 30, 2008, the Secretary of Defense may dispose of up to an additional 250 short tons of chrome metal from the National Defense Stockpile

before that date.

(2) ADDITIONAL AMOUNTS.--If the Secretary completes the disposal of the total quantity of additional chrome metal authorized for disposal by paragraph (1) before September 30, 2008, the Secretary may dispose of up to an additional 250 short tons of chrome metal from the National Defense Stockpile before that date.

(c) CERTIFICATION.--The Secretary of Defense may dispose of chrome metal under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, written certification that--

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(1) the disposal of the additional chrome metal from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional chrome metal will not cause disruption to the usual markets of producers and processors of chrome metal in the United States; and

(3) the disposal of the additional chrome metal is consistent with the requirements and purpose of the National Defense Stockpile.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.--In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

# EXCERPTS FROM THE JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007 AND REPORT EXCERPTS

## Public Law 109-364

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### **TITLE XXXIII--NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

#### **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds.—During fiscal year 2007, the National Defense Stockpile Manager may obligate up to \$52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

#### **SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.**

(a) Fiscal Year 1999 Disposal Authority.—Section

3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108-375; 118 Stat. 2193) and Section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3545), is amended —

(1) by striking “and” at the end of paragraph (5); and

(2) by striking the period at the end of paragraph (6) and inserting “;and”; and

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

“(7) \$1,016,000,000 by the end of fiscal year 2014.”.

(b) Fiscal Year 1998 Disposal Authority.—Section 3305(a)(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 50 U.S.C. 98d note), as amended by section 3305 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1390), is amended by striking “2006” and inserting “2008”.

(c) Fiscal Year 1997 Disposal Authority.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 50 U.S.C. 98d note), as amended by section 3402(f) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 973) and section 3304(c) of the National Defense Authorization Act for 2002 (Public Law 107-107; 115 Stat. 1390), is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

“(2) \$720,000,000 during the 12-fiscal year period ending September 30, 2008.”; and

(2) in subsection (b)(2), by striking “the 10-fiscal year period” and inserting “the period”.

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## Conference Report 109-702

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### **Sale of Strategic and Critical Materials**

The National Defense Stockpile (NDS) operates under authority of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98, et seq.). The Act mandates the maintenance of a stockpile of strategic and critical materials to decrease, and preclude, when possible, dependence upon foreign sources for supplies in times of national emergency. The Defense National Stockpile Center, a field activity of the Defense Logistics Agency, conducts the sale of strategic and critical materials in the NDS. Over 95 percent of the materials currently in the NDS have been determined to be in excess to the Department of Defense's (DOD) needs and are now being disposed. In the committee report (H. Rept. 109-

89) accompanying the National Defense Authorization Act for Fiscal Year 2006, the committee noted concern with the increasing reliance on foreign sources of supply, particularly with respect to titanium, for defense programs. In addition, the report directed the Secretary of Defense to review DOD's current policy to dispose of material and determine whether the NDS should be re-configured to adapt to current world market conditions to ensure future availability of materials required for defense needs. The committee notes that this report was not delivered and again urges the Secretary to submit the report to the Senate Committee on Armed Services and the House Committee on Armed Services.

# THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006 Public Law 109-163

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## **TITLE XXXIII--NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revisions to required objectives for previously authorized disposals from National Defense Stockpile.

Sec. 3303. Authorization for disposal of tungsten ores and concentrates.

Sec. 3304. Disposal of ferromanganese.

## **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds.—During fiscal year 2006, the National Defense Stockpile Manager may obligate up to \$52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

## **SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.**

(a) Disposal Authority.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108-375; 118 Stat. 2193), is amended—

(1) by striking “and” at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following new paragraphs:

“(5) \$900,000,000 by the end of fiscal year 2011; and

“(6) \$1,000,000,000 by the end of fiscal year 2013.”.

(b) Additional Disposal Authority.—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1788), is amended—

(1) by striking “and” at the end of paragraph (3); and

(2) by striking paragraph (4) and inserting the following new paragraphs:

“(4) \$500,000,000 before the end of fiscal year 2011; and

“(5) \$600,000,000 before the end of fiscal year 2013.”

### **SEC. 3303. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.**

(a) Disposal Authorized.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) Certain Sales Authorized.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

### **SEC. 3304. DISPOSAL OF FERROMANGANESE.**

(a) Disposal Authorized.—The Secretary of Defense may dispose of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006.

(b) Contingent Authority for Additional Disposal.—If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2006, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) Certification.—The Secretary of Defense may dispose of ferromanganese under the authority of subsection (b) only if the Secretary submits written

certification to the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) Delegation of Responsibility.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) National Defense Stockpile Defined.—In this section, the term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

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## **Congressional Report Excerpt**

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### **Sale of Strategic and Critical Materials**

The National Defense Stockpile (NDS) operates under the authority of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98, et seq.). The Act mandates that a stockpile of strategic and critical materials be maintained to decrease, and preclude, when possible, dependence on foreign sources of supply in times of national emergency. The Defense National Stockpile Center, a field activity of the Defense Logistics Agency,

conducts the sale of strategic and critical materials in the NDS. Over 95 percent the materials currently in the NDS have been determined to be excess to Department of Defense (DOD) needs and are now being disposed of. As a result of recent market conditions, particularly with respect to titanium, and the increasing reliance on foreign sources of supply for defense programs, the committee has concerns about the the DOD’s ability to ensure the timely availability of materials to meet the current needs of

the military services. The committee directs the Secretary to review the DOD's current policy to dispose of material and determine whether the NDS should be re-configured to adapt to current world market conditions to ensure future availability of materials required for defense needs. The committee directs the Secretary to report to the Senate Committee on Armed Services and the House Committee on Armed Services by March 1, 2006, on the findings and conclusions.

**RONALD W. REAGAN NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEAR 2005  
Public Law 108-375**

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**TITLE XXXIII--NATIONAL DEFENSE  
STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.

Sec. 3303. Disposal of ferromanganese.

Sec. 3304. Prohibition on storage of mercury at certain facilities.

**SEC. 3301. AUTHORIZED USES OF  
NATIONAL DEFENSE STOCKPILE  
FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS- During fiscal year 2005, the National Defense Stockpile Manager may obligate up to \$59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS- The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS- The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3302. REVISION OF EARLIER  
AUTHORITY TO DISPOSE OF  
CERTAIN MATERIALS IN NATIONAL  
DEFENSE STOCKPILE.**

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

(4) \$785,000,000 by the end of fiscal year 2005; and

(5) \$870,000,000 by the end of fiscal year 2010.

**SEC. 3303. DISPOSAL OF  
FERROMANGANESE.**

(a) DISPOSAL AUTHORIZED- The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2005.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL- (1) If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2005, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) If the Secretary completes the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2005, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION- The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of

Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, that--

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) **DELEGATION OF RESPONSIBILITY-** The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) **NATIONAL DEFENSE STOCKPILE DEFINED-** In this section, the term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

**SEC. 3304. PROHIBITION ON STORAGE OF MERCURY AT CERTAIN FACILITIES.**

(a) **PROHIBITION-** During fiscal year 2005, the Secretary of Defense may not store mercury from the National Defense Stockpile at any facility that is not owned or leased by the United States.

(b) **NATIONAL DEFENSE STOCKPILE DEFINED-** In this section, the term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004 Public Law 108-136

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## TITLE XXXIII -- NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds

Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

### SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS - During fiscal year 2004, the National Defense Stockpile Manager may obligate up to \$69,701,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

Section 3402 of the National Defense Authorization Act for fiscal Year 2000 (Public Law 106-65; 113 Stat. 972; 50 U.S.C. 98d note) is amended --

(1) in subsection (b) --

(A) by striking “and” at the end of paragraph (2); and

(B) by striking paragraph (3) and inserting the following new paragraphs:

“(3) \$340,000,000 before the end of fiscal year 2005; and

“(4) \$450,000,000 before the end of fiscal year 2013.”; and

(2) in subsection (e), by adding at the end the following new sentence: “The disposal of materials under this section to achieve the receipt levels specified in subsection (b), within the time periods specified in subsection, shall be in addition to any routine and on- going disposals used to fund operations of the National Defense Stockpile.

# CONSOLIDATED APPROPRIATIONS ACT, 2004

## Public Law 108-199

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### SEC. 113.

(a) The Secretary of Defense shall study issues related to the consolidation of the storage of mercury contained in the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) and report to Congress on June 1, 2004, on the results of the study.

(b) A decision to consolidate the storage of mercury to a

site that currently does not store mercury contained in the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) shall occur no earlier than 180 days after the date of the report required in subsection (a).

# **BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003 Public Law 107-314**

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## **TITLE XXXIII -- NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

### **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) **OBLIGATION OF STOCKPILE FUNDS** - During fiscal year 2003, the National Defense Stockpile Manager may obligate up to \$76,400,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under

subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS** - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS** - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002 Public Law 107-107

## TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.

Sec. 3304. Revision of limitations on required disposals of certain materials in National Defense Stockpile.

Sec. 3305. Acceleration of required disposal of cobalt in National Defense Stockpile.

Sec. 3306. Restriction on disposal of manganese ferro.

### SEC. 3301. DEFINITIONS.

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term “Market Impact Committee” means the Market Impact Committee appointed under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)).

### SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2002, the National Defense Stockpile Manager may obligate up to \$65,200,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials contained in the National Defense Stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Bauxite .....	40,000 short tons
Chromium Metal .....	3,512 short tons
Iridium.....	25,140 troy ounces
Jewel Bearings.....	30,273,221 pieces
Manganese Ferro HC .....	209,074 short tons
Palladium.....	11 troy ounces
Quartz Crystal .....	216,648 pounds
Tantalum Metal Ingot.....	120,228 pounds contained
Tantalum Metal Powder .....	36,020 pounds contained
Thorium Nitrate.....	600,000 pounds

(b) MINIMIZATION OF DISRUPTION AND LOSS.— The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(c) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

**SEC. 3304. REVISION OF LIMITATIONS ON REQUIRED DISPOSALS OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.**

(a) PUBLIC LAW 105-261.—Section 3303 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note) is amended—

(1) in subsection (a)—

(A) by striking “the amount of—” and inserting “total amounts not less than—”;

(B) by striking “and” at the end of paragraph (3); and

(C) by striking paragraph (4) and inserting the following new paragraphs:

“(4) \$760,000,000 by the end of fiscal year 2005; and

“(5) \$770,000,000 by the end of fiscal year 2011.”; and

(2) in subsection (b)(2), by striking “receipts in the amounts specified in subsection (a)” and inserting “receipts in the total amount specified in subsection (a)(5)”.

(b) PUBLIC LAW 105-85.—Section 3305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking “amounts equal to—” and inserting “total amounts not less than—”; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

“(2) The President may not dispose of cobalt under this section in fiscal year 2006 in excess of the disposals necessary to result in receipts during that fiscal year in the total amount specified in subsection (a)(5).”.

(c) PUBLIC LAW 104-201.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking “amounts equal to—” and inserting “total amounts not less than—”; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

“(2) The President may not dispose of materials under this section during the 10-fiscal year period referred to in subsection (a)(2) in excess of the disposals necessary to result in receipts during that period in the total amount specified in such subsection.”.

**SEC. 3305. ACCELERATION OF REQUIRED DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.**

Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 50 U.S.C. 98d note), as amended by section 3304(b) of this Act, is amended—

(1) in paragraph (1), by striking “2003” and inserting “2002”;

(2) in paragraph (2), by striking “2004” and inserting “2003”;

(3) in paragraph (3), by striking “2005” and inserting “2004”;

(4) in paragraph (4), by striking “2006” and inserting “2005”; and

(5) in paragraph (5), by striking “2007” and inserting “2006”.

**SEC. 3306. RESTRICTION ON DISPOSAL OF MANGANESE FERRO.**

(a) TEMPORARY QUANTITY RESTRICTIONS.—During fiscal years 2002 through 2005, the disposal of manganese ferro in the National Defense Stockpile may not exceed the following quantities:

(1) During fiscal year 2002, 25,000 short tons of all grades of manganese ferro.

(2) During fiscal year 2003, 25,000 short tons of high carbon manganese ferro of the highest grade.

(3) During each of the fiscal years 2004 and 2005, 50,000 short tons of high carbon manganese ferro of the highest grade.

(b) CONFORMING AMENDMENT.—Section 3304 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 629) is repealed.

# FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

## Public Law 106-398

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### **TITLE XXXIII-NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized users of stockpile funds.

Sec. 3302. Increased receipts under prior disposal authority.

Sec. 3303. Disposal of titanium.

### **SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.-During fiscal year 2001, the National Defense Stockpile Manager may obligate up to \$71,000,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS. -The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS. -The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### **SEC. 3302. INCREASED RECEIPTS UNDER PRIOR DISPOSAL AUTHORITY.**

Section 3303(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2263; 50 U.S.C. 98d note) is

amended by striking “\$590,000,000” and inserting “\$720,000,000”.

### **SEC. 3303. DISPOSAL OF TITANIUM.**

(a) DISPOSAL REQUIRED. -- Notwithstanding any other provision of law, the President shall, by September 30, 2011, dispose of 30,000 short tons of titanium contained in the National Defense Stockpile.

(b) TREATMENT OF RECEIPTS. -- Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), of the funds received as a result of the disposal of titanium under subsection (a), \$6,000,000 shall be transferred to the American Battle Monuments Commission for deposit in the fund established under section 2113 of title 36, United States Code, for the World War II memorial authorized by section 1 of Public Law 103-32 (107 Stat. 90), and the remainder shall be deposited into the Treasury as miscellaneous receipts.

(c) WORLD WAR II MEMORIAL. -

(1) The amount transferred to the American Battle Monuments Commission under subsection (b) shall be used to complete all necessary requirements for the design of, ground breaking for, construction of, maintenance of, and dedication of the World War II memorial. The Commission shall determine how the amount shall be apportioned among such purposes.

(2) Any funds not necessary for the purposes set forth in paragraph (1) shall be transferred to and deposited in the general fund of the Treasury.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY. -The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

**DEPARTMENT OF DEFENSE APPROPRIATIONS ACT,  
2001  
Public Law 106-259**

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Title II authorizes \$150 million to be transferred from the National Defense Stockpile Transaction Fund to the Operation and Maintenance Accounts of the Army, Navy, and Air Force (\$50 million each).

Section 8157. The Secretary of Defense may transfer, at no cost, the title/ownership of the alloying material

being stored at the Brownfield site in Bethlehem, Pennsylvania to the Bethlehem Development Corporation: Provided, That the net proceeds from the disposition of the materials are only for the redevelopment of the Brownfield site.

**NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2000  
Public Law 106-65**

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**TITLE XXXIV--NATIONAL DEFENSE STOCKPILE**

Sec. 3401. Authorized uses of stockpile funds.

Sec. 3402. Disposal of certain materials in National Defense Stockpile.

Sec. 3403. Limitationson previous authority for disposal of stockpile materials.

**SEC. 3401. AUTHORIZED USES OF STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds. -- During fiscal year 2000, the National Defense Stockpile Manager may obligate up to \$78,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations. -- The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. -- The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3402. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.**

(a) Disposal Required. -- Subject to subsection (c), the President shall make disposals from the National Defense Stockpile of materials in quantities as follows:

- (1) Beryllium metal, 250 short tons.
- (2) Chromium ferro alloy, 496,204 short tons.
- (3) Chromium metal, 5,000 short tons.
- (4) Palladium, 497,271 troy ounces.

(b) Management of Disposal to Achieve Objectives for Receipts. -- The President shall manage the disposal of materials under subsection (a) so as to result in receipts to the United States in amounts equal to -

- (1) \$10,000,000 during fiscal year 2000;
- (2) \$100,000,000 during the 5-fiscal year period ending September 30, 2004;
- (3) \$300,000,000 during the 10-fiscal year period ending September 30, 2010.

(c) Minimization of Disruption and Loss.--The President may not dispose of the material under subsection (a) to the extent that the disposal will result in -

- (1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or
- (2) avoidable loss to the United States.

(d) Disposition of Receipts.--Notwithstanding section 9 of the Strategic and critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury.

(e) Relationship to Other Disposal Authority.--The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not

affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) Increased Receipts Under Prior Disposal Authority. -

(1) Section 3303(a)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat 2855; 50 U.S.C. 98d note) is amended by striking “\$612,000,000” and inserting “\$720,000,000”.

(2) Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat 2057; 50 U.S.C. 98d note) is amended -

(A) in paragraph (2), by striking “\$30,000,000” and inserting “\$50,000,000”;

(B) in paragraph (3), by striking “\$34,000,000” and inserting “\$64,000,000”; and

(C) in paragraph (4), by striking “\$34,000,000” and inserting “\$67,000,000”.

(g) Elimination of Disposal Restrictions on Earlier Disposal Authority. -- Section 3303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 629) is repealed.

### **SEC. 3403. LIMITATIONS ON PREVIOUS AUTHORITY FOR DISPOSAL OF STOCKPILE MATERIALS.**

(a) Public Law 105-261 Authority. - Section 3303(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2263; 50 U.S.C. 98d note) is amended -

(1) by striking “(b) LIMITATION ON DISPOSAL

QUANTITY. - “and inserting “(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)”;

(2) by adding at the end the following:

“(2) The President may not dispose of materials under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a).”.

(b) Public Law 105-85 Authority.--Section 3305(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2058; 50 U.S.C. 98d note) is amended--

(1) by striking “(b) LIMITATION ON DISPOSAL QUANTITY. - ” and inserting “(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)”;

(2) by adding at the end the following:

“(2) The President may not dispose of cobalt under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a).”.

(c) Public Law 104-201 Authority.--Section 3303(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2855; 50 U.S.C. 98d note) is amended -

(1) by striking “(b) LIMITATION ON DISPOSAL QUANTITY.--”and inserting “(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)”;

(2) by adding at the end the following:

“(2) The President may not dispose of materials under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a).”.

**DEPARTMENT OF DEFENSE APPROPRIATIONS ACT,  
2000  
Public Law 106 -79**

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Title II authorizes \$150 million to be transferred from the National Defense Stockpile Transaction Fund to the Operation and Maintenance Accounts of the Army, Navy, and Air Force (\$50 million each).

# STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

## Public Law 105-261

### TITLE XXXIII--NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.

Sec. 3304. Use of stockpile funds for certain environmental remediation, restoration, waste management, and compliance activities.

#### SEC. 3301. DEFINITIONS.

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

#### SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) **Obligation of Stockpile Funds.** - During fiscal year 1999, the National Defense Stockpile Manager may obligate up to \$83,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) **Additional Obligations.** - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **Limitations.** - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE

(a) **Disposal Required**—Subject to subsection (c), the President shall dispose of materials contained in the national Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in total amounts not less than –

- (1) \$105,000,000 by the end of fiscal year 1999;
- (2) \$460,000,000 by the end of fiscal year 2002;
- (3) \$555,000,000 by the end of fiscal year 2003; and
- (4) \$590,000,000 by the end of fiscal year 2005.

(b) **Limitation on Disposal Authority.**—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposal	Quantity
Bauxite Refractory .....	29,000 long calcined ton
Beryllium Metal .....	100 short tons
Chromite Chemical .....	34,000 short dry tons
Chromite Refractory.....	159,000 short dry tons
Chromium Ferroalloy .....	125,000 short tons
Columbium Carbide Powder .....	21,372 pounds of
.....	contained Columbium
Columbium Concentrates .....	1,733,454 pounds of
.....	contained Columbium
Columbium Ferro .....	249,396 pounds of
.....	contained Columbium
Columbium Metal Ingots.....	161,123 pounds of
.....	contained Columbium
Diamond, Stones .....	3,000,000 carats
Germanium Metal .....	28,198 kilograms
Graphite Natural Ceylon Lump .....	5,492 short tons
Indium .....	14,248 troy ounces
Mica Muscovite Block .....	301,000 pounds
Mica Phlogopite Bloc.....	130,745 pounds
Platinum .....	439,887 troy ounces
Platinum—Iridium .....	4,450 troy ounces

Platinum—Palladium..... 750,000 troy ounces  
 Tantalum Carbide Powder .....22,688 pounds of  
 .....contained Tantalum  
 Tantalum Metal Ingots.....125,000 pounds of  
 .....contained Tantalum  
 Tantalum Metal Powder .....125,000 pounds of  
 .....contained Tantalum  
 Tantalum Minerals.....1,751,364 pounds of  
 .....contained Tantalum  
 Tantalum Oxide .....122,730 pounds of  
 .....contained Tantalum  
 Tungsten Carbide Powder.....2,032,896 pounds of  
 ..... contained Tungsten  
 Tungsten Ferro.....2,024,143 pounds of  
 ..... contained Tungsten  
 Tungsten Metal Powder.....1,898,009 pounds of  
 ..... contained Tungsten  
 Tungsten Ores & Concentrates .....76,358,235 pounds of  
 ..... contained Tungsten

(c) Minimization of Disruption and Loss.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) Treatment of Receipts.—Notwithstanding section 9 of the Strategic and Critical materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials authorized for disposal under subsection (a) shall be treated as follows:

(1) The following amounts shall be transferred to the Secretary of Health and Human Services, to be credited in the manner determined by the Secretary of Health and Human Services, to be credited in the manner determined by the Secretary to the Federal Hospital Insurance Trust Fund and the Federal Supplementary

Medical Insurance Trust Fund:

- (A) \$3,000,000 during Fiscal Year 1999
- (B) \$22,000,000 during Fiscal Year 2000
- (C) \$28,000,000 during Fiscal Year 2001
- (D) \$31,000,000 during Fiscal Year 2002
- (E) \$8,000,000 during Fiscal Year 2003

(2) The balance of the funds received shall be deposited into the general fund of the Treasury.

(e) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials specified in such subsection.

(f) Authorization of Sale.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of \$100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

**SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.**

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

“(J) 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.”.

# EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 1999 Public Law 106-31

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**Sec. 303.**

(a) Disposal Authorized. - Subject to subsection (c), the President may dispose of the material in the National Defense Stockpile specified in the table in subsection (b).

(b) Table.- The total quantity of the material authorized for disposal by the President under subsection (a) is as follows:

Authorized Stockpile Disposal	
<u>Material for disposal</u>	<u>Quantity</u>
Zirconium ore .....	17,383 short dry tons

(c) Minimization of Disruption and Loss.--The President may not dispose of material under subsection (a) to the extent that the disposal will result in-

(1) undue disruption of the usual markets of producers, processors, and consumers of the material proposed for disposal; or

(2) avoidable loss to the United States.

(d) Relationship to Other Disposal Authority.-- in subsection (a) is new disposal authority and is in

addition to, and shall not affect, any other disposal authority provided by law regarding the material specified in such subsection.

(e) National Defense Stockpile Defined.--In this section, the term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

**Sec. 304.**

Notwithstanding any other provision of law, from funds appropriated by Public Law 105-262, Public Law 105- 56, and Public Law 104-208, under the heading “Aircraft Procurement, Air Force”, \$50,700,000 is available for recording, adjusting, and liquidating obligations incurred as of the date of this Act for the fiscal years 1995 and 1996 production quantities of Joint Surveillance Target Attack Radar System (JSTARS) aircraft: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for the JSTARS obligations and follow normal reprogramming procedures.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998 Public Law 105-85

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## **TITLE XXXIII--NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Disposal of beryllium copper master alloy in National Defense Stockpile.

Sec. 3304. Disposal of titanium sponge in National Defense Stockpile.

Sec. 3305. Disposal of cobalt in National Defense Stockpile.

Sec. 3306. Required procedures for disposal of strategic and critical materials.

Sec. 3307. Return of surplus platinum from the Department of the Treasury.

### **SEC. 3301. DEFINITIONS.**

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term “Market Impact Committee” means the Market Impact Committee established under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-1(c)).

### **SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds. - During fiscal year 1998, the National Defense Stockpile Manager may obligate up to \$73,000,000 of the funds in the National

Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations. - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### **SEC. 3303. DISPOSAL OF BERYLLIUM COPPER MASTER ALLOY IN NATIONAL DEFENSE STOCKPILE.**

(a) Disposal Authorization.—Pursuant to section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)), the National Defense Stockpile Manager may dispose of all beryllium copper master alloy from the National Defense Stockpile as part of continued efforts to modernize the stockpile.

(b) Precondition for Disposal.—Before beginning the disposal of beryllium copper master alloy under subsection (a), the National Defense Stockpile Manager shall certify to Congress that the disposal of beryllium copper master alloy will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical material needs of the United States.

(c) Consultation With Market Impact Committee.—In disposing of beryllium copper master alloy under

subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of beryllium copper master alloy does not disrupt the domestic beryllium industry.

(d) **Extended Sales Contracts.**—The National Defense Stockpile Manager shall provide for the use of long-term sales contracts for the disposal of beryllium copper master alloy under subsection (a) so that the domestic beryllium industry can re-absorb this material into the market in a gradual and nondisruptive manner. However, no such contract shall provide for the disposal of beryllium copper master alloy over a period longer than eight years, beginning on the date of the commencement of the first contract under this section.

(e) **Relationship to Other Disposal Authority.**—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

(f) **Beryllium Copper Master Alloy Defined.**—For purposes of this section, the term “beryllium copper master alloy” means an alloy of nominally four percent beryllium in copper.

### **SEC. 3304. DISPOSAL OF TITANIUM SPONGE IN NATIONAL DEFENSE STOCKPILE.**

(a) **Disposal Required.**—Subject to subsection (b), the National Defense Stockpile Manager shall dispose of 34,800 short tons of titanium sponge contained in the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) and excess to stockpile requirements.

(b) **Consultation With Market Impact Committee.**—In disposing of titanium sponge under subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of titanium sponge does not disrupt the domestic titanium industry.

(c) **Relationship to Other Disposal Authority.** The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

### **SEC. 3305. DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.**

(a) **Disposal Required.** -- Subject to subsections (b) and (c), the President shall dispose of cobalt contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to --

- (1) \$20,000,000 during fiscal year 2003;
- (2) **\$30,000,000** during fiscal year 2004;
- (3) **\$34,000,000** during fiscal year 2005;
- (4) **\$34,000,000** during fiscal year 2006; and
- (5) \$34,000,000 during fiscal year 2007.

(b) **Limitation on Disposal Authority.** — The total quantity of cobalt authorized for disposal by the President under subsection (a) may not exceed 14,058,014 pounds.

(c) **Minimization of Disruption and Loss.** The President may not dispose of cobalt under subsection (a) to the extent that the disposal will result in—

- (1) undue disruption of the usual markets of producers, processors, and consumers of cobalt; or
- (2) avoidable loss to the United States.

(d) **Treatment of Receipts.** Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of cobalt under subsection (a) shall be deposited into the general fund of the Treasury.

(e) **Relationship to Other Disposal Authority.** The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

### **SEC. 3306. REQUIRED PROCEDURES FOR DISPOSAL OF STRATEGIC AND CRITICAL MATERIALS.**

Section 6(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98e(b)) is amended in the first sentence by striking out “materials from the stockpile shall be made by formal advertising or competitive negotiation procedures.” and inserting in lieu thereof “strategic and critical materials from the

stockpile shall be made in accordance with the next sentence.”.

**SEC. 3307. RETURN OF SURPLUS PLATINUM FROM THE DEPARTMENT OF THE TREASURY.**

(a) Return of Platinum to Stockpile. Subject to subsection (b), the Secretary of the Treasury, upon the request of the Secretary of Defense, shall return to the Secretary of Defense for sale or other disposition platinum of the National Defense Stockpile that has been loaned to the Department of the Treasury by the Secretary of Defense, acting as the stockpile manager. The quantity requested and required to be returned shall be any quantity that the Secretary of Defense determines appropriate for sale or other disposition.

(b) Alternative Transfer of Funds. The Secretary of the Treasury, with the concurrence of the Secretary of Defense, may transfer to the Secretary of Defense funds

in a total amount that is equal to the fair market value of any platinum requested under subsection (a) and not returned. A transfer of funds under this subsection shall be a substitute for a return of platinum under subsection (a). Upon a transfer of funds as a substitute for a return of platinum, the platinum shall cease to be part of the National Defense Stockpile. A transfer of funds under this subsection shall be charged to any appropriation for the Department of the Treasury and shall be credited to the National Defense Stockpile Transaction Fund.

(c) Responsibility for Costs. The return of platinum under subsection (a) by the Secretary of the Treasury shall be made without the expenditure of any funds available to the Department of Defense. The Secretary of the Treasury shall be responsible for all costs incurred in connection with the return, such as transportation, storage, testing, refining, or casting costs.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 Public Law 104-201

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## TITLE XXXIII – NATIONAL DEFENSE STOCKPILE

### Subtitle A – Authorization of Disposals and Use of Funds

Sec. 3301. Definitions

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Disposal of certain materials in National Defense Stockpile.

### Subtitle B – Programmatic Change

Sec. 3311. Biennial report on stockpile requirements.

Sec. 3312. Notification Requirements.

Sec. 3313. Importation of strategic and critical materials.

## SUBTITLE A – AUTHORIZATION OF DISPOSALS AND USE OF FUNDS.

### SEC. 3301. DEFINITIONS.

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

### SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS. – During fiscal year 1997, the National Defense Stockpile Manager may obligate up to \$60,000,000 of the funds in the National Defense Stockpile Transaction Fund for authorized uses of such funds under section 9(b)(2)).

(b) ADDITIONAL OBLIGATIONS. – The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS. – The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### SEC. 3303. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED. – Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to –

(1) \$81,000,000 during fiscal year 1997; and

(2) \$612,000,000 during the ten-fiscal year period ending September 30, 2006.

(b) LIMITATION ON DISPOSAL QUANTITY – The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

<u>Material for disposal</u>	<u>Quantity</u>
Aluminum.....	62,881 short tons
Cobalt .....	26,000,000 pounds contained
Columbium Ferro .....	930,911 pounds contained
Germanium Metal.....	40,000 kilograms
Indium .....	35,000 troy ounces
Palladium.....	15,000 troy ounces
Platinum.....	10,000 troy ounces
Rubber, Natural .....	125,138 long tons
Tantalum, Carbide Powder .....	6,000 pounds contained
Tantalum, Minerals.....	750,000 pounds contained
Tantalum, Oxide .....	40,000 pounds contained

(c) MINIMIZATION OF DISRUPTION AND LOSS.  
 – The President may not dispose of materials under subsection (a) to the extent that the disposal will result in –

- (1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or
- (2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS. – Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be–

- (1) deposited into the general fund of the Treasury; and
- (2) to the extent necessary, used to offset the revenues that will be lost as a result of execution of the amendments made by section 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 658).

(e) QUALIFYING OFFSETTING LEGISLATION. – This section is specifically enacted as qualifying offsetting legislation for the purpose of offsetting fully the estimated revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year

1996 (Public Law 104-106; 110 Stat. 658), and as such is deemed to satisfy the conditions in subsection (b) of such section.

(f) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY – The disposal authority provided in subsection (a) is new disposal authority and in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

**SUBTITLE B – PROGRAMMATIC CHANGE**

**SEC. 3311. BIENNIAL REPORT ON STOCKPILE REQUIREMENTS.**

(a) NATIONAL EMERGENCY PLANNING ASSUMPTIONS. – Section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-5) is amended –

- (1) by redesignating subsection (c) as subsection (e); and
- (2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

“(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 assumption 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), 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.”.

(b) CONFORMING AMENDMENT. – Section 2 of such Act (50 U.S.C. 98a) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

“(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.”

(c) EFFECTIVE DATE. – The amendments made by

this section shall take effect on October 1, 1996.

### **SEC. 3312. NOTIFICATION REQUIREMENTS.**

(a) PROPOSED CHANGES IN STOCKPILE QUANTITIES. – Section 3(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(2) is amended –

(1) by striking out “effective on or after the 30th legislative day following” and inserting in lieu thereof “after the end of the 45-day period beginning on”, and

(2) by striking out the last sentence.

(b) WAIVER OF ACQUISITION AND DISPOSAL REQUIREMENTS. – Section 6(d)(1) of such Act (50 U.S.C. 98e(d)(2) is amended by striking out “thirty days” and inserting in lieu thereof “45 days.”.

(c) TIME TO BEGIN DISPOSAL. – Section 6(d)(2) of such Act (50 U.S.C. 98e(d)(2) is amended by striking out “thirty days” and inserting in lieu thereof “45 days”.

### **SEC. 3313. IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS.**

Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended-

(1) by striking out “as a Communist-dominated country or area”; and

(2) by striking out “such Communist-dominated countries or areas” and inserting in lieu thereof “a country or area listed in such general note”.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996 Public Law 104-106

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## **TITLE XXXIII – NATIONAL DEFENSE STOCKPILE**

### **Subtitle A – Authorization of Disposals and Use of Funds**

Sec. 3301. Definitions

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Disposal of chromite and manganese ores and chromium ferro and manganese metal electrolytic.

Sec. 3304. Restrictions on disposal of manganese ferro.

Sec. 3305. Titanium initiative to support battle tank upgrade program.

### **Subtitle B – Programmatic Change**

**Sec. 3311. Transfer of excess defense-related materials to stockpile for disposal.**

## **SUBTITLE A -- AUTHORIZATION OF DISPOSALS AND USE OF FUNDS**

### **SEC. 3301. DEFINITIONS.**

For purposes of this subtitle:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

### **SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.**

(a) Obligation of Stockpile Funds. - During fiscal year 1996, the National Defense Stockpile Manager may obligate up to \$77,100,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic

and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) Additional Obligations. – The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. – The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

### **SEC 3303. DISPOSAL OF CHROMITE AND MANGANESE ORES AND CHROMIUM FERRO AND MANGANESE METAL ELECTROLYTIC**

(a) Domestic Upgrading. -- In offering to enter into agreements pursuant to any provision of law for the disposal from the National Defense Stockpile of chromite and manganese ores or chromium ferro and manganese metal electrolytic, the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) Domestic Ferroalloy Upgrader Defined. -- For purposes of this section, the term “domestic ferroalloy upgrader” means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or chromium ferro and manganese metal electrolytic; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

**SEC. 3304. RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO**

(a) Disposal of Lower Grade Material First. -- The President may not dispose of high carbon manganese ferro in the National Defense Stockpile that meets the National Defense Stockpile classification of Grade One, Specification 30(a), as revised on May 22, 1992, until completing the disposal of all manganese ferro in the National Defense Stockpile that does not meet such classification. The President may not reclassify manganese ferro in the National Defense Stockpile after the date of the enactment of this Act.

(b) Requirement for Remelting by Domestic Ferroalloy Producers. -- Manganese ferro in the National Defense Stockpile that does not meet the classification specified in subsection (a) may be sold only for remelting by a domestic ferroalloy producer unless the President determines that a domestic ferroalloy producer is not available to acquire the material.

(c) Domestic Ferroalloy Upgrader Defined. -- For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade manganese ores of metallurgical grade or manganese ferro; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

**SEC 3305 TITANIUM INITIATIVE TO SUPPORT BATTLE TANK UPGRADE PROGRAM**

During each of the fiscal years 1996 through 2003, the Secretary of Defense shall transfer from stocks of the

National Defense Stockpile up to 250 short tons of titanium sponge to the Secretary of the Army for use in the weight reduction portion of the main battle tank upgrade program. Transfers under this section shall be without charge to the Army, except that the Secretary of the Army shall pay all transportation and related costs incurred in connection with the transfer.

**SUBTITLE B -- PROGRAMMATIC CHANGE**

**SEC. 3311. TRANSFER OF EXCESS DEFENSE-RELATED MATERIALS TO STOCKPILE FOR DISPOSAL.**

(a) Transfer and Disposal.--Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended by adding at the end the following new subsection:

“(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 materials are suitable for transfer to the stockpile under this subsection, are suitable for disposal through the stockpile, and are uncontaminated.”.

(b) Conforming Amendment.--Subsection (a) of such section is amended by adding at the end the following:

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

## Summary of Specified Programs

### HHS Program

<u>Action</u>	<u>Act Title</u>	<u>Public Law</u>	<u>Section</u>	<u>Summary</u>
Established	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999	105-261	3303	\$590 million by 2005
Amended	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001	106-398	3302	\$720 million by 2005
Amended	National Defense Authorization Act for Fiscal Year 2002	107-107	3304(a)	\$770 million by 2011
Amended	Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005	108-375	3302	\$870 million by 2009
Amended	National Defense Authorization Act for Fiscal Year 2006	109-163	3302(a)	\$ 1 billion by 2013
Amended	John Warner National Defense Authorization Act for Fiscal Year 2007	109-364	3302(a)	\$1.016 billion by 2014
Amended	National Defense Authorization Act for Fiscal Year 2008	110-181	1412(b)	\$1.066 billion by 2015
Amended	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	110-417	1412(a)	\$1.386 billion by 2016

### Spectrum Program

<u>Action</u>	<u>Act Title</u>	<u>Public Law</u>	<u>Section</u>	<u>Summary</u>
Established	National Defense Authorization Act for Fiscal Year 2000	106-65	3402	\$300 million by 2009
Amended	National Defense Authorization Act for Fiscal Year 2004	108-136	3302	\$450 million by 2013
Amended	National Defense Authorization Act for Fiscal Year 2006	109-163	3302(b)	\$500 million by 2010; \$600 million by 2013
Amended	National Defense Authorization Act for Fiscal Year 2008	110-181	1412(a)	\$500 million by 2010, \$710 million by 2013
Amended	Ike Skelton National Defense Authorization Act for Fiscal Year 2011	111-383	1412	\$730 million by 2013
Amended	National Defense Authorization Act for Fiscal Year 2012	112-81	1412	\$830 million by 2016

### Foreign Military Sales Program

<u>Action</u>	<u>Act Title</u>	<u>Public Law</u>	<u>Section</u>	<u>Summary</u>
Established	National Defense Authorization Act for Fiscal Year 1997	104-201	3303	\$612 million by 2006
Amended	National Defense Authorization Act for Fiscal Year 2000	106-65	3403(c) 3402(f)	\$720 million by 2006
Amended	National Defense Authorization Act for Fiscal Year 2002	107-107	3304(c)	minor language corrections
Amended	John Warner National Defense Authorization Act for Fiscal Year 2007	109-364	3302(c)	extended program to 2008

**Cobalt Post FMS Program**

<u><b>Action</b></u>	<u><b>Act Title</b></u>	<u><b>Public Law</b></u>	<u><b>Section</b></u>	<u><b>Summary</b></u>
Established	National Defense Authorization Act for Fiscal Year 1998	105-85	3305	\$152 million by 2007
Amended	National Defense Authorization Act for Fiscal Year 2000	106-65	3402(f)(2) 3403(b)	\$235 million by 2007
Amended	National Defense Authorization Act for Fiscal Year 2002	107-107	3304(b) 3305	minor language corrections, and moved revenue goals by one year to 2006
Amended	John Warner National Defense Authorization Act for Fiscal Year 2007	109-364	3302(b)	extended program to 2008
Amended	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	110-417	1412(b)	extended program to 2009
Amended	National Defense Authorization Act for Fiscal Year 2010	111-84	1412	extended program to 2011

## APPENDIX D: ABBREVIATIONS USED IN THIS REPORT

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AMP .....	Annual Materials Plan	LB W .....	Pounds of Contained Tungsten
Av Oz .....	Avoirdupois Ounce (28.350 Grams)	LCT .....	Long Calcined Ton
DLA .....	Defense Logistics Agency	LDT .....	Long Dry Ton
DoD .....	Department of Defense	LT .....	Long Ton
HC .....	High Carbon	MT .....	Metric Ton
KG .....	Kilogram	NDS .....	National Defense Stockpile
ct .....	Carat	OZ .....	Ounce
LB .....	Pound	S&CM .....	Strategic and Critical Materials
LB Cb .....	Pounds of Contained Columbium	SDT .....	Short Dry Ton
LB Co .....	Pounds of Contained Cobalt	ST .....	Short Ton
LB Ta .....	Pounds of Contained Tantalum	Tr Oz .....	Troy Ounce

## APPENDIX E: BIDDERS' INFORMATION

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### EMAIL NOTIFICATION LISTS

Individuals or companies interested in buying from or selling to the DLA Strategic Materials may request to be placed on an email notification list for the material(s) or services they wish to buy or sell by signing up for email notifications on the DLA Strategic Material's Website, <https://www.dnsc.dla.mil>. DLA Strategic Materials no longer routinely provides copies of solicitations and amendments by mail or facsimile. Requests for sales and acquisitions documents may also be sent to:

DLA Strategic Materials  
ATTN: Suite 3229  
8725 John J. Kingman Road  
Fort Belvoir, VA 22060-6223  
Facsimile: (703) 767-5484/767-5494/767-5411/767-5031

### SALES

Materials are offered for sale when they are excess to the goal, authorized for sale by the Congress, and are listed on the current fiscal year's Annual Materials Plan. To the extent possible, sales are conducted competitively. DLA Strategic Materials carefully monitors prices and other market conditions to ensure that sales do not unduly disrupt the market and that there is a fair return to the taxpayer. Individuals and companies on the email mailing list for a material being sold automatically receive by email the necessary information in order to submit an offer.

### TYPES OF SALES

**Sealed Bid:** An Invitation for Bids (IFB) containing all the terms and conditions of the sale are posted on the DLA Strategic Materials website. All bidders who have signed up for email notifications for the commodity are automatically sent emails regarding the Invitation and its amendments. Bids are opened publicly and evaluated without discussions with bidders. Awards are made only to the responsive, responsible bidders whose bids conform to the IFB and are deemed advantageous to the Government. Award is based on price alone.

**Negotiated:** The solicitation does not predetermine all the terms and conditions of the final contract. Price and other terms are negotiable. Buyers make an initial offer and an award may be made without further discussions or the Government may negotiate terms. Where discussions have taken place, each offeror is asked to submit a "best and final offer," at which point discussions end. Offers are then evaluated and awards are made to responsible offerors whose offers are considered most advantageous to the Government.

***Basic Ordering Agreement (BOA):*** The BOA is a written instrument of understanding that contains a description of the material offered for sale and the terms and conditions negotiated between the Contracting Officer and the Contractor. The terms and conditions will apply to all resulting contracts awarded under the BOA. Under the BOA process, DLA Strategic Materials periodically offers materials for sale based on response to market and customer needs. Firms are afforded an opportunity to quote on materials. Quoters must pre-qualify by submitting a completed BOA package prior to quoting. All pre-qualified quoters are invited to quote. Award is based on prices offered, as may be adjusted by special terms negotiated previously. Quotes may be submitted by facsimile message or online through the DLA Strategic Materials website, <https://www.dnsc.dla.mil>.

***Strategic Supply Alliance (SSA):*** The format of the SSA is similar to that of the BOA; however, rather than offer material periodically, the SSA is used to offer material continuously, seven days a week, twenty-four hours a day. Material offered for sale is posted on DLA Strategic Materials's website and quotes are only accepted electronically from quoters that have been pre-qualified by submitting a completed SSA package prior to quoting. All pre-qualified quoters are invited to quote. As with the BOA offerings, award is based on prices offered, and may be adjusted by special terms negotiated previously.

## **SUBMISSION OF SHIPPING INSTRUCTIONS**

Contractors are required to submit shipping instructions under their sales contracts by facsimile message or email to the DLA Strategic Materials Contracting Officer for the material.

## **EMAIL NOTIFICATION OF SOLICITATION DOCUMENTS**

DLA Strategic Materials has changed from sending solicitation documents out by mail to sending email notices when documents were posted to the DLA Strategic Materials website. Individuals and companies may sign up at <https://www.dnsc.dla.mil> to receive email notifications.

## **METHODS OF PAYMENT**

Payment for stockpile materials is due prior to delivery unless other options are specified in negotiated or BOA contracts. Contractors have been required to send payment for material by wire transfer only. Submission of a payment for material by any other method will result in delays in releasing the material for shipment.

## **FINANCIAL EXPOSURE LIMIT**

DLA Strategic Materials establishes a financial exposure limit for each contractor seeking to participate in the sale of stockpile materials. Prior to awarding its sales contracts, DLA Strategic Materials establishes a financial exposure limit for a contractor based on financial data provided by the firm. The exposure limit represents the maximum level of outstanding contractual obligations DLA Strategic Materials will allow at one time. If a contractor reaches its financial exposure limit, subsequent sales may cease until the contractor either satisfactorily performs its existing contracts or provides additional information which justifies an increase in the exposure limit.

## **ACQUISITIONS (PURCHASES)**

To the maximum extent possible, DLA Strategic Materials purchases supplies and services competitively. DLA Strategic Materials contracts for the purchase of repair and alteration (construction), maintenance, other non-personal services, and supplies for the various Stockpile storage locations across the United States. Notices of solicitations are published on FedBizOpps and GSA E-buy. Firms signed up for the portals above will automatically receive notification when solicitations are synopsized or issued. Those not signed up for notification may request the solicitations from DLA Strategic Materials.

**Reverse Auction:** DLA Strategic Materials is mandated to use a reverse auction tool for all competitive actions estimated at \$150,000 and above where there are two or more offerors. The application is a web-based, price negotiation tool. Companies participate in an online bidding process and receive immediate feedback on pricing. Through the use of a reverse auction tool, Strategic Materials is able to create new market opportunities, increase supplier base and achieve savings.

**Broad Agency Announcement (BAA):** DLA Strategic Materials issues BAAs to solicit and acquire research expertise. The BAA allows industry and academia to provide responses to emerging and rapidly expanding materials requirements that potentially impact or disrupt supply chain stabilization. Offerors are required to submit white papers outlining approaches to tasks stated in the BAA. White papers are evaluated and those found to have merit and meet all criteria identified in the BAA could result in an award.

## **TYPES OF PROCUREMENTS**

**Negotiated:** Negotiated procurements involve the submission of initial proposals to the Government in response to a Request for Proposal (or Request for Quotation with a smaller dollar value) for the particular supply or service. This method permits discussions by the parties and allows the offeror/quoter to revise the initial proposal or quotation prior to the award of the contract. Negotiations can include discussions on price, delivery schedule, technical requirements, type of contract, or other terms of the proposal. Price is not necessarily the most important factor and awards may be made on other than price and price-related factors; for example, a superior technical approach or delivery.

***Blanket Purchase Agreement (BPA):*** A BPA is a simplified method of filling anticipated repetitive needs for supplies and services by establishing an agreement with qualified sources of supply. DLA Strategic Materials utilizes the BPA to assist with satisfying unique requirements when quantity and delivery are unknown. BPAs are reviewed annually to assess need and negotiate discounts. All BPA Calls are competed amongst BPA holders; award is made to the Contractor that represents the best value to the Government.

## **METHODS OF PAYMENT**

The contractor is paid by Government Electronic Funds Transfer (EFT) through Wide Area Workflow (WAWF) or Government purchase card for the supplies or services received and accepted by DLA Strategic Materials.

## **STRATEGIC METALS BUFFER PILOT PROJECTS**

DLA Strategic Materials awarded three metal buffer contracts funded by the Warstopper Program. The goal of the investments is to significantly reduce the lead time at mills, thus reducing manufacturing production lead times across a wider range of products (or Nation Stock Numbers). Two of the contracts were awarded to Latrobe Specialty Steel Company for 300M steel and Bearing Grade Steels (grades M50, 440C and 52100) and a third was awarded to Titanium Metals Corporation (TIMET) for various grades of Titanium. Materials included on these contracts are all classified as a specialty metal and require defense manufactures to purchase from domestic sources.

The steel delivery lead-time is material and form dependent but all exceeded 365 days (or one year) during Operation Enduring Freedom/Operation Iraqi Freedom. Titanium and titanium alloy lead-times were much longer or unavailable unless a manufacturer had an existing contract with the domestic producers.

The metal buffer contracts guarantee significantly reduced lead times. This material is not Government Furnished Material (GFM) and all warranties and title transfer as vendor to vendor transactions. The buffers are self-executing for DoD contracts and will immediately provide DoD sub-tier vendors with reduced lead times to improve customer support and can be directed at specific DoD contracts when required.

## APPENDIX F: SUBSCRIPTION SERVICES

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### Subscriptions to this Report

Members of the strategic and critical materials community in either the government or the private sector may receive a copy of the Strategic and Critical Materials Operations Report to the Congress.

To begin or renew a subscription to this annual report, mail or fax your name, title, organization, mailing address, and ZIP code to us.

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DLA Strategic Materials Home Page: <https://www.dnsc.dla.mil>

DLA Strategic Materials e-mail: [DNSCCustomerService@dla.mil](mailto:DNSCCustomerService@dla.mil)