

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

(As amended through Public Law 117-263 the National Defense Authorization Act for Fiscal Year 2023)

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

## **Congressional findings and declaration of 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 or a single point of failure for supplies of such materials in times of national emergency.

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

## **Materials to be acquired: presidential authority and guidelines**

SEC. 3. (a) Determination of materials; quantities. Subject to subsection (c), 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) Guidelines for exercise of Presidential authority. 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) Quantity change; notification to Congress.

(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 increase proposed to be made in the quantity of any material to be stockpiled that involves the acquisition of additional materials for the stockpile. The President may make the increase after the end of the 30-day period beginning on the date of the notification. The President shall include a full explanation and justification for the proposed increase with the notification.

## **Materials constituting the National Defense Stockpile**

SEC. 4. (a) Contents. 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 104(b) of the Food for Peace Act [7 USCS § 1704(b)] (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 [7 USCS § 1743(a)(4)].

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

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

(b) Transfer and reimbursement. 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 suitable for transfer or disposal through 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 subchapter.

(c) Transfer and disposal. The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under subsection (b), are suitable for disposal through the stockpile, and are uncontaminated.

## **Authority for stockpile operations**

SEC. 5. (a) Funds appropriated for acquisitions; proposed stockpile transactions; significant changes therein.

(1) Except for acquisitions made under the authority of paragraph (3) of this section or made under the authority of paragraph (3) or (4) of section 6(a) of this title, 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 any acquisition of materials under this subchapter (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 (or Congress requires) a significant change in any stockpile transactions proposed in the Annual Materials and Operations Plan for such fiscal year after the Board submits the report under section 11(b)(2) containing such plan, 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.

(3) Using funds appropriated for acquisition of materials under this Act, the National Defense Stockpile Manager may acquire materials determined to be strategic and critical under section 3(a) without regard to the requirement of the first sentence of paragraph(1) if the Stockpile Manager determines there is a shortfall of such material in the stockpile.

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

(c) Authorization of appropriations. 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 until expended, unless otherwise provided in appropriations Acts.

## **Stockpile management**

SEC. 6. (a) Presidential powers. The President shall-

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

(b) Federal procurement practices. 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 consult with producers and processors 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) Barter; use of stockpile materials as payment for expenses of acquiring, refining, processing, or retailing materials.

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

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

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

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

(d) Waiver; notification of proposed disposal of materials.

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

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

(e) Leasehold interests in property. 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.

(f) Loan of stockpile materials. The President may loan stockpile materials to the Department of Energy or the military departments if the President—

(1) has reasonable assurance that stockpile materials of a similar or superior quantity and quality to the materials loaned will be returned to the stockpile or paid for;

(2) notifies the congressional defense committees (as defined in section 101(a) of title 10), in writing, not less than 30 days before making any such loan; and

(3) includes in the written notification under paragraph (2) sufficient support for the assurance described in paragraph (1).

## **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;

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

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

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

## **Materials development and research**

SEC. 8. (a) Development, mining, preparation, treatment, and utilization of ores and other mineral substances.

(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) Development of sources of supplies of agricultural commodities for manufacture of materials. 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 therefor.

(c) Development of sources of supplies of other materials; development of use of alternative methods for refining or processing materials in stockpile. 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) Grants and contracts to encourage conservation of strategic and critical materials. 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) Establishment. 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) Fund operations.

(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 appropriation Acts) for the following purposes:

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

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

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

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

(E) Testing and quality studies of stockpile materials.

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

(G) Activities authorized under section 15.

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

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

(ii) develop new materials for the stockpile.

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

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

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

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

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

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

(c) Moneys received from the sale of materials being rotated or disposed of. 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) Effect of bartering. 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); and

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

## **Advisory committees**

SEC. 10. (a) Establishment.—There is established a Strategic and Critical Materials Board of Directors (in this Act referred to as the “Board”).

(b) Members.—The Board shall be composed, at a minimum, of the following:

(1) The Assistant Secretary of Defense for Industrial Base Policy who shall serve as chairman of the Board.

(2) One designee of each of the Secretary of Commerce, the Secretary of State, the Secretary of Energy, and the Secretary of the Interior.

(3) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the House Committee on Armed Services.

(4) One designee of each of the Chairman and Ranking Member of the Readiness Subcommittee of the Senate Committee on Armed Services.

(5) Four designees of the chairman of the Board, who shall have expertise relating to military affairs, defense procurement, production of strategic and critical materials, finance, or any other disciplines deemed necessary by the chairman to conduct business of the Board.

(c) Duties of the Board.—In addition to other matters assigned to it by the chairman, the Board shall conduct the following, without power of delegation:

(1) Adopt by-laws that ensure sufficient oversight, governance, and effectiveness of the National Defense Stockpile program.

(2) Elect or remove Board members.

(3) Advise the National Defense Stockpile Manager.

(4) Establish performance metrics and conduct an annual performance review of the National Defense Stockpile Manager.

(5) Set compensation for the National Defense Stockpile Manager.

(6) Review and approve the annual budget of the National Defense Stockpile program and conduct appropriate reviews of annual financial statements.

(7) Re-allocate budget resources within the annual budget of the National Defense Stockpile program.

(8) Review and approve the Annual Materials and Operations Plan required by section 11(a)(2) of this Act, including a review of the projected domestic and foreign economic effects of proposed actions to be taken under the Annual Materials and Operations Plan.

(9) Complete and submit the annual Board Report, in accordance with section 11(b)(2) of this Act.

(10) Recommend to the Secretary of Defense—

(A) a strategy to ensure a secure supply of materials designated as critical to national security.

(B) such other strategies as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security.

(d) Board Meetings.— The Board shall meet as determined necessary by the chairman but not less frequently than once every year to fulfill the duties described in subsection (c).

(e) Application of the Federal Advisory Committee Act.— Section 14 of the Federal Advisory Committee (5 U.S.C. App.) Act shall not apply to the Board.

(f) Definitions.—In this section:

(1) Materials Critical to National Security.— the term ‘materials critical to national security’ means materials—

(A) upon which the production or sustainment of military equipment is dependent; and;

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

(2) Military Equipment.—The term ‘military equipment’ means equipment used directly by the Armed Forces to carry out military operations.

(3) Secure Supply.—The term ‘secure supply’ with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.

## Reports

SEC. 11.(a) Reports to the Board—The National Defense Stockpile Manager shall submit to the Board the following:

(1) Not later than 40 calendar days after the last day of each of the first three fiscal quarters in each fiscal year, unaudited financial statements and a Manager’s Discussion and Analysis for the immediately preceding fiscal quarter.

(2) Not later than 60 calendar days after the conclusion of the fourth quarter of each fiscal year—  
(A) audited financial statements and a Manager’s Discussion and Analysis for the immediately preceding fiscal year; and

(B) an Annual Materials and Operations Plan for the forthcoming year.

(b) Reports to Congress.—

(1) Not later than 90 days after the conclusion of the fourth quarter of each fiscal year, the National Defense Stockpile Manager shall submit to the congressional defense committees (as defined in section 101(a) of title 10 United States Code) a report that shall include—

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

(B) 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;

(C) 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;

(D) information with respect to the research and development activities conducted under section 8 of this Act;

(E) audited annual financial statements for the Strategic and Critical Materials Fund;

(F) other pertinent information on the administration of this Act as will enable the Congress to evaluate the effectiveness of the program

(G) details of all planned expenditures from the Strategic and Critical Materials Fund over the Future Years’ Defense Program and anticipated receipts from proposed disposals of stockpile materials; and

(H) the report required by paragraph (2).

(2) Report by the Board.—The Board shall prepare a written report to accompany the report required by paragraph(1) which shall include—

(A) the activities of the Board to carry out the duties listed in section 10(c) of this Act; and

(a)(2)(B).  
(B) the most recent Annual Materials and Operations Plan Submitted under subsection

## 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.
- (3) The term “national technology and industrial base” has the meaning given such term in section 2500 of title 10.

### **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 USC 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) In general. 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) National emergency planning assumptions. 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) Period within which to replace or replenish materials. 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) Effect of alternative mobilization periods. 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) Plans of President. 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.

(f) Briefings on shortfalls in the stockpile. (1) Not later than March 1 each year, the National Defense Stockpile Manager shall provide to the congressional defense committees a briefing on strategic and critical materials that—

(A) are determined to be in shortfall in the most recent report on stockpile requirements submitted under subsection (a); and

(B) the acquisition or disposal of which is included in the Annual Materials and Operations Plan for the operation of the stockpile during the fiscal year submitted under section 11(b).

(2) Each briefing required by paragraph (1) shall include—

(A) a description of each material described in that paragraph, including the objective to be achieved if funding is provided, in whole or in part, for the acquisition of the material to remedy the shortfall;

(B) an estimate of additional amounts required to provide such funding, if any; and

(C) an assessment of the supply chain for each such material, including any assessment of any relevant risk in any such supply chain.

## **Development of domestic sources**

SEC. 15. (a) Purchase of materials of domestic origin; processing of materials in domestic facilities. Subject to subsection (c) and to the extent the President determines such action is required for the national defense, the President shall encourage the development and appropriate conservation of domestic sources for materials determined pursuant to section 3(a) to be strategic and critical materials—

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

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

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

(4) by contracting with domestic facilities to recycle strategic and critical materials, thereby increasing domestic supplies when such materials would otherwise be insufficient to support defense and essential civilian industries in times of national emergency.

(5) if domestic sources are unavailable to meet the requirements defined in paragraphs (1) through (4), by making efforts to prioritize the purchase of strategic and critical materials from the national technology and industrial base.

(b) Terms and conditions of contracts or commitments. 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) Proposed transactions included in annual materials plan; availability of funds.

(1) Descriptions of proposed transactions under subsection (a) shall be included in the appropriate Annual Materials and Operations 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) Transportation and other incidental expenses. 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) Reports. The President, acting through the National Defense Stockpile Manager, shall include in the reports required under section 11(b)(1) information with respect to activities conducted under this section.

### **National Defense Stockpile Manager**

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

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