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PROCLAMATIONS, EXECUTIVE ORDERS, JOINT RESOLUTIONS AND TREATIES RESPECTING WAR, NEUTRALITY AND PEACE

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War between Germany and Belgium, Luxemburg, and the Netherlands	Proc. No. 2404
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War between Bulgaria and Yugoslavia and Greece	Proc. No. 2479

II. PROCLAMATIONS OF UNITED STATES NEUTRALITY

War between Germany and France; Poland; United Kingdom, India, Australia and New Zealand	Proc. No. 2348
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IV. DECLARATIONS OF WAR BY UNITED STATES

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Interdiction of the Delivery of Offensive Weapons to Cuba	Proc. No. 3504, Oct. 23, 1962
Termination of Authority Granted and Orders Issued in Proc. No. 3504	Proc. 3507, Nov. 21, 1962
Middle East Stabilization	Pub. L. 85–7, Mar. 9, 1957, 71 Stat. 5

Protection of Security of Formosa ..... Res. Jan. 29, 1955

See, also, notes under the Neutrality Act of 1939, sections 441, 444, 445, 447 to 451, 453 to 457 of Title 22, Foreign Relations and Intercourse.

I. PROCLAMATIONS OF STATE OF WAR

Proc. No. 2374, Nov. 4, 1939, 12:04 p.m., 4 F.R. 4493, 54 Stat. 2671, proclaimed a state of war between Germany and France; Poland; and the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa.

Proc. No. 2398, Apr. 25, 1940, 5 F.R. 1569, 54 Stat. 2698, proclaimed a state of war between Germany and Norway.

Proc. No. 2404, May 11, 1940, 5 F.R. 1689, 54 Stat. 2703, proclaimed a state of war between Germany and Belgium, Luxemburg, and the Netherlands.

Proc. No. 2407, June 10, 1940, 10:20 p.m., E.S.T., 5 F.R. 2191, 54 Stat. 2706, proclaimed a state of war between Italy and France and United Kingdom.

Proc. No. 2443, Nov. 15, 1940, 5 F.R. 4523, 54 Stat. 2763, proclaimed a state of war between Italy and Greece.

Proc. No. 2473, Apr. 10, 1941, 6 F.R. 1905, 55 Stat. 1627, proclaimed a state of war between Germany-Italy and Yugoslavia.

Proc. No. 2477, Apr. 15, 1941, 6 F.R. 1995, 55 Stat. 1631, proclaimed a state of war between Hungary and Yugoslavia.

Proc. No. 2479, Apr. 24, 1941, 6 F.R. 2133, 55 Stat. 1636, proclaimed a state of war between Bulgaria and Yugoslavia and Greece.

II. PROCLAMATIONS OF UNITED STATES NEUTRALITY

Proc. No. 2348, Sept. 5, 1939, 4 F.R. 3809, 54 Stat. 2629, proclaimed neutrality of United States in war between Germany and France; Poland; United Kingdom, India, Australia, and New Zealand.

Proc. No. 2353, Sept. 8, 1939, 4 F.R. 3851, 54 Stat. 2643, proclaimed neutrality of United States in war between Germany and Union of South Africa.

Proc. No. 2359, Sept. 10, 1939, 4 F.R. 3857, 54 Stat. 2652, proclaimed neutrality of United States in war between Germany and Canada.

Proc. No. 2399, Apr. 25, 1940, 5 F.R. 1569, 54 Stat. 2699, proclaimed neutrality of United States in war between Germany and Norway.

Proc. No. 2405, May 11, 1940, 5 F.R. 1689, 54 Stat. 2704, proclaimed neutrality of United States in war between Germany and Belgium, Luxemburg, and the Netherlands.

Proc. No. 2408, June 10, 1940, 10:20 p.m. E.S.T., 5 F.R. 2191, 54 Stat. 2707, proclaimed neutrality of United States in war between Italy and France and United Kingdom.

Proc. No. 2444, Nov. 15, 1940, 5 F.R. 4523, 54 Stat. 2764, proclaimed neutrality of United States in war between Italy and Greece.

III. MISCELLANEOUS PROCLAMATIONS AND EXECUTIVE ORDERS

NATIONAL EMERGENCY OF 1939

Proc. No. 2352, Sept. 8, 1939, 4 F.R. 3851, 54 Stat. 2643, proclaimed national emergency in connection with enforcement of neutrality which was terminated by Proc. No. 2974, set out below.

NATIONAL EMERGENCY OF 1941

Proc. No. 2487, May 27, 1941, 6 F.R. 2617, 55 Stat. 1647, proclaimed an unlimited national emergency which was terminated by Proc. No. 2974, set out below.

PROC. NO. 2685. REMOVAL OF ALIEN ENEMIES

Proc. No. 2685, Apr. 11, 1946, 11 F.R. 4079, 60 Stat. Pt. 2, p. 1342, provided:

1. All alien enemies within the continental limits of the United States brought here from other American republics after December 7, 1941, who are within the territory of the United States without admission under the immigration laws, shall, if their continued residence in the Western Hemisphere is deemed by the Secretary of State to be prejudicial to the future security or welfare of the Americas, be subject upon the order of the Secretary of State to removal from the United States and may be required to depart therefrom in accordance with such regulations as the Secretary of State may prescribe.

2. In all cases in which the Secretary of State shall have ordered the removal of an alien enemy under the authority of this proclamation or in which the Attorney General shall have ordered the removal of an alien enemy under the authority of Proclamation No. 2655 of July 14, 1945, thirty days shall be considered, and is hereby declared to be, a reasonable time for such alien enemy to effect the recovery, disposal, and removal of his goods and effects, and for his departure.

3. This proclamation supersedes Proclamation No. 2662 of September 8, 1945, entitled ''Removal of Alien Enemies.''

HARRY S TRUMAN.

PROC. NO. 2914. NATIONAL EMERGENCY, 1950

Proc. No. 2914, Dec. 16, 1950, 15 F.R. 9029, 64 Stat. a454 provided:

WHEREAS recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

WHEREAS world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

WHEREAS, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

Whereas the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repeal any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby ''secure the Blessings of Liberty to ourselves and our Posterity.''

HARRY S. TRUMAN.

PROC. NO. 2974. TERMINATION OF WARTIME EMERGENCIES

Proc. No. 2974, Apr. 28, 1952, 17 F.R. 3813, 66 Stat. c31, provided in part:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do proclaim that the national emergencies declared to exist by the proclamations of September 8, 1939 [set out above], and May 27, 1941 [set out above], terminated this day upon the entry into force of the Treaty of Peace with Japan.

Nothing in this proclamation shall be construed to affect Proclamation No. 2914 [set out above], issued by the President on December 16, 1950, declaring that world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world, and proclaiming the existence of a national emergency requiring that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace; and nothing herein shall be construed to affect the continuation of the said emergency of September 8, 1939, as specified in the Emergency Powers Interim Continuation Act, approved April 14, 1952 (Public Law 313—82d Congress), for the purpose of continuing the use of property held under the Act of October 14, 1940, ch. 862, 54 Stat. 1125, as amended [sections 1521 to 1524, 1531 to 1536, 1541 to 1553, 1561 to 1564, 1571 to 1576, 1581 to 1590 of Title 42, The Public Health and Welfare].

HARRY S TRUMAN.

EXECUTIVE ORDER NO. 8233

Ex. Ord. No. 8233, Sept. 5, 1939, 4 F.R. 3822, referred to regulations governing enforcement of neutrality of the United States.

EX. ORD. NO. 8234. REGULATIONS GOVERNING PASSAGE AND CONTROL OF VESSELS THROUGH PANAMA CANAL IN ANY WAR IN WHICH THE UNITED STATES IS NEUTRAL

Ex. Ord. No. 8234, Sept. 5, 1939, 4 F.R. 3823, as amended by Ex. Ord. No. 8382, Mar. 25, 1940, 5 F.R. 1185, provided:

WHEREAS the treaties of the United States, in any war in which the United States is a neutral, impose on the United States certain obligations to both neutral and belligerent nations;

AND WHEREAS the treaties of the United States, in any war in which the United States is a neutral, require that the United States exert all the vigilance within their power to carry out their obligations as a neutral;

AND WHEREAS treaties of the United States require that the Panama Canal shall be free and open, on terms of entire equality, to the vessels of commerce and of war of all nations observing the rules laid down in Article 3 of the so-called Hay-Pauncefote treaty concluded between the United States and Great Britain, November 18, 1901:

NOW, THEREFORE, by virtue of the authority vested in me by section 5 of the Panama Canal Act, approved August 24, 1912 (ch. 390, sec. 5, 37 Stat. 562), as amended by the act of July 5, 1932 (ch. 425, 47 Stat. 578), I hereby prescribe the following regulations governing the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto, in any war in which the United States is a neutral;

1. Whenever considered necessary, in the opinion of the Governor of the Panama Canal, to prevent damage or injury to vessels or to prevent damage or injury to the Canal or its appurtenances, or to secure the observance of the rules, regulations, rights, or obligations of the United States, the Canal authorities may at any time, as a condition precedent to transit of the Canal, inspect any vessel, belligerent or neutral, other than a public vessel, including its crew and cargo, and, for and during the passage through the Canal, place armed guards thereon, and take full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by the Canal authorities to go or remain on board thereof during such passage.

2. A public vessel of a belligerent or neutral nation shall be permitted to pass through the Canal only after her commanding officer has given written assurance to the authorities of the Panama Canal that the rules, regulations, and treaties of the United States will be faithfully observed.

3. *Possession of cameras on board vessels; photographing from vessels.* While on board any vessel in transit through the Panama Canal, no person shall (a) have or remain in possession of any camera, or (b) make any photograph, sketch, picture, drawing, map, or graphical representation of any of the locks of the Panama Canal, or of any portion of any such lock, or of any area within or adjacent to any such lock, or of any object or structure within or upon any such area, without first obtaining the permission of the Governor of The Panama Canal, and promptly submitting the product obtained to the Governor for such action as he may deem necessary. The master of every vessel that transmits the Panama Canal (a) shall prior to the beginning of each transit cause all cameras on board such vessel, or which are brought on board by embarking passengers, or otherwise, to be collected and delivered to him, and shall retain the said cameras in his possession, in a secure and inaccessible place, until the disembarkation of the original possessors thereof or until the transit through the Canal is completed, and (b) shall during such transit take such further action, in cooperation with the Canal authorities, as may be necessary to prevent the making, by any person on board such vessel in the waters of the Canal Zone, of any photograph, sketch, picture, drawing, map, or graphical representation which is forbidden by this paragraph; but these provisions shall not apply with respect to any person who has obtained permission as provided in this paragraph. Any person who shall violate any provision of this paragraph shall be punishable as provided in section 9 of title 2 of the [former] Canal Zone Code.

The foregoing regulations are in addition to the ''Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its Jurisdiction'' prescribed by Executive Order No. 4314 of September 25, 1925, as amended, and the provisions of proclamations and executive orders pertaining to the Canal Zone issued in conformity with the laws and treaties of the United States.

Proc. No. 2350, eff. Sept. 5, 1939, 4 F.R. 3821, 54 Stat. 2368, referred to regulations concerning neutrality in the Canal Zone.

FRANKLIN D. ROOSEVELT.

EX. ORD. NO. 9723. TERMINATION OF PRESIDENT'S WAR RELIEF CONTROL BOARD

Ex. Ord. No. 9723, May 14, 1946, 11 F.R. 5345, provided:

Executive Order No. 9205 of July 25, 1942, is revoked, and the President's War Relief Control Board established by that order is hereby terminated. The Secretary of State is authorized and directed to liquidate all of the activities and obligations and wind up all of the affairs of the Board as rapidly as practicable, and to utilize therefore such of the personnel property, records, and unexpended appropriations of the Board as may be necessary.

HARRY S TRUMAN.

IV. DECLARATIONS OF WAR BY UNITED STATES

WAR BETWEEN UNITED STATES AND GERMANY

Declared by Joint Res. April 6, 1917, 40 Stat. 1.

WAR BETWEEN UNITED STATES AND AUSTRIA-HUNGARY

Declared by Joint Res. Dec. 7, 1917, 40 Stat. 429.

WAR BETWEEN UNITED STATES AND JAPAN

Declared by Joint Res. Dec. 8, 1941, 4:10 p.m., E.S.T., ch. 561, 55 Stat. 795.

WAR BETWEEN UNITED STATES AND GERMANY

Declared by Joint Res. Dec. 11, 1941, 3:05 p.m. E.S.T., ch. 564, 55 Stat. 796.

WAR BETWEEN UNITED STATES AND ITALY

Declared by Joint Res. Dec. 11, 1941, 3:06 p.m., E.S.T., ch. 565, 55 Stat. 797.

WAR BETWEEN THE UNITED STATES AND BULGARIA

Declared by Joint Res. June 5, 1942, ch. 323, 56 Stat. 307.

WAR BETWEEN UNITED STATES AND HUNGARY

Declared by Joint Res. June 5, 1942, ch. 324, 56 Stat. 307.

WAR BETWEEN UNITED STATES AND RUMANIA

Declared by Joint Res. June 5, 1942, ch. 325, 56 Stat. 307.

PROC. NO. 2563. PROCLAMATION OF STATE OF WAR BETWEEN UNITED STATES AND HUNGARY, BULGARIA, AND RUMANIA

Proc. No. 2563, July 17, 1942, 7 F.R. 5535, 56 Stat. 1970, proclaimed that a state of war existed between the United States and Hungary, Rumania, and Bulgaria.

V. TERMINATION OF STATE OF WAR

CESSATION OF HOSTILITIES

The cessation of hostilities of World War II was officially proclaimed by the President of the United States, Proclamation No. 2714, Dec. 31, 1946, 12 F.R. 1, 61 Stat. 1048, in the following language:

> NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the cessation of hostilities of World War II, effective twelve o'clock noon, December 31, 1946.

TREATIES OF PEACE WITH ITALY, BULGARIA, HUNGARY, RUMANIA, AND FINLAND

On the 10th day of February 1947, separate Treaties of Peace were concluded by designated Allied and Associated Powers, including the United States of America, with Italy, Bulgaria, Hungary and Rumania.

Each of these Treaties contained a recital in the Preamble that the Allied and Associated Powers named therein

> Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions: * * *.

The full text of the Treaties of Peace with Italy, Bulgaria, Hungary, Rumania and Finland are set out in 61 Stat. 1245, 1915, 2065, 1757.

On the same date a Treaty of Peace was concluded with Finland. The United States is not a signatory thereto.

TREATY OF PEACE WITH JAPAN

The Treaty of Peace with Japan signed at the city of San Francisco on the 8th day of September 1951, Chapter I, Article 1, provides:

> (a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.

Article 23 of Chapter VII, above referred to, provides:

> (a) The present Treaty shall be ratified by the States which sign it, including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States [here would appear the names of such of the following States as are signatories to the present Treaty], namely Australia, Burma, Canada, Ceylon, France, India, Indonesia, the Netherlands, New Zealand, Pakistan, the Philippines, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the United States of America. The present Treaty shall come into force for each State which subsequently ratifies it, on the date of the deposit of its instrument of ratification.
>
> (b) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Government of Japan and of the United States of America not later than three years after the date of deposit of Japan's ratification.

RATIFICATION OF JAPANESE PEACE TREATY

The Treaty of Peace with Japan, signed at San Francisco on September 8, 1951, was ratified by the United States Senate on March 20, 1952. For Resolution of ratification, see Congressional Record, Vol. 98, No. 46, Thursday, March 20, 1952, p. 2634.

GERMANY

JOINT RESOLUTION OF CONGRESS

Joint Res. Oct. 19, 1951, ch. 519, 65 Stat. 451, provided: "That the state of war declared to exist between the United States and the Government of Germany by the joint resolution of Congress approved December 11, 1941, is hereby terminated and such termination shall take effect on the date of enactment of this resolution [Oct. 19, 1951]: *Provided*, *however*, That notwithstanding this resolution and any proclamation issued by the President pursuant thereto, any property or interest which prior to January 1, 1947, was subject to vesting or seizure under the provisions of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [sections 1 to 6, 7 to 39, 41 to 44 of this Appendix] or which has heretofore been vested or seized under that Act, including accruals to or proceeds of any such property or interest, shall continue to be subject to the provisions of that Act in the same manner and to the same extent as if this resolution had not been adopted and such proclamation had not been issued. Nothing herein and nothing in such proclamation shall alter the status, as it existed immediately prior hereto, under that Act, of Germany or of any person with respect to any such property or interest."

PROCLAMATION NO. 2950

Proc. No. 2950, Oct. 25, 1951, 16 F.R. 10915, 66 Stat. c3, proclaimed that the state of war between the United States and the Government of Germany declared on Dec. 11, 1941 was terminated on Oct. 19, 1951.

VI. AUTHORIZATION TO EMPLOY ARMED FORCES

MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY IN SOUTHEAST ASIA

Pub. L. 88–408, Aug. 10, 1964, 78 Stat. 384, which authorized the President to take all necessary measures

to repeal armed attack against the forces of the United States in the interest of the maintenance of peace and security in Southeast Asia, was terminated by Pub. L. 91–672, §12, Jan. 12, 1971, 84 Stat. 2055, effective upon the day that the second session of the Ninety-first Congress was last adjourned. The second session of the Ninety-first Congress adjourned sine die on January 2, 1971.

TERMINATION OF HOSTILITIES IN INDOCHINA

Pub. L. 92–129, title IV, §401, Sept. 28, 1971, 85 Stat. 360, provided that: ''It is hereby declared to be the sense of Congress that the United States terminate at the earliest practicable date all military operations of the United States in Indochina, and provide for the prompt and orderly withdrawal of all United States military forces at a date certain subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government, and an accounting for all Americans missing in action who have been held by or known to such Government or such forces. The Congress hereby urges and requests the President to implement the above expressed policy by initiating immediately the following actions:

''(1) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

''(2) Negotiate with the Government of North Vietnam for the establishing of a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release at a date certain of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government.

''(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina subject to a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established pursuant to paragraph (2) hereof.''

PROC. NO. 3504. INTERDICTION OF THE DELIVERY OF OFFENSIVE WEAPONS TO CUBA

Proc. No. 3504, Oct. 23, 1962, 27 F.R. 10401, 77 Stat. 958, provided:

WHEREAS the peace of the world and the security of the United States and of all American States are endangered by reason of the establishment by the Sino-Soviet powers of an offensive military capability in Cuba, including bases for ballistic missiles with a potential range covering most of North and South America;

WHEREAS by a Joint Resolution passed by the Congress of the United States and approved on October 3, 1962, it was declared that the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere, and to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

WHEREAS the Organ of Consultation of the American Republics meeting in Washington on October 23, 1962, recommended that the Member States, in accordance with Articles 6 and 8 of the Inter-American Treaty of Reciprocal Assistance, take all measures, individually and collectively, including the use of armed force, which they may deem necessary to ensure that the Government of Cuba cannot continue to receive from the Sino-Soviet powers military material and related supplies which may threaten the peace and security of the Continent and to prevent the missiles in Cuba with offensive capability from ever becoming an active threat to the peace and security of the Continent:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority conferred upon me by the Constitution and statutes of the United States, in accordance with the aforementioned resolutions of the United States Congress and of the Organ of Consultation of the American Republics, and to defend the security of the United States, do hereby proclaim that the forces under my command are ordered, beginning at 2:00 P.M. Greenwich time October 24, 1962, to interdict, subject to the instructions herein contained, the delivery of offensive weapons and associated material to Cuba.

For the purposes of this Proclamation, the following are declared to be prohibited materiel:

Surface-to-surface missiles; bomber aircraft; bombs, air-to-surface rockets and guided missiles; warheads for any of the above weapons; mechanical or electronic equipment to support or operate the above items; and any other classes of materiel hereafter designated by the Secretary of Defense for the purpose of effectuating this Proclamation.

To enforce this order, the Secretary of Defense shall take appropriate measures to prevent the delivery of prohibited materiel to Cuba, employing the land, sea and air forces of the United States in cooperation with any forces that may be made available by other American States.

The Secretary of Defense may make such regulations and issue such directives as he deems necessary to ensure the effectiveness of this order, including the designation, within a reasonable distance of Cuba, of prohibited or restricted zones and of prescribed routes.

Any vessel or craft which may be proceeding toward Cuba may be intercepted and may be directed to identify itself, its cargo, equipment and stores and its ports of call, to stop, to lie to, to submit to visit and search, or to proceed as directed. Any vessel or craft which fails or refuses to respond to or comply with directions shall be subject to being taken into custody. Any vessel or craft which it is believed is en route to Cuba and may be carrying prohibited materiel or may itself constitute such materiel shall, wherever possible, be directed to proceed to another destination of its own choice and shall be taken into custody if it fails or refuses to obey such directions. All vessels or craft taken into custody shall be sent into a port of the United States for appropriate disposition.

In carrying out this order, force shall not be used except in case of failure or refusal to comply with directions, or with regulations or directives of the Secretary of Defense issued hereunder, after reasonable efforts have been made to communicate them to the vessel or craft, or in case of self-defense. In any case, force shall be used only to the extent necessary.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done in the City of Washington this twenty-third day of October in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

[SEAL]

JOHN FITZGERALD KENNEDY.

PROC. NO. 3507. TERMINATING AUTHORITY GRANTED AND ORDERS ISSUED IN PROC. NO. 3504

Proc. No. 3507, Nov. 21, 1962, 27 F.R. 11525, 77 Stat. 961, provided:

I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and statutes of the United States, do hereby proclaim that at 11 p.m., Greenwich Time, November 20, 1962, I terminated the authority conferred upon the Secretary of Defense by Proclamation No. 3504, dated October 23, 1962 [set out above], and revoked the orders contained therein to forces under my command.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 21st day of November, in the year of our Lord nineteen hundred and sixty-two and of the Independence of the United States of America the one hundred and eighty-seventh.

[SEAL]

JOHN F. KENNEDY.

MIDDLE EAST STABILIZATION

Pub. L. 85–7, §§1–6, Mar. 9, 1957, 71 Stat. 5, set out as chapter 24A (§1961 et seq.) of Title 22, Foreign Relations and Intercourse, authorizes the President to provide economic and military assistance, and, if he determines it necessary, to use armed forces under certain circumstances to maintenance of national independence in the Middle East.

PROTECTION OF SECURITY OF FORMOSA

Joint Res. Jan. 29, 1955, ch. 4, 8:42 A.M., 69 Stat. 7, which authorized the President of the United States to employ the Armed Forces of the United States for the purpose of securing and protecting Formosa and Pescadores against armed attack, was repealed by Pub. L. 93–475, §3, Oct. 26, 1974, 88 Stat. 1439.

TRADING WITH THE ENEMY ACT OF 1917

ACT OCT. 6, 1917, CH. 106, 40 STAT. 411

Sec.
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12. Property transferred to Alien Property Custodian.
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43. Divestment of trademarks.
44. Motion picture prints, transfer of title.

TERMINATION OF WORLD WAR AND EMERGENCY

The Trading with the enemy Act was expressly excepted from the operation and effect of Joint Res. Mar. 3, 1921, ch. 136, 41 Stat. 1359, declaring that certain Acts of Congress, joint resolutions, and proclamations should be construed as though the World War had ended and the then present or existing emergency expired.

§1. Designation of Act

This Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] shall be known as the ''Trading with the enemy[1] Act.''

(Oct. 6, 1917, ch. 106, §1, 40 Stat. 411.)

[1] So in original. Probably should be capitalized.

§ 2. Definitions

The word ''enemy,'' as used herein, shall be deemed to mean, for the purposes of such trading and of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term ''enemy.''

The words ''ally of enemy,'' as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term ''ally of enemy.''

The word ''person,'' as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words ''United States,'' as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words ''the beginning of the war,'' as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words ''end of the war,'' as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the ''end of the war'' within the meaning of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

The words ''bank or banks,'' as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words ''to trade,'' as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with.

(Oct. 6, 1917, ch. 106, § 2, 40 Stat. 411.)

WORLD WAR I PROCLAMATIONS ENUMERATING ENEMIES

The following Presidential Proclamations issued during World War I declared the partnerships and persons enumerated therein to be ''enemies'':

Proc. Feb. 5, 1918, 40 Stat. 1745.
Proc. May 31, 1918, 40 Stat. 1786.
Proc. Aug. 10, 1918, 40 Stat. 1833.
Proc. Aug. 14, 1918, 40 Stat. 1837.
Proc. Nov. 29, 1918, 40 Stat. 1899.

§ 3. Acts prohibited

It shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or

attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however*, That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act [section 16 of this Appendix].

(Oct. 6, 1917, ch. 106, §3, 40 Stat. 412.)

DELEGATION OF FUNCTIONS

Delegation of President's powers under subsec. (a) of this section to Secretary of the Treasury and Alien Property Custodian; and transfer of Alien Property Custodian's powers to Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out under section 6 of this Appendix.

Powers conferred upon President by subsec. (a) of this section delegated to Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§4. Licenses to enemy or ally of enemy insurance or reinsurance companies; change of name; doing business in United States

(a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may within thirty days after the passage of this Act [Oct. 6, 1917], apply to the President for a license to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: *Provided, however*, That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: *Provided further*, That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days' notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act [Oct. 6, 1917], and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act [Oct. 6, 1917], and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act [Oct. 6, 1917], and further pending the

entry of such order by the President, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act [said sections] to the contrary notwithstanding: *Provided, however*, That the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act [Oct. 6, 1917], or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall forthwith apply to all trade or to any attempt to trade with, to, from, for, buy, on account of, or on behalf of, or for the benefit of such company or other person: *Provided, however*, That after such refusal or revocation, anything in this Act [said sections] to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act [said sections] shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policyholder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the alien property custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof [section 9 of this Appendix].

(b) During the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.

(Oct. 6, 1917, ch. 106, § 4, 40 Stat. 413.)

REFERENCES IN TEXT

Proclamation of April 6, 1917, 40 Stat. 1654, and Proclamation of July 13, 1917, 40 Stat. 1684, referred to in subsec. (a), are set out below.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

PROCLAMATION OF APRIL 6, 1917

40 STAT. 1654

WHEREAS, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in business under the supervision of the Insurance Departments thereof, with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United States, for the protection of all policyholders in the United States;

AND WHEREAS, the interests of the citizens of the United States in the protection afforded by such insurance are of great magnitude, so that it is deemed to be important that the agencies of such companies in the United States be permitted to continue in business;

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby authorized and permitted to continue the transaction of their business in accordance with the laws of such States in the same manner and to the same extent as though a state of war did not now exist; provided, however, that all funds of such establishments now in the possession of their managers or agents, or which shall hereafter come into their possession, shall be subject to such rules and regulations concerning the payment and disposition thereof as shall be prescribed by the insurance supervising officials of the State in which the principal office of such establishment in the United States is located, but in no event shall any funds belonging to or held for the benefit of such companies be transmitted outside of the United States nor be used as the basis for the establishment directly or indirectly of any credit within or outside of the United States to or for the benefit or use of the enemy or any of his allies without the permission of this Government.

PROCLAMATION OF JULY 13, 1917

40 STAT. 1684

WHEREAS, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of marine and war risk insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in such business under the supervision of the Insurance Departments thereof, with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United

States, for the protection of all policyholders in the United States;

AND WHEREAS, the nature of marine and war risk insurance is such that those conducting it must of necessity be in touch with the movements of ships and cargoes, and it has been considered by the Government of great importance that this information should not be obtained by alien enemies;

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby prohibited from continuing the transaction of the business of marine and war risk insurance either as direct insurers or re-insurers; and all individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States, or of any foreign country, and established pursuant to the laws of such States and now engaged in the United States in the business of marine and war risk insurance either as direct insurers or re-insurers are hereby prohibited from reinsuring with companies incorporated under the laws of the German Empire, no matter where located; and all persons in the United States are prohibited from insuring against marine or war risks with insurance companies incorporated under the laws of the German Empire or with individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States or of any foreign country and now engaged in the business of marine or war risk insurance in the United States, which re-insure business originating in the United States with companies incorporated under the laws of the German Empire, no matter where located.

The foregoing prohibitions shall extend and operate as to all existing contracts for insurance and re-insurance which are hereby suspended for the period of the war, except that they shall not operate to vitiate or prevent the insurance or re-insurance of, and the payment or receipt of, premiums on insurance or re-insurance under existing contracts on vessels or interest at risk on the date of this proclamation, and such insurance or re-insurance, if for a voyage, shall continue in force until arrival at destination, and if for time, until thirty days from the date of this proclamation.

§5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [said sections]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) During the time of war, the President may, through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest there-

in, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term ''United States'' means the United States and any place subject to the jurisdiction thereof: *Provided, however*, That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. As used in this subdivision the term ''person'' means an individual, partnership, association, or corporation.

(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979 [section 2404 of this Appendix], or under section 6 of that Act [section 2405 of this Appendix] to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Pub. L. 95–223, title I, §§ 101(a), 102, 103(b), Dec. 28, 1977, 91 Stat. 1625, 1626; Pub. L. 100–418, title II, § 2502(a)(1), Aug. 23, 1988, 102 Stat. 1371; Pub. L. 103–236, title V, § 525(b)(1), Apr. 30, 1994, 108 Stat. 474.)

CODIFICATION

Words '', including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas'' following ''to the jurisdiction thereof:'' in subsec. (b)(3) were omitted upon the authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

Subsec. (b) is also classified to section 95a of Title 12, Banks and Banking.

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103–236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.''

1988—Subsec. (b)(4). Pub. L. 100–418 added par. (4).

1977—Subsec. (b)(1). Pub. L. 95–223, §§ 101(a), 102, substituted ''During the time of war, the President may, through any agency that he may designate, and under such rules and regulations'' for ''During the time of war or during any other period of national emergency declared by the President, the President may, through any agency, that he may designate, or otherwise, and under such rules and regulations'' in provisions preceding subpar. (A), and, in provisions following subpar. (B), struck out ''; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision'' after ''control of such person''.

Subsec. (b)(3). Pub. L. 95–22, § 103(b), struck out provisions that whoever willfully violated any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, could be fined not more than $10,000, or, if a natural person, could be imprisoned for not more than ten years, or both; and that any officer, director, or agent of any corporation who knowingly participated in that violation could be punished by a like fine, imprisonment, or both.

1941—Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Subsec. (b). Act Mar. 9, 1933, among other things, extended President's power to any time of war national emergency, permitted regulations to be issued by any agency designated by President, provided for furnishing under oath of complete information relative to transactions under the subsection, and placed sanctions on violations to the extent of a $10,000 fine or ten years imprisonment.

1918—Subsec. (b). Act Sept. 24, 1918, inserted provisions relating to hoarding or melting of gold or silver coin or bullion or currency and to regulation of transactions in bonds or certificates of indebtedness.

DELEGATION OF FUNCTIONS

Delegation of President's powers under subsec. (b) of this section to Secretary of the Treasury and Alien Property Custodian; and transfer of Alien Property Custodian's powers to Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out under section 6 of this Appendix.

Powers conferred upon President by subsec. (b) of this section delegated to Secretary of the Treasury by Memorandum of President dated Feb. 12, 1942, 7 F.R. 1409.

LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES

Section 525(b)(2) of Pub. L. 103–236 provided that: ''The authorities conferred upon the President by sec-

tion 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Apr. 30, 1994], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.''

Section 2502(a)(2) of Pub. L. 100–418 provided that: ''The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act [Aug. 23, 1988], do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited.''

EXTENSION AND TERMINATION OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

Section 101(b), (c) of Pub. L. 95–223 provided that:

''(b) Notwithstanding the amendment made by subsection (a) [amending subsec. (b)(1) of this section], the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act [subsec. (b) of this section], which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act [section 1601(a) of this title]) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act [Sept. 14, 1976]. The President may extend the exercise of such authorities for one-year periods upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

''(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) [section 1601(a) of this title] and of title II [section 1621 et seq. of this title] of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.''

CONTINUATION OF THE EXERCISE OF CERTAIN AUTHORITIES UNDER THE TRADING WITH THE ENEMY ACT

Determination of President of the United States, No. 2007–32, Sept. 13, 2007, 72 F.R. 53409, provided:

Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination on September 13, 2006 (71 Fed. Reg. 54399), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 2007.

I hereby determine that the continuation for 1 year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, consistent with the authority vested in me by section 101(b) of Public Law 95–223, I continue for 1 year, until September 14, 2008, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 C.F.R. part 500;

(2) the Transaction Control Regulations, 31 C.F.R. part 505; and

(3) the Cuban Assets Control Regulations, 31 C.F.R. part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

Prior extensions were contained in the following:

Determination of President of the United States, No. 2006–23, Sept. 13, 2006, 71 F.R. 54399.

Determination of President of the United States, No. 2005–35, Sept. 12, 2005, 70 F.R. 54607.

Determination of President of the United States, No. 2004–45, Sept. 10, 2004, 69 F.R. 55497.

Determination of President of the United States, No. 2003–36, Sept. 12, 2003, 68 F.R. 54325.

Determination of President of the United States, No. 02–31, Sept. 13, 2002, 67 F.R. 58681.

Determination of President of the United States, No. 2001–26, Sept. 12, 2001, 66 F.R. 47943.

Determination of President of the United States, No. 2000–29, Sept. 12, 2000, 65 F.R. 55883.

Determination of President of the United States, No. 99–36, Sept. 10, 1999, 64 F.R. 51885.

Determination of President of the United States, No. 98–35, Sept. 11, 1998, 63 F.R. 50455.

Determination of President of the United States, No. 97–32, Sept. 12, 1997, 62 F.R. 48729.

Determination of President of the United States, No. 96–43, Aug. 27, 1996, 61 F.R. 46529.

Determination of President of the United States, No. 95–41, Sept. 8, 1995, 60 F.R. 47659.

Determination of President of the United States, No. 94–46, Sept. 8, 1994, 59 F.R. 47229.

Determination of President of the United States, No. 93–38, Sept. 13, 1993, 58 F.R. 51209.

Determination of President of the United States, No. 92–45, Aug. 28, 1992, 57 F.R. 43125.

Determination of President of the United States, No. 91–52, Sept. 13, 1991, 56 F.R. 48415.

Determination of President of the United States, No. 90–38, Sept. 5, 1990, 55 F.R. 37309.

Determination of President of the United States, No. 89–25, Aug. 28, 1989, 54 F.R. 37089.

Determination of President of the United States, No. 88–22, Sept. 8, 1988, 53 F.R. 35289.

Memorandum of President of the United States, Aug. 27, 1987, 51 F.R. 33397.

Memorandum of President of the United States, Aug. 20, 1986, 51 F.R. 30201.

Memorandum of President of the United States, Sept. 5, 1985, 50 F.R. 36563.

Memorandum of President of the United States, Sept. 11, 1984, 49 F.R. 35927.

Memorandum of President of the United States, Sept. 7, 1983, 48 F.R. 40695.

Memorandum of President of the United States, Sept. 8, 1982, 47 F.R. 39797.

Memorandum of President of the United States, Sept. 10, 1981, 46 F.R. 45321.

Memorandum of President of the United States, Sept. 8, 1980, 45 F.R. 59549.

Memorandum of President of the United States, Sept. 12, 1979, 44 F.R. 53153.

Memorandum of President of the United States, Sept. 8, 1978, 43 F.R. 40449.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

APPROVAL OF REGULATIONS

Act Mar. 9, 1933, ch. 1, title I, §1, 48 Stat. 1, provided that: ''The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended [section 5(b) of this Appendix], are hereby approved and confirmed.''

EXECUTIVE ORDERS

Ex. Ord. No. 6260, as amended, respecting hoarding, export, and earmarking of gold coin, bullion, or currency and transactions in foreign exchange; Ex. Ord. No. 6560, as amended, respecting transactions in foreign exchange, transfers of credit, and export of coin and currency; Ex. Ord. No. 8389, as amended, regulating transactions in foreign exchange and foreign-owned property and providing for the reporting of all foreign-owned property; Ex. Ord. No. 9747, respecting continuance of functions of Alien Property Custodian and Treasury Department in Philippines; Ex. Ord. No. 9760, respecting diplomatic property of Germany and Japan; and Ex. Ord. No. 10348, continuing in force orders and regulations relating to blocked property, see notes set out under section 95a of Title 12, Banks and Banking, and section 6 of this Appendix.

§ 6. Alien Property Custodian; general powers and duties

The President is authorized to appoint, prescribe the duties of, and fix the salary of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act [said sections]. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act [said sections]; *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission[1] and in accordance with the civil-service law.

(Oct. 6, 1917, ch. 106, § 6, 40 Stat. 415; Pub. L. 92–310, title II, § 235, June 6, 1972, 86 Stat. 214; Pub. L. 94–273, § 11(5), Apr. 21, 1976, 90 Stat. 378; Pub. L. 100–418, title II, § 2501(b), Aug. 23, 1988, 102 Stat. 1371.)

REFERENCES IN TEXT

The civil-service law, referred to in text, is set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions that limited the salary of the alien property custodian to not more than $5,000 per annum have been omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1988—Pub. L. 100–418 struck out before period at end ": *Provided further*, That the President shall cause a detailed report to be made to Congress on the first day of April of each year of all proceedings had under this Act during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof".

1976—Pub. L. 94–273 substituted "April" for "January".

1972—Pub. L. 92–310 struck out provisions which required the Alien Property Custodian to give a bond.

TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Reorg. Plan No. 1 of 1947, § 101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, transferred functions vested by law in Alien Property Custodian or Office of Alien Property Custodian to Attorney General, except that those relating to property or interests in Philippines transferred to President. For text of this plan and provisions relating to transfer of records, property, personnel, and funds, see the text of the plan, set out in the Appendix to Title 5.

Previous office of Alien Property Custodian abolished and functions and personnel transferred to Department of Justice by Ex. Ord. No. 6694, eff. July 1, 1934.

EXPENSES AND COMPENSATION OF ALIEN PROPERTY CUSTODIAN

Act May 16, 1928, ch. 580, § 1, 45 Stat. 574, contained the following provision: "All expenses of the office of the Alien Property Custodian authorized by * * * [the Trading With the Enemy Act], including compensation of the Alien Property Custodian at not to exceed $10,000 per annum; shall be paid from interest and collections on trust funds and other properties under the control of such Custodian."

REPORT TO CONGRESS; INCLUSION OF CLAIMS FILED UNDER SECTION 32(a)(2)(D) OF THIS APPENDIX

Act Sept. 29, 1950, ch. 1108, § 2, 64 Stat. 1081, provided that: "There shall be included in the report made to Congress pursuant to section 6 of the Trading With the Enemy Act, as amended [this section], a statement of (1) the names and nationalities of persons who have filed notice of claim for the return of any property or interest under section 1 of this Act [section 32(a)(2)(D) of this Appendix], the date of the filing of such notice of claim, and the estimated value of the property or interest, and (2) the names and nationalities of persons to whom returns have been made of any property or interest under section 1 of this Act [section 32(a)(2)(D) of this Appendix] and the value of such property or interest."

EXECUTIVE ORDER NO. 9095

Ex. Ord. No. 9095, Mar. 11, 1942, 7 F.R. 1971, as amended by Ex. Ord. No. 9193, July 6, 1942, 7 F.R. 5205; Ex. Ord. No. 9567, June 8, 1945, 10 F.R. 6917, which established the Office of the World War II Alien Property Custodian and provided for the compensation, functions, etc., of the Alien Property Custodian, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 9142. TRANSFER OF CERTAIN FUNCTIONS, PROPERTY AND PERSONNEL FROM DEPARTMENT OF JUSTICE TO ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9142, Apr. 21, 1942, 7 F.R. 2985, provided:

1. All authority, rights, privileges, powers, duties, and functions transferred or delegated to the Department of Justice, to be administered under the supervision of the Attorney General, by Executive Order No.

[1] See Transfer of Functions note below.

6694 of May 1, 1934, or vested in, transferred or delegated to, the Attorney General or the Assistant Attorney General in charge of the Claims Division of the Department of Justice, by Executive Order No. 8136 of May 15, 1939, are hereby transferred to the Alien Property Custodian provided for by Executive Order No. 9095, dated March 11, 1942.

2. Subject to the provisions of paragraph 5 hereof, all property of the Alien Property Division of the Department of Justice, including records, files, supplies, furniture, and equipment, and all funds, securities, choses in action, real estate, patents, trade-marks, copyrights, and all other property of whatsoever kind, held or administered by the Attorney General under and pursuant to the Trading With the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], are hereby transferred to the Alien Property Custodian, to be administered and disposed of under his supervision and direction.

3. All administrative or general or other expenses of the Office of the Alien Property Custodian in the administration of the Trading With the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], including the administration of Executive Order No. 9095, may be paid out of any funds or other property transferred to the Alien Property Custodian hereunder, whether or not such expenses relate to the property transferred hereunder, or were incurred before or after March 11, 1942.

4. The personnel of the Alien Property Division of the Department of Justice is hereby transferred to the Office of the Alien Property Custodian without loss of such civil service status or eligibility therefor as they may have.

5. All litigation in which the Alien Property Custodian or the Office of the Alien Property Custodian is interested shall be conducted under the supervision of the Attorney General. The Department of Justice and the Attorney General shall from time to time render such advice on legal matters to the Alien Property Custodian and the Office of the Alien Property Custodian as the Attorney General and the Alien Property Custodian may from time to time agree upon. For the purpose of defraying such expenses as may be incurred by the Department of Justice or the Attorney General in the rendering of advice as aforesaid or in the conduct of litigation in which the Alien Property Custodian or the Office of Alien Property Custodian is interested, including expenses for salaries of personnel and all other charges, the Alien Property Custodian may from time to time make available out of the funds or other property in his possession or control such funds as the Attorney General and the Alien Property Custodian may from time to time agree to be necessary therefor. Nothing in this order shall be construed to require the Department of Justice to surrender possession of any files and records relating to any litigation heretofore or hereafter conducted by it.

6. This order shall not be construed as modifying or limiting in any way the authority heretofore granted to the Federal Bureau of Investigation.

7. This order shall remain in force during the continuance of the present war and for six months after the termination thereof.

8. All prior Executive orders insofar as they are in conflict herewith are hereby superseded.

FRANKLIN D. ROOSEVELT.

EX. ORD. NO. 9325. PAYMENT OF EXPENSES OF THE OFFICE OF ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9325, Apr. 7, 1943, 8 F.R. 1682, provided:

1. Until it is otherwise provided, the Alien Property Custodian is authorized and empowered to pay out of any funds lawfully in his custody or under his control all necessary expenses incurred by the Office of Alien Property Custodian in carrying out the powers and duties vested in him pursuant to Title III of the First War Powers Act, 1941 [sections 616 to 618 of this Appendix], and the applicable orders issued thereunder. Such expenses shall be allocated and recovered as provided in section 2 hereof.

2. The Alien Property Custodian is authorized to retain, allocate and recover, as a charge against any specific property or any other property of which the former owner of the specific property was divested, expenses attributable to such specific property with respect to which he has exercised or may hereafter exercise any power heretofore or hereafter conferred upon him. In addition to such expenses, the Alien Property Custodian is authorized to retain, allocate and recover at such time or times as he may deem practicable, as a charge against money or property in his custody or under his control, such amounts as may be necessary in connection with the general administrative expenses of the Office of Alien Property Custodian which have been or may be paid and which are not practicably allocable to a specific property.

3. The power and authority herein granted shall not be limited by the filing of a claim or the institution of a suit relating to any property subject to the authority of the Alien Property Custodian.

4. This order shall not be construed as a limitation upon or in derogation of any powers heretofore granted.

5. The Office of Alien Property Custodian shall submit to the Bureau of the Budget [now the Office of Management and Budget] (a) prior to April 30, 1943, an estimate of general administrative expenses for the remainder of the current fiscal year, (b) prior to the end of the current and of each subsequent fiscal year, at such time as may be specified by the Director of the Bureau of the Budget, an estimate of such expenses for the succeeding fiscal year, and (c) any supplemental estimates of such expenses if and as the need arises. After April 30, 1943, no general administrative expenses authorized to be paid pursuant to this order shall be incurred or paid by the Office of Alien Property Custodian beyond the amounts approved by the Director of the Bureau of the Budget upon submissions as above set forth.

FRANKLIN D. ROOSEVELT.

EX. ORD. NO. 9747. FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY DEPARTMENT CONTINUED IN PHILIPPINES

Ex. Ord. No. 9747, July 3, 1946, 11 F.R. 7518, provided that the powers of the Alien Property Custodian under Ex. Ord. No. 9095, formerly set out above, should continue to be exercised in the Philippines after July 4, 1946. It also provided that the Secretary of the Treasury should continue to exercise his powers in the Philippines under Ex. Ord. No. 8389, eff. Apr. 10, 1940, set out as a note under section 95a of Title 12, Banks and Banking.

EX. ORD. NO. 9760. AUTHORITY OF SECRETARY OF STATE REGARDING DIPLOMATIC PROPERTY OF GERMANY AND JAPAN

Ex. Ord. No. 9760, July 23, 1946, 11 F.R. 7999, provided:

1. The Secretary of State is authorized and empowered as he deems necessary in the national interest to direct, manage, supervise, or control diplomatic and consular property within the United States owned or controlled by Germany or Japan, including all assets on the premises of such property.

2. The Alien Property Custodian shall not exercise any power and authority conferred upon him by any other Executive order with respect to diplomatic and consular property within the United States owned or controlled by Germany or Japan except so far as the Secretary of State releases his authority over such diplomatic and consular property under this order and so notifies the Alien Property Custodian in writing.

3. When the Secretary of State determines to exercise any power and authority conferred upon him by this order with respect to any property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of

such property, except as authorized or directed by the Secretary of State.

4. This order supersedes all conflicting provisions of prior Executive orders, including Executive Orders Nos. 8389, as amended [set out under section 95a of Title 12, Banks and Banking] and 9095, as amended [set out above].

5. The Secretary of State is authorized to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order.

HARRY S TRUMAN.

EX. ORD. NO. 9788. TERMINATION OF OFFICE OF WORLD WAR II ALIEN PROPERTY CUSTODIAN AND TRANSFERENCE OF ITS FUNCTIONS TO THE ATTORNEY GENERAL

Ex. Ord. No. 9788, Oct. 14, 1946, 11 F.R. 11981, provided:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942 [formerly set out above], is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

HARRY S TRUMAN.

EXECUTIVE ORDER NO. 9818

Ex. Ord. No. 9818, Jan. 7, 1947, 12 F.R. 133, formerly set out under section 1382 of Title 22, Foreign Relations and Intercourse, established the Philippine Alien Property Administration.

EXECUTIVE ORDER NO. 9989

Ex. Ord. No. 9989, Aug. 20, 1948, 13 F.R. 4891, which transferred jurisdiction over blocked assets to the Attorney General, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EXECUTIVE ORDER NO. 10348

Ex. Ord. No. 10348, Apr. 26, 1952, 17 F.R. 3769, which continued in force Ex. Ord. No. 9989, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EX. ORD. NO. 11281. TRANSFERRING JURISDICTION OVER BLOCKED ASSETS FROM ATTORNEY GENERAL TO SECRETARY OF THE TREASURY

Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, provided:

WHEREAS before October 1, 1948, the Secretary of the Treasury administered the blocking controls and other restrictions over property and interests of certain foreign countries or their nationals that had been imposed, under the authority of section 5(b) of the Trading with the Enemy Act, as amended (50 U.S.C. App. 5(b)), by means of and under Executive Order No. 8389 of April 10, 1940, as amended [set out under section 95a of Title 12, Banks and Banking]; and

WHEREAS by Executive Order No. 9989 of August 20, 1948, jurisdiction over the property and interests which remained blocked or restricted under Executive Order No. 8389 on September 30, 1948, was transferred, effective October 1, 1948, to the Attorney General to aid him in carrying out his functions as successor to the Alien Property Custodian, including, among others, the function of vesting property pursuant to the provisions of the Trading with the Enemy Act, as amended [sections 1 to 6, 7 to 39,and 41 to 44 of this Appendix]; and

WHEREAS by Executive Order No. 10644 of November 7, 1955 [formerly set out under section 1631a of Title 22, Foreign Relations and Intercourse], the Attorney General was designated to carry out the functions of the President under Title II of the International Claims Settlement Act of 1949 (as added by the Act of August 9, 1955, Public Law 285, 84th Congress, 69 Stat. 562) [sections 1631 to 1631*o* of Title 22], including certain vesting and blocking functions required by section 202 of that Act (22 U.S.C. 1631a), and the Attorney General, as designee of the President, exercises controls under Executive Order No. 8389 with respect to the net proceeds of certain property that are carried, pursuant to section 202, in blocked accounts with the Treasury; and

WHEREAS the functions of vesting property under the Trading with the Enemy Act and under section 202 of the International Claims Settlement Act of 1949 have been terminated; and

WHEREAS the blocking controls not exercised by the Attorney General under Executive Order No. 8389 are limited in application to property of Hungary or its nationals acquired on or before January 1, 1945; property of Czechoslovakia, Estonia, Latvia, Lithuania or nationals of those countries acquired on or before December 7, 1945; property of East Germany or its nationals acquired on or before December 31, 1946, and certain securities scheduled in General Rulings No. 5 and No. 5B, as amended (8 CFR 511.205 and 511.205b); and

WHEREAS the Office of Alien Property, through which the Attorney General carries out or has carried out the various responsibilities described above, will be abolished on or before June 30, 1966, and the Attorney General thereafter will not be in a position to administer blocking controls under Executive Order No. 8389 efficiently; and

WHEREAS in the interest of efficiency it is desirable to return to the Secretary of the Treasury jurisdiction over the property and interests remaining subject to such blocking controls:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading with the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], Title II of the International Claims Settlement Act of 1949 and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The authority granted to the Attorney General by Executive Order No. 9989 with respect to property and interests blocked or otherwise subject to restriction under Executive Order No. 8389 [set out under section 95a of Title 12, Banks and Banking] is hereby terminated and Executive Order No. 9989 [formerly set out above] is hereby superseded.

SEC. 2. The Secretary of the Treasury shall hereafter be responsible for the administration of the controls exercisable under Executive Order No. 8389 [set out under section 95a of Title 12, Banks and Banking] and he is authorized and directed to take such action as he may deem necessary with respect to any property or interest that remains blocked or restricted under Executive Order No. 8389 on the effective date of this order. In the performance of the functions and duties hereby reassigned to him, the Secretary of the Treasury may act personally or through any officer, person, agency or instrumentality designated by him.

SEC. 3. All orders, regulations, rulings, instructions or licenses issued prior to the effective date of this order by the Attorney General or the Secretary of the Treasury with respect to any of the property or interests referred to in Section 2 shall continue in full force and effect except as hereafter amended, modified or revoked by the Secretary of the Treasury.

SEC. 4. No person affected by any order, regulation, ruling, instruction, license or other action issued or

taken by either the Attorney General or the Secretary of the Treasury in the administration of Executive Order No. 8389 may challenge the validity thereof or otherwise excuse any action, or failure to act, on the ground that it was within the jurisdiction of the Secretary of the Treasury rather than the Attorney General or *vice versa*.

SEC. 5. Section 1 of Executive Order No. 10644 of November 7, 1955 [formerly set out under section 1631a of Title 22, Foreign Relations and Intercourse], is hereby amended to read as follows:

"SECTION 1. (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, as hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury."

SEC. 6. Executive Order No. 8389, this order and all delegations, designations, regulations, rulings, instructions and licenses issued or to be issued under Executive Order No. 8389 or this order are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950 [set out preceding section 1 of this Appendix]. Executive Order No. 10348 of April 26, 1952 [formerly set out above] is hereby superseded.

SEC. 7. Nothing in this order shall be deemed to revoke or limit any powers heretofore conferred on the Secretary of the Treasury by or under any statute or Executive order, or to revoke or limit any powers heretofore conferred upon the Attorney General by or under any statute or Executive order other than Executive Order No. 9989 [formerly set out above] or No. 10644.

SEC. 8. This order shall become effective at midnight, May 15, 1966.

LYNDON B. JOHNSON.

§ 6a. Incurment of expenses by Office of Alien Property Custodian

After June 30, 1945, the Office of Alien Property Custodian shall not incur any obligations for the expenses of said Office except pursuant to a further annual authorization by the Congress specifically therefor.

(Dec. 22, 1944, ch. 660, title I, 58 Stat. 855.)

CODIFICATION

Section was not enacted as part of the Trading with the enemy Act which comprises sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

REPORT TO CONGRESS ON EXPENSES

Act Dec. 22, 1944, ch. 660, title I, 58 Stat. 855, provided in part that on or before Apr. 1, 1945, the Alien Property Custodian make a report to the Appropriations Committees of the House and Senate giving detailed information on all administrative and nonadministrative expenses incurred in connection with the activities of the Office of Alien Property Custodian.

§ 6b. Omitted

CODIFICATION

Section, Pub. L. 90–470, title II, Aug. 9, 1968, 82 Stat. 673, which authorized Attorney General to pay, out of certain funds or other property or interest, expenses incurred in carrying out Trading With the Enemy Act and International Claims Settlement Act, was from the Department of Justice Appropriation Act, 1969, and was not repeated in subsequent appropriation acts. Similar provisions were carried in the following prior appropriation acts:

Nov. 8, 1967, Pub. L. 90–133, title II, 81 Stat. 416.
Nov. 8, 1966, Pub. L. 89–797, title II, 80 Stat. 1484.
Sept. 2, 1965, Pub. L. 89–164, title II, 79 Stat. 625.
Aug. 31, 1964, Pub. L. 88–527, title II, 78 Stat. 716.
Dec. 30, 1963, Pub. L. 88–245, title II, 77 Stat. 781.
Oct. 18, 1962, Pub. L. 87–843, title II, 76 Stat. 1085.
Sept. 21, 1961, Pub. L. 87–264, title II, 75 Stat. 550.
Aug. 31, 1960, Pub. L. 86–678, title II, 74 Stat. 564.
July 13, 1959, Pub. L. 86–84, title II, 73 Stat. 189.
June 30, 1958, Pub. L. 85–474, title II, 72 Stat. 252.
June 11, 1957, Pub. L. 85–49, title II, 71 Stat. 63.
June 20, 1956, ch. 414, title II, 70 Stat. 308.
July 7, 1955, ch. 279, title II, 69 Stat. 273.
July 2, 1954, ch. 456, title II, 68 Stat. 421.
Aug. 5, 1953, ch. 328, title II, 67 Stat. 375.
July 10, 1952, ch. 651, title II, 66 Stat. 559.
Oct. 22, 1951, ch. 533, title II, 65 Stat. 585.
Sept. 6, 1950, ch. 896, Ch. III, title II, 64 Stat. 619.
July 20, 1949, ch. 354, title II, 63 Stat. 461.

§ 7. Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of Act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation

(a) Every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act [Oct. 6, 1917] and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had

any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however*, That the name of any such officer, director, or stockholder, shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act [Oct. 6, 1917], or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: *Provided*, That the name of any person shall be stricken from the said report by the alien property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act [said sections] or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof [section 3 of this Appendix], made after the passage of this Act [Oct. 6, 1917] and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act [Oct. 6, 1917], the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof [section 3 of this Appendix]: *Provided*, That nothing in this Act [said sections] contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out, completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act [said sections] shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided*, That such payment shall not be made without the license of the President, general or special, as provided in this Act [said sections].

Nothing in this Act [said sections] shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof [section 10 of this Appendix]: *Provided, however*, That an enemy or ally of enemy licensed to do business under this Act [said sections] may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof [section 16 of this Appendix] proof of receipt of notice from the President to

the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof [section 3 of this Appendix].

(c) If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, copyrights, applications therefor, and rights to apply for the same, trade marks, choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owning or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

Any requirement made pursuant to this Act [said sections], or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of any such property or rights as may be covered by such requirement (including the proper office for filing, registering, or recording conveyances, transfers, or assignments of patents, copyrights, trade-marks, or any rights therein or any other rights); and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment to the Alien Property Custodian so filed, registered, or recorded.

Whenever any such property shall consist of shares of stock or other beneficial interest in any corporation, association, or company or trust, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel upon its, his, or their books all shares of stock or other beneficial interest standing upon its, his, or their books in the name of any person or persons, or held for, on account of, or on behalf of, or for the benefit of any person or persons who shall have been determined by the President, after investigation, to be an enemy or ally of enemy, and which shall have been required to be conveyed, transferred, assigned, or delivered to the Alien Property Custodian or seized by him, and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the Alien Property Custodian or otherwise, as the Alien Property Custodian shall require.

The sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or required so to be, or seized by him shall be that provided by the terms of this Act [said sections], and in the event of sale or other disposition of such property by the Alien Property Custodian, shall be limited to and enforced against the net proceeds received therefrom and held by the Alien Property Custodian or by the Treasurer of the United States.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) of this section, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States.

(Oct. 6, 1917, ch. 106, §7, 40 Stat. 416; Nov. 4, 1918, ch. 201, §1, 40 Stat. 1020.)

AMENDMENTS

1918—Subsec. (c). Act Nov. 4, 1918, amended subsec. (c) generally, inserting provisions on recording of property transfers, cancellation of enemy owned stock by corporations, and restriction of claims to relief provided by terms of the Act.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 8. Contracts, mortgages, or pledges against or with enemy or ally of enemy; abrogation of contracts; suspension of limitations

(a) Any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and under such rules and regulations as the President shall prescribe; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: *Provided*, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act [Oct. 6, 1917], required; and that in case were, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: *Provided further*, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) Any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: *Provided*, *however*, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law.

(Oct. 6, 1917, ch. 106, § 8, 40 Stat. 418.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 9. Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency

(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of

Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated: *Provided further*, That upon a determination made by the President, in time of war or during any national emergency declared by the President, that the interest and welfare of the United States require the sale of any property or interest or any part thereof claimed in any suit filed under this subsection and pending on or after the date of enactment [Oct. 22, 1962] of this proviso the Alien Property Custodian or any successor officer, or agency may sell such property or interest or part thereof, in conformity with law applicable to sales of property by him, at any time prior to the entry of final judgment in such suit. No such sale shall be made until thirty days have passed after the publication of notice in the Federal Register of the intention to sell. The net proceeds of any such sale shall be deposited in a special account established in the Treasury, and shall be held in trust by the Secretary of the Treasury pending the entry of final judgment in such suit. Any recovery of any claimant in any such suit in respect of the property or interest or part thereof so sold shall be satisfied from the net proceeds of such sale unless such claimant, within sixty days after receipt of notice of the amount of net proceeds of sale serves upon the Alien Property Custodian, or any successor officer or agency, and files with the court an election to waive all claims to the net proceeds, or any part thereof, and to claim just compensation instead. If the court finds that the claimant has established an interest, right, or title in any property in respect of which such an election has been served and filed, it shall proceed to determine the amount which will constitute just compensation for such interest, right, or title, and shall order payment to the claimant of the amount so determined. An order for the payment of just compensation hereunder shall be a judgment against the United States and shall be payable first from the net proceeds of the sale in an amount not to exceed the amount the claimant would have received had he elected to accept his proportionate part of the net proceeds of the sale, and the balance, if any, shall be payable in the same manner as are judgments in cases arising under section 1346 of title 28, United States Code. The Alien Property Custodian or any successor officer or agency shall, immediately upon the entry of final judgment, notify the Secretary of the Treasury of the determination by final judgment of the claimant's interest and right to the proportionate part of the net proceeds from the sale, and the final determination by judgment of the amount of just compensation in the event the claimant has elected to recover just compensation for the interest in the property he claimed.

(b) In respect of all money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, if the President shall determine that the owner thereof at the time such money or other property was required to be so conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or at the time when it was voluntarily delivered to him or was seized by him was—

(1) A citizen or subject of any nation or State or free city other than Germany or Austria or Hungary or Austria-Hungary, and is at the time of the return of such money or other property hereunder a citizen or subject of any such nation or State or free city; or

(2) A woman who, at the time of her marriage, was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and who, prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary and that the money or other property concerned was not acquired by such woman, either directly or indirectly from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or

(3) A woman who at the time of her marriage was a citizen of the United States, and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned, was not acquired by such woman, either directly or indirectly, from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or who was a daughter of a resident citizen of the United States and herself a resident or former resident thereof, or the minor daughter or daughters of such woman, she being deceased; or

(3A) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or not a citizen or subject of any nation, state or free city, and that the money or other property concerned was acquired by such individual while a bona fide resident of the United States, and that such individual, on January 1, 1926, and at the time of the return of the money or other property, shall be a bona fide resident of the United States; or

(3B) Any individual who at such time was not a subject or citizen of Germany, Austria, Hungary, or Austria-Hungary, and who is now a citi-

zen or subject of a neutral or allied country: *Provided, however*, That nothing contained herein shall be construed as limiting or abrogating any existing rights of an individual under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]; or

(4) A citizen or subject of Germany or Austria or Hungary or Austria-Hungary and was at the time of the severance of diplomatic relations between the United States and such nations, respectively, accredited to the United States as a diplomatic or consular officer of any such nation, or the wife or minor child of such officer, and that the money or other property concerned was within the territory of the United States by reason of the service of such officer in such capacity; or

(5) A citizen or subject of Germany or Austria-Hungary, who by virtue of the provisions of sections 4067, 4068, 4069, and 4070 of the Revised Statutes [sections 21 to 24 of title 50] and of the proclamations and regulations thereunder, was transferred, after arrest, into the custody of the War Department of the United States for detention during the war and is at the time of the return of his money or other property hereunder living within the United States; or

(6) A partnership, association, or other unincorporated body of individuals outside the United States, or a corporation incorporated within any country other than the United States, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Germany or Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property hereunder; or

(7) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereof; or

(8) The Government of Germany or Austria or Hungary or Austria-Hungary, and that the money or other property concerned was the diplomatic or consular property of such Government; or

(9) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or who is not a citizen or subject of any nation, State or free city, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of $10,000, or although exceeding in value the sum of $10,000 is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of $10,000: *Provided*, That an individual shall not be entitled, under this paragraph, to the return of any money or other property owned by a partnership, association, unincorporated body of individuals, or corporation at the time it was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him hereunder; or

(10) A partnership, association, other unincorporated body of individuals, or corporation, and that it is not otherwise entitled to the return of its money or other property, or any part thereof, under this section, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of $10,000, or although exceeding in value the sum of $10,000, is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of $10,000; or

(11) A partnership, association, or other unincorporated body of individuals, having its principal place of business within any country other than Germany, Austria, Hungary, or Austria-Hungary, or a corporation, organized or incorporated within any country other than Germany, Austria, Hungary, or Austria-Hungary, and that the control of, or more than 50 per centum of the interests or voting power in, any such partnership, association, other unincorporated body of individuals, or corporation, was at such time, and is at the time of the return of any money or other property, vested in citizens or subjects of nations, States, or free cities other than Germany, Austria, Hungary, or Austria-Hungary: *Provided, however*, That this subsection shall not affect any rights which any citizen or subject may have under paragraph (1) of this subsection; or

(12) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Austria or Hungary, or Austria-Hungary and is so owned at the time of the return of its money or other property, and has filed the written consent provided for in subsection (m) of this section; or

(13) A partnership, association or other unincorporated body of individuals, having its principal place of business at such time within any country other than Austria, Hungary, or Austria-Hungary, or a corporation organized or incorporated within any country other than Austria, Hungary, or Austria-Hungary, and that the written consent provided for in subsection (m) has been filed; or

(14) An individual who at such time was a citizen or subject of Germany or who, at the time of the return of any money or other property, is a citizen or subject of Germany or is not a citizen or subject of any nation, State, or free city, and that the written consent provided for in subsection (m) of this section has been filed; or

(15) Repealed. Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073.

(16) An individual, partnership, association, or other unincorporated body of individuals, or a corporation, and that the written consent provided for in subsection (m) has been filed, and that no suit or proceeding against the United States or any agency thereof is pending in respect of such return, and that such individual has filed a written waiver renouncing on behalf of himself, his heirs, successors, and assigns any claim based upon the fact that at the time of such return he was in fact entitled to such return under any other provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]; or

(17) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Austria and is so owned at the time of the return of its money or other property; or

(18) A partnership, association, or other unincorporated body of individuals, having its prin-

cipal place of business at such time within Austria, or a corporation organized or incorporated within Austria; or

(19) An individual who at such time was a citizen of Austria or who, at the time of the return of any money or other property, is a citizen of Austria; or

(20) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Hungary and is so owned at the time of the return of its money or other property; or

(21) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Hungary, or a corporation organized or incorporated within Hungary; or

(22) An individual who at such time was a citizen of Hungary or who, at the time of the return of any money or other property, is a citizen of Hungary;

Then the President, without any application being made therefor, may order the payment, conveyance, transfer, assignment, or delivery of such money or other property held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine such person entitled, either to the said owner or to the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian: *Provided*, That no person shall be deemed or held to be a citizen or subject of Germany or Austria or Hungary or Austria-Hungary for the purposes of this section, even though he was such citizen or subject at the time first specified in this subsection, if he has become or shall become, ipso facto or through exercise of option, a citizen or subject of any nation or State or free city other than Germany, Austria, or Hungary, (first) under the terms of such treaties of peace as have been or may be concluded subsequent to November 11, 1918, between Germany or Austria or Hungary (of the one part) and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part), or (second) under the terms of such treaties as have been or may be concluded in pursuance of the treaties of peace aforesaid between any nation, State, or free city (of the one part) whose territories, in whole or in part, on August 4, 1914, formed a portion of the territory of Germany or Austria-Hungary and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part). For the purposes of this section any citizen or subject of a State or free city which at the time of the proposed return of money or other property of such citizen or subject hereunder forms a part of the territory of any one of the following nations: Germany, Austria, or Hungary, shall be deemed to be a citizen or subject of such nation. And the receipt of the said owner or of the person by whom said money or other property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian shall be a full acquittance and discharge of the Alien Property Custodian or the Treasurer of the United States, as the case may be, and of the United States in respect to all claims of all persons heretofore or hereafter claiming any right, title, or interest in said money or other property, or compensation or damages arising from the capture of such money or other property by the President or the Alien Property Custodian: *Provided further, however*, That except as herein provided no such action by the President shall bar any person from the prosecution of any suit at law or in equity to establish any right, title, or interest which he may have therein.

(c) Any person whose money or other property the President is authorized to return under the provisions of subsection (b) hereof may file notice of claim for the return of such money or other property, as provided in subsection (a) hereof, and thereafter may make application to the President for allowance of such claim and/or may institute suit in equity to recover such money or other property, as provided in said subsection, and with like effect. The President or the court, as the case may be, may make the same determinations with respect to citizenship and other relevant facts that the President is authorized to make under the provisions of subsection (b) hereof.

(d) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property without filing the written consent provided for in subsection (m), then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution directly to the persons entitled thereto. Return in accordance with the provisions of this subsection may be made in any case where an application or court proceeding by any legal representative, under the provisions of this subsection before its amendment by the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, §12(a), 45 Stat. 271] is pending and undetermined at the time of the enactment of such Act. All bonds or other security given under the provisions of this subsection before such amendment shall be canceled or released and all sureties thereon discharged.

(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States: *Provided*, That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States

hereunder; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 254].

(f) Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

(g) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property upon filing the written consent provided for in subsection (m), then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned, upon filing the written consent provided for in subsection (m), to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution to the persons entitled thereto. This subsection shall not be construed as extinguishing or diminishing any right which any citizen of the United States may have had under this subsection prior to its amendment by the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, § 12(c), 45 Stat. 271] to receive in full his interest in the property of any individual dying before such amendment.

(h) The aggregate value of the money or other property returned under paragraphs (9) and (10) of subsection (b) to any one person, irrespective of the number of trusts involved, shall in no case exceed $10,000.

(i) For the purposes of paragraphs (9) and (10) of subsection (b) of this section accumulated net income, dividends, interest, annuities, and other earnings, shall be considered as part of the principal.

(j) The Alien Property Custodian is authorized and directed to return to the person entitled thereto, whether or not an enemy or ally of enemy and regardless of the value, any patent, trademark, print, label, copyright, or right therein or claim thereto, which was conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him, and which has not been sold, licensed, or otherwise disposed of under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and to return any such patent, trademark, print, label, copyright, or right therein or claim thereto, which has been licensed, except that any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which is returned by the Alien Property Custodian and which has been licensed, or in respect of which any contract has been entered into, or which is subject to any lien or encumbrance, shall be returned subject to the license, contract, lien, or encumbrance.

(k) Except as provided in section 27 [section 27 of this Appendix], paragraphs (12) to (22), both inclusive, of subsection (b) of this section shall apply to the proceeds received from the sale, license, or other disposition of any patent, trademark, print, label, copyright, or right therein or claim thereto, conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him.

(*l*) This section shall apply to royalties paid to the Alien Property Custodian, in accordance with a judgment or decree in a suit brought under subsection (f) of section 10 [section 10(f) of this Appendix]; but shall not apply to any other money paid to the Alien Property Custodian under section 10 [section 10 of this Appendix].

(m) No money or other property shall be returned under paragraph (12), (13), (14), or (16) of subsection (b) or under subsection (g) or (n) or (to the extent therein provided) under subsection (p), unless the person entitled thereto files a written consent to a postponement of the return of an amount equal to 20 per centum of the aggregate value of such money or other property (at the time, as nearly as may be, of the return), as determined by the Alien Property Custodian, and the investment of such amount in accordance with the provisions of section 25 [section 25 of this Appendix]. Such amount shall be deducted from the money to be returned to such person, so far as possible, and the balance shall be deducted from the proceeds of the sale of so much of the property as may be necessary, unless such person pays the balance to the Alien Property Custodian, except that no property shall be sold prior to the expiration of six years from the date of the enactment of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 254] without the consent of the person entitled thereto. The amounts so deducted shall be returned to the persons entitled thereto as provided in subsection (f) of section 25 [section 25(f) of this Appendix]. The sale of any such property shall be made in accordance with the provisions of section 12 [section 12 of this Appendix], except that the provisions of such section relating to sales or resales to, or for the benefit of, citizens of the United States shall not be applicable. If such aggregate value of the money or other property to be returned under paragraph (12), (13), (14), or (16) of subsection (b) or under subsection (g) is less than $2,000, then the written consent shall not be required and the money or other property shall be returned in full without the temporary retention and investment of 20 per centum thereof.

(n) In the case of property consisting of stock or other interest in any corporation, association, company, or trust, or of bonded or other indebtedness thereof, evidenced by certificates of stock or by bonds or by other certificates of interest therein or indebtedness thereof, or consisting of dividends or interest or other accruals thereon, where the right, title, and interest in the property (but not the actual certificate or bond or other certificate of interest or indebtedness) was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, if the President determines that the owner thereof or of any interest therein has acquired such ownership by assignment, transfer, or sale of such certificate or bond or other certificate of interest or indebtedness, (it being the intent of this subsection that such assignment, transfer, or sale shall not be deemed in-

valid hereunder by reason of such conveyance, transfer, assignment, delivery, or payment to the Alien Property Custodian or seizure by him) and that the written consent provided for in subsection (m) of this section has been filed, then the President may make in respect of such property an order of the same character, upon the same conditions, and with the same effect, as in cases provided for in subsection (b), including the benefits of subsection (c).

(*o*) The provisions of paragraph (12), (13), (14), (17), (18), (19), (20), (21), or (22) of subsection (b), or of subsection (m) or (n) of this section, and (except to the extent therein provided) the provisions of paragraph (16) of subsection (b), shall not be construed as diminishing or extinguishing any right under any other provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] in force immediately prior to the enactment of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 254].

(p) The Alien Property Custodian shall transfer the money or other property in the trust of any partnership, association, or other unincorporated body of individuals, or corporation, the existence of which has terminated, to trusts in the names of the persons (including the German Government and members of the former ruling family) who have succeeded to its claim or interest; and the provisions of subsection (a) of this section relating to the collection of a debt (by order of the President or of a court) out of money or other property held by the Alien Property Custodian or the Treasurer of the United States shall be applicable to the debts of such successor and any such debt may be collected out of the money or other property in any of such trusts if not returnable under subsection (a) of this section. Subject to the above provisions as to the collection of debts, each such successor (except the German Government and members of the former ruling family) may proceed for the return of the amount so transferred to his trust, in the same manner as such partnership, association, or other unincorporated body of individuals, or corporation might proceed if still in existence. If such partnership, association, or other unincorporated body of individuals, or corporation, would have been entitled to the return of its money or other property only upon filing the written consent provided for in subsection (m), then the successor shall be entitled to the return under this subsection only upon filing such written consent.

(q) The return of money or other property under paragraph (15), (17), (18), (19), (20), (21), or (22) of subsection (b) (relating to the return of Austrian and Hungarian nationals) shall be subject to the limitations imposed by subsections (d) and (e) of section 7 of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, §7(d), (e), 45 Stat. 265, 266].

(Oct. 6, 1917, ch. 106, §9, 40 Stat. 419; July 11, 1919, ch. 6, §1, 41 Stat. 35; June 5, 1920, ch. 241, 41 Stat. 977; Feb. 27, 1921, ch. 76, 41 Stat. 1147; Dec. 21, 1921, ch. 13, 42 Stat. 351; Dec. 27, 1922, ch. 13, 42 Stat. 1065; Mar. 4, 1923, ch. 285, §1, 42 Stat. 1511; May 7, 1926, ch. 252, 44 Stat. 406; Mar. 10, 1928, ch. 167, §§11–14, 20, 45 Stat. 270–273, 277; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 745, 50 Stat. 748; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 6, 1956, ch. 1016, §3, 70 Stat. 1073; Pub. L. 87–846, title II, §203, Oct. 22, 1962, 76 Stat. 1113.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–846 inserted provisions for sale of claimed property in time of war or during national emergency, publication of notice in Federal Register of intention to sell, deposit of net proceeds of sale in a special account in the Treasury, satisfaction of the claim from such net proceeds, election to waive claims to net proceeds and to claim just compensation, judicial determination of amount of compensation, order for payment, judgment against United States and notification of Secretary of the Treasury respecting the determination of election made.

1956—Subsec. (b)(15). Act Aug. 6, 1956, repealed par. (15) which related to property of the Austro-Hungarian Bank.

1937—Subsec. (e). Act Aug. 24, 1937, inserted proviso that arrangements by foreign nations certified by Secretary of State would be regarded as meeting reciprocity requirement for return of property.

1928—Subsec. (b)(12) to (22). Act Mar. 10, 1928, §11, added pars. (12) to (22).

Subsec. (d). Act Mar. 10, 1928, §12(a), amended subsec. (d) generally.

Subsec. (e). Act Mar. 10, 1928, §12(b), inserted "; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928" before period at end.

Subsec. (g). Act Mar. 10, 1928, §12(c), amended subsec. (g) generally.

Subsecs. (*l*) to (q). Act Mar. 10, 1928, §§13, 14, added subsecs. (*l*) to (q).

1926—Subsec. (b)(3A), (3B). Act May 7, 1926, added pars. (3A) and (3B).

1923—Act Mar. 4, 1923, added pars. (9) to (11) of subsec. (b), and subsecs. (g) to (j) and redesignated former subsec. (g) as (k).

1922—Subsec. (a). Act Dec. 27, 1922, increased time limit for instituting a suit from eighteen to thirty months.

1921—Subsec. (a). Act Dec. 21, 1921, increased time limit for instituting a suit from six to eighteen months.

Subsec. (b). Act Feb. 27, 1921, added to pars. (2) and (3) requirement that money or property be acquired subsequent to Jan. 1, 1917, and struck out in par. (3) requirement that citizenship be by birth in the United States.

1920—Act June 5, 1920, added pars. (1) to (8) of subsec. (b) and added subsecs. (c) to (g), latter two subsecs. having formerly been last two paragraphs, respectively, of subsec. (b).

1919—Act July 11, 1919, struck out requirement of owner's assent to the transfer of property to the Custodian, gave the Supreme Court of the District of Columbia co-extensive jurisdiction with the District Courts over suits, and inserted proviso permitting the Custodian to acquit his responsibility by transferring the property of persons, who were enemies by reason of residence in enemy occupied countries, to those persons or their designated representatives.

CHANGE OF NAME

In subsec. (a), act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia".

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney

General. See notes set out under section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

Act Mar. 10, 1928, ch. 167, 45 Stat. 254, known as the Settlement of War Claims Act of 1928, provided for the settlement of certain claims of American nationals against Germany, Austria, and Hungary, and the nationals of Germany, Austria, and Hungary against the United States, and for the ultimate return of all property held by the Alien Property Custodian.

Sections 9(c) to 19 of the act were classified to sections 9, 10, 20, and 22 to 31 of this Appendix. Sections 1 to 9(b) of the act are not classified to the Code.

The act has been amended to extend the time of presenting claims under it several times as follows: Acts Mar. 10, 1930, ch. 175, 46 Stat. 84; June 14, 1932, ch. 259, 47 Stat. 318; Mar. 3, 1933, ch. 210, 47 Stat. 1488; June 12, 1933, ch. 60, 48 Stat. 125; June 18, 1934, ch. 608, 48 Stat. 1019; June 27, 1934, ch. 851, 48 Stat. 1267; June 26, 1936, ch. 852, 49 Stat. 1984; May 23, 1938, ch. 263, 52 Stat. 437. The act of May 23, 1938, was the final extension and it allowed the presentation of claims up to 12 years after Mar. 10, 1938.

Act Aug. 6, 1947, ch. 506, 61 Stat. 789, amended section 4(b), (c) of act Mar. 10, 1928, to change the order of priority for payment of claims out of the German special deposit account.

EFFECT OF TERMINATION OF STATE OF WAR BETWEEN UNITED STATES AND GERMANY

Termination of war by Joint Res. Oct. 19, 1951, ch. 519, 65 Stat. 451, as not affecting property already vested, see said Joint Res. Oct. 19, 1951, set out as a note preceding section 1 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 10. Acts permitted; applications for patents, or registration of trade-marks or copyrights; payment of tax in relation thereto; licenses under enemy owned patent or copyright; statements by licensees; term and cancellation; suits against licensees; restraining infringements; powers of attorney; keeping secret inventions

Nothing contained in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] shall be held to make unlawful any of the following acts:

(a) Repealed. Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding $100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) hereof.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyrighted matter, or, if the President shall so order, five per centum of the value of the use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court, as provided in subsection (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which is it granted. Upon violation by the licensee of any of the provisions of this Act [said sections], or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trademark, print, label, or copyrighted matter: *Provided*, *however*, That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further*, That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

In the case of any such patent, trade-mark, print, label, or copyright, conveyed, assigned, transferred, or delivered to the Alien Property Custodian or seized by him, any suit brought under this subsection, within the time limited therein, shall be considered as having been brought by the owner within the meaning of this subsection, in so far as such suit relates to royalties for the period prior to the sale by the Alien Property Custodian of such patent, trademark, print, label, or copyright, if brought either by the Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent, trade-mark, print, label, or copyright was seized or otherwise acquired by the Alien Property Custodian.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] to enjoin infringement of letters patent, trademark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided*, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the United States Court of Federal Claims, such right to compensation to begin from the date of the use of the invention by the Government.

(Oct. 6, 1917, ch. 106, §10, 40 Stat. 420; Mar. 10, 1928, ch. 167, §19, 45 Stat. 277; Aug. 8, 1946, ch. 910, §13, 60 Stat. 944; Pub. L. 97–164, title I, §160(a)(17), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(26)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585.)

PRIOR PROVISIONS

The provisions of subsection (i) of this section are similar to the provisions of act Oct. 6, 1917, ch. 95, 40 Stat. 394 (formerly classified to section 42 of Title 35, Patents), which was repealed and superseded by act Feb. 1, 1952, ch. 4, 66 Stat. 3. Act Feb. 1, 1952 was also repealed by act July 19, 1952, ch. 950, §5, 66 Stat. 815. See section 181 et seq. of Title 35.

AMENDMENTS

1999—Subsec. (i). Pub. L. 106–113 substituted "Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office" for "Commissioner of Patents".

1992—Subsec. (i). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Subsec. (i). Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims''.

1946—Subsec. (a). Act Aug. 8, 1946, repealed subsec. (a).

1928—Subsec. (f). Act Mar. 10, 1928, added par. at end.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

PRESIDENT'S PROCLAMATION

Proclamation of May 24, 1917, 40 Stat. 1669, authorized citizens owning letters patent issued by the German Empire to pay any tax, annuity or fee required by the laws of the German Empire for preservation of their rights in the letters patent.

§ 11. Importations prohibited

Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided*, *however*, That no preference shall be given to the ports of one State over those of another.

(Oct. 6, 1917, ch. 106, § 11, 40 Stat. 422.)

EXTENSION OF IMPORT LIMITATIONS

Joint Res. Nov. 19, 1919, ch. 121, 41 Stat. 361, continued provisions of section 1 et seq. of this Appendix and proclamations limiting imports to Jan. 15, 1920.

PRESIDENT'S PROCLAMATIONS

Proclamation of Nov. 28, 1917, 40 Stat. 1722, forbade importation of various articles except under license granted by War Trade Board.

Proclamation of Feb. 14, 1918, 40 Stat. 1748, added other articles to list of articles upon which import limitations were placed.

§ 12. Property transferred to Alien Property Custodian

All moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as hereinafter provided; and the President is authorized to designate as a depositary, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depositary or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this Act [said sections], and, in addition thereto, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: *Provided*, That any property sold under this Act [said sections] except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of

time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine: *Provided further*, That when sold at public sale, the alien property custodian upon the order of the President stating the reasons therefor, shall have the right to reject all bids and resell such property at public sale or otherwise as the President may direct. Any person purchasing property from the alien property custodian for an undisclosed principal, or for re-sale to a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than $10,000, or imprisonment for not more than ten years, or both, and the property shall be forfeited to the United States. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this Act [said sections] to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however*, That on order of the President as set forth in section nine hereof [section 9 of this Appendix], or of the court, as set forth in sections nine and ten hereof [sections 9 and 10 of this Appendix], the alien property custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further*, That the Treasurer of the United States, on order of the alien property custodian shall, as provided in section ten hereof [section 10 of this Appendix], repay to the licensee any funds deposited by said licensee.

(Oct. 6, 1917, ch. 106, § 12, 40 Stat. 423; Mar. 28, 1918, ch. 28, § 1, 40 Stat. 460.)

AMENDMENTS

1918—Act Mar. 28, 1918, required that property sold be sold at public sale to American citizens, gave Custodian right to reject bids, and made violations of sale regulations subject to fine or imprisonment as misdemeanors.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

DELEGATION OF POWER

Ex. Ord. No. 6237–A, eff. July 30, 1933, provided:

"I hereby vest in the Alien Property Custodian, and in the event of his death, resignation, absence, or disability, in the General Counsel, and in the event of his death, resignation, absence, or disability during his period of authority, then in the Director of Finance and Accounts of the Office of the Alien Property Custodian, all power and authority conferred upon me by the provisions of the act approved October 6, 1917, known as the "Trading With the Enemy Act," as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] pertaining to the deposit, transfer, and payment of moneys, and interest which may have accrued thereon, which may be or have been deposited with the Treasurer of the United States, and to release and deliver property held under and by virtue of said acts: *Provided, however*, That all claims which are required to be submitted to the Attorney General and to the President, as provided in Executive Order No. 4862 of April 23, 1928, shall continue to be submitted to the Attorney General and to the President. Any order of payment of money, and interest, which may be executed by said officials shall constitute a ratification of all previous orders or acts, by virtue of which the funds in the possession of the Treasurer of the United States have been placed to the credit of the particular trusts on which such orders are drawn. I hereby revoke all former orders in conflict herewith."

Ex. Ord. No. 7894, eff. May 23, 1938, 3 F.R. 998 authorized and directed "the Attorney General of the United States to exercise all power and authority conferred upon the President by section 12 of the said [Trading with the Enemy] act, as amended [section 12 of this Appendix]."

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 13. Statements by masters of vessels and owners of cargoes before granting clearances

During the present war, in addition to the facts required by section 60105 of title 46, and sections forty-one hundred and ninety-eight,[1] and forty-two hundred[1] of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen, to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and the owners, shippers, or consign-

[1] See References in Text note below.

ors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen.

(Oct. 6, 1917, ch. 106, § 13, 40 Stat. 424.)

REFERENCES IN TEXT

The amendment by act June 15, 1917, referred to in text, probably means the amendment made by section 4 of title V of act June 15, 1917, ch. 30, 40 Stat. 222.

Section 4198 of the Revised Statutes, referred to in text, which was classified to section 94 of former Title 46, Shipping, was repealed by Pub. L. 103–182, title VI, § 690(a)(8), Dec. 8, 1993, 107 Stat. 2223.

Section 4200 of the Revised Statutes, referred to in text, which was classified to section 92 of former Title 46, was repealed by Pub. L. 87–826, § 3, Oct. 15, 1962, 76 Stat. 953.

CODIFICATION

In text, ''section 60105 of title 46, and sections'' substituted for ''sections forty-one hundred and ninety-seven,'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 14. False manifest; refusal of clearance; reports of gold or silver coin in cargoes for export

During the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section [section 13 of this Appendix] are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is authorized and empowered subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy.

(Oct. 6, 1917, ch. 106, § 14, 40 Stat. 424.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 15. Omitted

CODIFICATION

Section, act Oct. 6, 1917, ch. 106, § 15, 40 Stat. 425, made an appropriation of $450,000 for purpose of carrying out the Act during fiscal year ending June 30, 1918.

§ 16. Offenses; punishment; forfeitures of property

(a) Whoever shall willfully violate any of the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of the Act [said sections] shall, upon conviction, be fined not more than $1,000,000, or if a natural person, be fined not more than $100,000, or imprisoned for not more than ten years or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than ten years or both.

(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix].

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

(3) The penalties provided under this subsection may be imposed only on the record after

opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.

(c) Upon conviction, any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, concerned in any violation of subsection (a) may be forfeited to the United States.

(Oct. 6, 1917, ch. 106, § 16, 40 Stat. 425; Pub. L. 95–223, title I, § 103(a), Dec. 28, 1977, 91 Stat. 1626; Pub. L. 102–393, title VI, § 628, Oct. 6, 1992, 106 Stat. 1772; Pub. L. 102–484, div. A, title XVII, § 1710(c), Oct. 23, 1992, 106 Stat. 2580; Pub. L. 104–114, title I, § 102(d), Mar. 12, 1996, 110 Stat. 792.)

AMENDMENTS

1996—Pub. L. 104–114, § 102(d)(3)(A), made technical amendment inserting section designation in original.

Subsec. (a). Pub. L. 104–114, § 102(d)(3)(B), substituted ''participates'' for ''participants''.

Subsec. (b). Pub. L. 104–114, § 102(d)(1), amended subsec. (b), as added by Pub. L. 102–484, generally. Prior to amendment, subsec. (b) read as follows:

''(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

''(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

''(3) The penalties provided under this subsection may not be imposed for—

''(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

''(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

''(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

''(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.''

Pub. L. 104–114, § 102(d)(2), struck out subsec. (b), as added by Pub. L. 102–393, which read as follows:

''(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

''(2) The penalties provided under this subsection may not be imposed for—

''(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

''(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.''

1992—Pub. L. 102–484, which directed substitution of ''(a) Whoever'' for ''That whoever'' and addition of subsec. (b) at end, was executed to reflect the probable intent of Congress in light of the intervening general amendment by Pub. L. 102–393 (see below), by adding subsec. (b) after subsec. (a).

Pub. L. 102–393 amended section generally, substituting subsecs. (a) to (c) for former undesignated provisions which read as follows: ''Whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.''

1977—Pub. L. 95–223 substituted ''$50,000'' for ''$10,000''.

§ 17. Rules by district courts; appeals

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled ''An Act to codify, revise, and amend the laws relating to the judiciary.''

(Oct. 6, 1917, ch. 106, § 17, 40 Stat. 425.)

REFERENCES IN TEXT

Sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled ''An Act to codify, revise, and amend the laws relating to the judiciary'', referred to in text, enacted sections 225 and 345 of former Title 28, Judicial Code and Judiciary, respectively. Section 225 of former Title 28 was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and reenacted as sections 1291, 1292, 1293, and 1294 of Title 28, Judiciary and Judicial Procedure. Section 345 of former Title 28 was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992.

§ 18. Jurisdiction of courts of Philippines and Canal Zone of offenses

The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this Act [said sections] committed upon the high seas and of conspiracies to commit such offenses as defined by section thirty-seven of the Act entitled ''An Act to codify, revise, and amend the penal laws of the United States,'' approved March fourth, nineteen hundred and nine, and the provisions of such section for the purpose of this Act [said sections] are extended to the Philippine Islands and to the Canal Zone.

(Oct. 6, 1917, ch. 106, § 18, 40 Stat. 425.)

REFERENCES IN TEXT

Section thirty-seven of the Act entitled ''An Act to codify, revise, and amend the penal laws of the United States,'' approved March fourth, nineteen hundred and nine, referred to in text, enacted section 88 of former Title 18, Criminal Code and Criminal Procedure, and was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and reenacted as section 371 of Title 18, Crimes and Criminal Procedure.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the ''transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96–70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

PHILIPPINE INDEPENDENCE

Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, recognized the independence of the Philippine Islands as of July 4, 1946, and is set out under that section.

§ 19. Print, newspaper or publication in foreign languages

Ten days after the approval of this act [Oct. 6, 1917] and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: *Provided*, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words ''True translation filed with the postmaster at _____ on _____ (naming the post office where the translation was filed, and the date of filing thereof), as required by the Act of _____ (here giving the date of this Act [Oct. 6, 1917]).''

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: *Provided, further*, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General[1] shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed, published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, ''Published and distributed under permit authorized by the Act of _____ (here giving date of this Act [Oct. 6, 1917]), on file at the post office of _____ (giving name of office).''

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled ''An Act to codify, revise, and amend the penal laws of the United States,'' and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than $500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned.

(Oct. 6, 1917, ch. 106, § 19, 40 Stat. 425.)

REFERENCES IN TEXT

Provision of the Act relating to espionage approved June fifteenth, nineteen hundred and seventeen, referred to in text, means act June 15, 1917, ch. 30, title I, §§ 1–8, 40 Stat. 217, as amended, which enacted sections 31 to 38 of Title 50, War and National Defense, and which was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and reenacted as sections 792 to 794 and 2388 of Title 18, Crimes and Criminal Procedure.

Section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled ''An Act to codify, revise, and amend the penal laws of the United States'', referred to in text, enacted section 231 of former Title 18, Criminal Code and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and reenacted as section 1621 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

§ 20. Fees of agents, attorneys, or representatives

No property or interest or proceeds shall be returned under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], nor shall any pay-

[1] See Transfer of Functions note below.

ment be made or judgment awarded in respect of any property or interest vested in or transferred to any officer or agency of the United States under this Act [said sections] unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition, or a court awarding any judgment in respect of any such property or interest or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this Act [said sections].

(Oct. 6, 1917, ch. 106, § 20, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1515; amended Mar. 10, 1928, ch. 167, § 9(c), 45 Stat. 267; Mar. 8, 1946, ch. 83, § 2, 60 Stat. 54; June 25, 1956, ch. 436, 70 Stat. 331.)

AMENDMENTS

1956—Act June 25, 1956, struck out provisions which required a schedule of fees to be furnished to, and approved by, the President or such officer or agency as he designated, and which permitted approval of such schedule of fees only upon a determination that the individual fees did not exceed fair compensation for services rendered.

1946—Act Mar. 8, 1946, raised limitation of fees from 3 per centum of amount involved to 10 per centum.

1928—Act Mar. 10, 1928, inserted "at law or in fact" after "attorney" wherever appearing.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

EX. ORD. NO. 9725. ADMINISTRATION OF POWERS AND AUTHORITY OF PRESIDENT BY ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9725, May 16, 1946, 11 F.R. 5381, provided:

The Alien Property Custodian is designated as the officer to administer the powers and authority conferred upon the President by section 20 of the Trading with the Enemy Act, as amended by Public Law 322, 79th Congress, approved March 8, 1946 [this section], and by section 32 of the said act, as added by the said Public Law 322 [section 32 of this Appendix].

The Alien Property Custodian may delegate to officers and employees of the Office of Alien Property Custodian such functions as he may deem necessary to carry out the provisions of this order.

This order shall not be construed as revoking or limiting any power or authority heretofore delegated to the Alien Property Custodian.

HARRY S. TRUMAN.

§ 21. Claims of naturalized citizens as affected by expatriation

The claim of any naturalized American citizen under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] shall not be denied on the ground of any presumption of expatriation which has arisen against him, under the second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, if he shall give satisfactory evidence to the President, or the court, as the case may be, of his uninterrupted loyalty to the United States during his absence, and that he has returned to the United States, or that he, although desiring to return, has been prevented from so returning by circumstances beyond his control.

(Oct. 6, 1917, ch. 106, § 21, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516.)

REFERENCES IN TEXT

The second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, referred to in text, is the second sentence of section 2 of act Mar. 2, 1907, ch. 2534, 34 Stat. 1228, which was classified to section 17 of Title 8, Aliens and Nationality, and which was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

§ 22. Fugitives from justice barred from recovery

No person shall be entitled to the return of any property or money under any provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], or any amendment of this Act [said sections], who is a fugitive from justice of the United States or any State or Territory thereof, or the District of Columbia.

(Oct. 6, 1917, ch. 106, § 22, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, § 16, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, inserted "or any amendment of this Act" after "any provision of this Act".

§ 23. Payment of income, etc., by Alien Property Custodian

The Alien Property Custodian is directed to pay to the person entitled thereto, from and after March 4, 1923, the net income (including dividends, interest, annuities, and other earnings), accruing and collected thereafter, in respect of any money or property held in trust for such person by the Alien Property Custodian or by the Treasurer of the United States for the account of the Alien Property Custodian, under such rules and regulations as the President may prescribe.

(Oct. 6, 1917, ch. 106, § 23, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, § 17, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, struck out restriction that no person be paid any amount over $10,000 per annum.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 24. Payment of taxes and expenses by Alien Property Custodian

(a) The Alien Property Custodian is authorized to pay all taxes (including special assessments), heretofore or hereafter lawfully assessed by any body politic against any money or other property held by him or by the Treasurer of the United States under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and to pay the necessary expenses incurred by him or by any depositary for him in securing the possession, collection, or control of any such money or other property, or in protecting or administering the same. Such taxes and expenses shall be paid out of the money or other property against which such taxes are assessed or in respect of which such expenses are incurred, or (if such money or other property is insufficient) out of any other money or property held for the same person, notwithstanding the fact that a claim may have been filed or suit instituted under this Act [said sections]. No claim shall be filed with the Alien Property Custodian or allowed by him or by the President of the United States, nor shall any suit be instituted or maintained against the Alien Property Custodian or the Treasurer of the United States, or the United States, under any provisions of law, by any person who was an enemy or ally of enemy as defined in the Trading with the Enemy Act, as amended [said sections], and no allowance of any such claim now pending shall be made, nor judgment entered in any such suit heretofore or hereafter instituted, for the recovery of any deduction or deductions, heretofore or hereafter made by the Alien Property Custodian from money or properties, or income therefrom, held by him or by the Treasurer of the United States hereunder, for the general or administrative expenses of the office of the Alien Property Custodian, which deduction or deductions on the collection of any income do not exceed the sum of two per centum of such income or which on the return of any moneys or properties or income therefrom, do not exceed the sum of two per centum of the aggregate value thereof at the time or times as nearly as may be, of such deduction or deductions, or, for the recovery of any deduction or deductions heretofore or hereafter made by the Alien Property Custodian from money or properties or income therefrom held by him or by the Treasurer of the United States hereunder, for any and all necessary expenses incurred and actually disbursed by the Alien Property Custodian or by any depositary for him in securing the possession, collection or control of any such money or properties or income therefrom, or in protecting or administering the same, as said general or administrative and other expenses and said aggregate value of returned money or properties or income therefrom have been heretofore or shall be hereafter determined by said Alien Property Custodian.

(b) In the case of income, war-profits, excess-profits, or estate taxes imposed by any Act of Congress, the amount thereof shall, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be computed in the same manner (except as hereinafter in this section provided) as though the money or other property had not been seized by or paid to the Alien Property Custodian, and shall be paid as far as practicable, in accordance with subsection (a) of this section. Pending final determination of the tax liability the Alien Property Custodian is authorized to return, in accordance with the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], money or other property in any trust in such amounts as may be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to be consistent with the prompt payment of the full amount of the internal-revenue taxes. Notwithstanding the expiration of any period of limitation provided by law, credit or refund of any income, war-profits, or excess-profits tax erroneously or illegally assessed or collected may be made or allowed if claim therefor was filed with the Commissioner of Internal Revenue by the Alien Property Custodian on or before February 15, 1933.

(c) So much of the net income of a taxpayer for the taxable year 1917, or any succeeding taxable year, as represents the gain derived from the sale or exchange by the Alien Property Custodian of any property conveyed, transferred, assigned, delivered, or paid to him, or seized by him, may at the option of the taxpayer be segregated from the net income and separately taxed at the rate of 30 per centum. This subsection shall be applied and the amount of net income to be so segregated shall be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, as nearly as may be in the same manner as provided in section 208 of the Revenue Act of 1926 (relating to capital net gains), but without regard to the period for which the property was held by the Alien Property Custodian before its sale or exchange, and whether or not the taxpayer is an individual.

(d) Any property sold or exchanged by the Alien Property Custodian (whether before or after the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928]) shall be considered as having been compulsorily or involuntarily converted, within the meaning of the income, excess-profits, and war-profits tax laws and regulations; and the provisions of such laws and regulations relating to such a conversion shall (under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury) apply in the case of the proceeds of such sale or

exchange. For the purpose of determining whether the proceeds of such conversion have been expended within such time as will entitle the taxpayer to the benefits of such laws and regulations relating to such a conversion, the date of the return of the proceeds to the person entitled thereto shall be considered as the date of the conversion.

(e) In case of any internal-revenue tax imposed in respect of property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, and imposed in respect of any period (in the taxable year 1917 or any succeeding taxable year) during which such property was held by him or by the Treasurer of the United States, no interest or civil penalty shall be assessed upon, collected from, or paid by or on behalf of, the taxpayer; nor shall any interest be credited or paid to the taxpayer in respect of any credit or refund allowed or made in respect of such tax.

(f) The benefits of subsections (c), (d), and (e) shall be extended to the taxpayer if claim therefor is filed before the expiration of the period of limitations properly applicable thereto, or before the expiration of six months after the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], whichever date is the later. The benefits of subsection (d) shall also be extended to the taxpayer if claim therefor is filed before the expiration of six months after the return of the proceeds.

(Oct. 6, 1917, ch. 106, §24, as added Mar. 4, 1923, ch. 285, §2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, §18, 45 Stat. 276, 277; Mar. 28, 1934, ch. 102, title I, §1, 48 Stat. 510; June 18, 1934, ch. 567, 48 Stat. 978.)

REFERENCES IN TEXT

Section 208 of the Revenue Act of 1926 (relating to capital net gains), referred to in subsec. (c), is act Feb. 26, 1926, ch. 27, §208, 44 Stat. 19, which enacted section 939 of former Title 26, Internal Revenue, prior to its repeal by act May 29, 1928, ch. 852, §63, 45 Stat. 810. See section 1201 et seq. of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to subdivision (a) of this section was contained in the sundry civil appropriation act for the fiscal year 1919, act July 1, 1918, ch. 113, 40 Stat. 646.

AMENDMENTS

1934—Subsec. (a). Act Mar. 28, 1934, inserted provisions relating to recovery by enemies of deductions made by Alien Property Custodian for administrative expenses.

Subsec. (b). Act June 18, 1934, provided that credit or refund of income or war profits erroneously collected might be allowed if claim was filed on or before Feb. 15, 1933.

1928—Subsecs. (b) to (f). Act Mar. 10, 1928, designated existing provisions as subsec. (a) and added subsecs. (b) to (f).

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§25. Investments by Custodian in participating certificates issued by Secretary of the Treasury; transfers to and payments from German, Austrian or Hungarian special deposit accounts; allocation of payments

(a)(1) The Alien Property Custodian is authorized and directed to invest, from time to time upon the request of the Secretary of the Treasury, out of the funds held by the Alien Property Custodian or by the Treasurer of the United States for the Alien Property Custodian, an amount not to exceed $40,000,000 in the aggregate, in one or more participating certificates issued by the Secretary of the Treasury in accordance with the provisions of this section.

(2) When in the case of any trust written consent under subsection (m) of section 9 [section 9(m) of this Appendix] has been filed, an amount equal to the portion of such trust the return of which is temporarily postponed under such subsection shall be credited against the investment made under paragraph (1) of this subsection. If the total amount so credited is in excess of the amount invested under paragraph (1) of this subsection, the excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection, without regard to the $40,000,000 limitation in paragraph (1). If the amount invested under paragraph (1) of this subsection is in excess of the total amount so credited, such excess shall, from time to time on request of the Alien Property Custodian, be paid to him out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payments shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration).

(b) The Alien Property Custodian is authorized and directed to invest, in one or more participating certificates issued by the Secretary of the Treasury, out of the unallocated interest fund, as defined in section 28 [section 28 of this Appendix]—

(1) The sum of $25,000,000. If, after the allocation under section 26 [section 26 of this Appendix] has been made, the amount of the unallocated interest fund allocated to the trust described in subsection (c) of such section is found to be in excess of $25,000,000, such excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection. If the amount so allocated is found to be less than $25,000,000 any participating certificate or certificates that have been issued shall be corrected accordingly; and

(2) The balance of such unallocated interest fund remaining after the investment provided for in paragraph (1) and the payment of allocated earnings in accordance with the provisions of subsection (b) of section 26 [section 26(b) of this Appendix] have been made.

(c) If the amount of such unallocated interest fund, remaining after the investment required by paragraph (1) of subsection (b) of this section has been made, is insufficient to pay the allocated earnings in accordance with subsection (b) of section 26 [section 26(b) of this Appendix], then the amount necessary to make up the defi-

ciency shall be paid out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payment shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration) and the payments under paragraph (2) of subsection (a) of this section.

(d) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in such special deposit account, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the German Government or any member of the former ruling family. All money and other property shall be held to be owned by the German Government (1) if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of three years from the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], or (2) if any claim has been filed before the expiration of such period (whether before or after the enactment of such Act), then if the ownership thereof under any such claim is not established by a decision of the Alien Property Custodian or by suit in court instituted, under section 9 [section 9 of this Appendix], within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is later. The amounts so transferred under this subsection shall be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission.

(e) The Secretary of the Treasury is authorized and directed to issue to the Alien Property Custodian, upon such terms and conditions and under such regulations as the Secretary of the Treasury may prescribe, one or more participating certificates, bearing interest payable annually (as nearly as may be) at the rate of 5 per centum per annum, as evidence of the investment by the Alien Property Custodian under subsection (a), and one or more non-interest bearing participating certificates, as evidence of the investment by the Alien Property Custodian under subsection (b). All such certificates shall evidence a participating interest, in accordance with, and subject to the priorities of, the provisions of section 4 of the Settlement of War Claims Act of 1928, in the funds in the German special deposit account created by such section, except that—

(1) The United States shall assume no liability, directly or indirectly, for the payment of any such certificates, or of the interest thereon, except out of funds in such special deposit account available therefor, and all such certificates shall so state on their face; and

(2) Such certificates shall not be transferable, except that the Alien Property Custodian may transfer any such participating certificate evidencing the interest of a substantial number of the owners of the money invested, to a trustee duly appointed by such owners.

(f) Any amount of principal or interest paid to the Alien Property Custodian in accordance with the provisions of subsection (c) of section 4 of the Settlement of War Claims Act of 1928 shall be allocated pro rata among the persons filing written consents under subsection (m) of section 9 of this Act [section 9(m) of this Appendix], and the amounts so allocated shall be paid to such persons. If any person to whom any amount is payable under this subsection has died (or if, in the case of a partnership, association, or other unincorporated body of individuals, or a corporation, its existence has terminated), payment shall be made to the persons determined by the Alien Property Custodian to be entitled thereto.

(g) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in the special deposit account (Austrian or Hungarian, as the case may be), created by section 7 of the Settlement of War Claims Act of 1928, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the Austrian Government or any corporation all the stock of which was owned by or on behalf of the Austrian Government (including the property of the Imperial Royal Tobacco Monopoly, also known under the name of K. K. Oesterreichische Tabak Regie), or owned by the Hungarian Government or by any corporation all the stock of which was owned by or on behalf of the Hungarian Government.

(Oct. 6, 1917, ch. 106, § 25, as added Mar. 10, 1928, ch. 167, § 10, 45 Stat. 268; amended Feb. 21, 1929, ch. 291, 45 Stat. 1255; Mar. 10, 1930, ch. 75, § 2, 46 Stat. 84.)

REFERENCES IN TEXT

Section 4 of the Settlement of War Claims Act of 1928, referred to in subsecs. (a)(2), (c), (e), and (f), is section 4 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

Section 7 of the Settlement of War Claims Act of 1928, referred to in subsec. (g), is section 7 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

AMENDMENTS

1930—Subsec. (d)(1). Act Mar. 10, 1930, substituted ''three years'' for ''two years''.

1929—Subsec. (d)(1). Act Feb. 21, 1929, substituted ''two years'' for ''one year''.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 26. Allocation of "unallocated interest fund"

(a) The Alien Property Custodian shall allocate among the various trusts the funds in the ''unallocated interest fund'' (as defined in sec-

tion 28 [section 28 of this Appendix]). Such allocation shall be based upon the earnings (determined by the Secretary of the Treasury) on the total amounts deposited under section 12 [section 12 of this Appendix].

(b) The Alien Property Custodian, when the allocation has been made, is authorized and directed to pay to each person entitled, in accordance with a final decision of a court of the United States or of the District of Columbia, or of an opinion of the Attorney General, to the distribution of any portion of such unallocated interest fund, the amount allocated to his trust, except as provided in subsection (c) of this section.

(c) In the case of persons entitled, under paragraph (12), (13), (14), or (16) of subsection (b) of section 9 [section 9(b)(12), (13), (14), or (16) of this Appendix], to such return, and in the case of persons who would be entitled to such return thereunder if all such money or property had not been returned under paragraph (9) or (10) of such subsection [section 9(b)(9) or (10) of this Appendix], and in the case of persons entitled to such return under subsection (n) of section 9 [section 9(n) of this Appendix], an amount equal to the aggregate amount allocated to their trusts shall be credited against the sum of $25,000,000 invested in participating certificates under paragraph (1) of subsection (b) of section 25 [section 25(b)(1) of this Appendix]. If the aggregate amount so allocated is in excess of $25,000,000, an amount equal to the excess shall be invested in the same manner. Upon the repayment of any of the amounts so invested, under the provisions of section 4 of the Settlement of War Claims Act of 1928, the amount so repaid shall be distributed pro rata among such persons, notwithstanding any receipts or releases given by them.

(d) The unallocated interest fund shall be available for carrying out the provisions of this section, including the expenses of making the allocation.

(Oct. 6, 1917, ch. 106, § 26, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 273; amended June 11, 1929, ch. 14, 46 Stat. 6.)

REFERENCES IN TEXT

Section 4 of the Settlement of War Claims Act of 1928, referred to in subsec. (c), is section 4 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

AMENDMENTS

1929—Subsec. (a). Act June 11, 1929, struck out ''average rate of'' before ''earnings'' in second sentence.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 27. Return by Custodian, to United States, of payments under licenses, assignments or sales of patents

The Alien Property Custodian is authorized and directed to return to the United States any consideration paid to him by the United States under any license, assignment, or sale by the Alien Property Custodian to the United States of any patent (or any right therein or claim thereto, and including an application therefor and any patent issued pursuant to any such application).

(Oct. 6, 1917, ch. 106, § 27, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 28. "Unallocated interest fund" defined

As used in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], the term ''unallocated interest fund'' means the sum of (1) the earnings and profits accumulated prior to March 4, 1923, and attributable to investments and reinvestments under section 12 [section 12 of this Appendix] by the Secretary of the Treasury, plus (2) the earnings and profits accumulated on or after March 4, 1923, in respect of the earnings and profits referred to in clause (1) of this section.

(Oct. 6, 1917, ch. 106, § 28, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

§ 29. Waiver by Custodian of demand for property; acceptance of less amount; approval of Attorney General

(a) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the whole or any part of such money or other property would, if conveyed, transferred, assigned, delivered, or paid to him, be returnable under any provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand or requirement, or accept in full satisfaction of such demand, requirement, judgment, or decree, a less amount than that demanded or required by him.

(b) The Alien Property Custodian shall not make any such waiver or compromise except with the approval of the Attorney General; nor (if any part of such money or property would be returnable only upon the filing of the written consent required by subsection (m) of section 9 [section 9(m) of this Appendix]) unless, after compliance with the terms and conditions of such waiver or compromise, the Alien Property Custodian or the Treasurer of the United States will hold (in respect of such enemy or ally of

enemy) for investment as provided in section 25 [section 25 of this Appendix], an amount equal to 20 per centum of the sum of (1) the value of the money or other property held by the Alien Property Custodian or the Treasurer of the United States at the time of such waiver or compromise, plus (2) the value of the money or other property to which the Alien Property Custodian would be entitled under such demand or requirement if the waiver or compromise had not been made.

(c) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the interest or right of such enemy or ally of enemy in such money or property has not, prior to the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], vested in enjoyment, the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand and requirement, without compliance with the requirements of subsection (b) of this section, but only with the approval of the Attorney General.

(d) Nothing in this section shall be construed as requiring the Alien Property Custodian to make any waiver or compromise authorized by this section, and the Alien Property Custodian may proceed in respect of any demand or requirement referred to in subsection (a) or (c) as if this section had not been enacted.

(e) All money or other property received by the Alien Property Custodian as a result of any action or proceeding (whether begun before or after the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], and whether or not for the enforcement of a demand or requirement as above specified) shall for the purposes of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] be considered as forming a part of the trust in respect of which such action or proceeding was brought, and shall be subject to return in the same manner and upon the same conditions as any other money or property in such trust, except as otherwise provided in subsection (b) of this section.

(Oct. 6, 1917, ch. 106, § 29, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 30. Attachment or garnishment of funds or property held by Custodian

Any money or other property returnable under subsection (b) or (n) of section 9 [section 9(b) or (n) of this Appendix] shall, at any time prior to such return, be subject to attachment in accordance with the provisions of the code of law for the District of Columbia, as amended, relating to attachments in suits at law and to attachments for the enforcement of judgments at law and decrees in equity, but any writ of attachment or garnishment issuing in any such suit, or for the enforcement of any judgment or decree, shall be served only upon the Alien Property Custodian, who shall for the purposes of this section be considered as holding credits in favor of the person entitled to such return to the extent of the value of the money or other property so returnable. Nothing in this section shall be construed as authorizing the taking of actual possession, by any officer of any court, of any money or other property held by the Alien Property Custodian or by the Treasurer of the United States.

(Oct. 6, 1917, ch. 106, § 30, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

§ 31. "Member of the former ruling family" defined

As used in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], the term ''member of the former ruling family'' means (1) any person who was at any time between April 6, 1917, and July 2, 1921, the German Emperor or the ruler of any constituent kingdom of the German Empire, or (2) the wife or any child of such person.

(Oct. 6, 1917, ch. 106, § 31, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

§ 32. Return of property

(a) Conditions precedent

The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

(1) that the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, or is the legal representative (whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) that such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: *Provided*, That any property or interest or proceeds which, but for the provisions of this subdivision (B), might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) hereof) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: *Provided further*, That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: *Provided*, That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section [Mar. 8, 1946], was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: *Provided*, That notwithstanding the provisions of this subdivision (D) return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation: *And provided further*, That, notwithstanding the provisions of subdivision (C) hereof and of this subdivision (D), return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to September 29, 1950, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage: *And provided further*, That the aggregate book value of returns made pursuant to the foregoing proviso shall not exceed $9,000,000; and any return under such proviso may be made if the book value of any such return, taken together with the aggregate book value of returns already made under such proviso does not exceed $9,000,000; and for the purposes of this proviso the term ''book value'' means the value, as of the time of vesting, entered on the books of the Alien Property Custodian for the purpose of accounting for the property or interest involved; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A), (B), (C), or (D) hereof: *Provided*, That notwithstanding the provisions of this subdivision (E) return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United Stats has at any time since December 7, 1941, been at war, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to the enactment of this section [Mar. 8, 1946];

and

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a)(2) hereof;

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act [section 1191 of this Appendix] or the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States.

(b) Extension of filing time limitation for redetermination of excessive profits

Notwithstanding the limitation prescribed in the Renegotiation Act [section 1191 of this Appendix] upon the time within which petitions may be filed in The Tax Court of the United States,[1] any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board[2] determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) Inventions

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) Rights and duties

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: *Provided*, That except as provided in subsections (b) and (c) hereof, no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) Legal proceeding unaffected

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which may exist or which may have existed at the time of vesting, in or to the property or interest returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a)(2) hereof. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) Notice of intention

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, the President or such officer or agency as he may designate shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attachment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: *Provided*, That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment proceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President or such officer or agency as he may designate shall accord full effect to any such attachment in re-

[1] See Change of Name note below.

[2] See Transfer of Functions note below.

turning any such property or interest or proceeds.

(g) Payment of expenses of Custodian

Without limitation by or upon any other existing provision of law with respect to the payment of expenses by the Alien Property Custodian, the Custodian may retain or recover from any property or interest or proceeds returned pursuant to this section or section 9(a) of this Act [section 9(a) of this Appendix] an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or interest or proceeds, or other property or interest or proceeds returned to the same person.

(h) Designation of successor organizations to receive heirless property; time for application; payment of funds: time, allocation, claims barred by acceptance and conditions

The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a)(2) thereof.[3] In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.

The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of $500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.

No payment may be made to any organization designated under this section unless it has given firm and responsible assurances approved by the President that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a)(2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section.

As used in this subsection, ''organization'' means only a nonprofit charitable corporation incorporated on or before January 1, 1950, under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued.

(Oct. 6, 1917, ch. 106, §32 as added Dec. 18, 1941, ch. 593, title III, §304, as added Mar. 8, 1946, ch. 83, §1, 60 Stat. 50; amended Aug. 8, 1946, ch. 878, §2, 60 Stat. 930; Aug. 5, 1947, ch. 499, §2, 61 Stat. 784; Sept. 29, 1950, ch. 1108, §1, 64 Stat. 1080; Mar. 23, 1951, ch. 15, title II, §201(a), (b), 65 Stat. 23; June 6, 1952, ch. 372, 66 Stat. 129; Aug. 23, 1954, ch. 830, §1, 68 Stat. 767; Pub. L. 87–846, title II, §204(a), Oct. 22, 1962, 76 Stat. 1114.)

REFERENCES IN TEXT

The Renegotiation Act, referred to in subsecs. (a)(4) and (b), is act Apr. 28, 1942, ch. 247, title IV, §403, 56 Stat. 245, as amended, which enacted section 1191 of this Appendix, and which was omitted from the Code.

Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§89 to 96), referred to in subsecs. (a)(4) and (c), is act Oct. 31, 1942, ch. 634, 56 Stat. 1013, which enacted sections 89 to 96 of former Title 35, Patents, and which was omitted from the Code.

Section 2 of said Act, referred to in subsec. (c), means section 2 of act Oct. 31, 1942, ch. 634, 56 Stat. 1013, which enacted section 90 of former Title 35, Patents, and which was omitted from the Code.

Date of enactment of this amendment, referred to in subsec. (h), probably means date of enactment of Pub. L. 87–846, which was approved Oct. 22, 1962.

CODIFICATION

Section was formerly classified to section 619 of this Appendix.

AMENDMENTS

1962—Subsec. (h). Pub. L. 87–846 permitted application for designation as successor organization to be made within three months after Oct. 22, 1962, required payments in sum of $500,000 to be made from the War Claims Fund before expiration of one year from Oct. 22, 1962, provided for allocation of funds to multiple successor organizations and acceptance of payments as discharge of all claims, and eliminated provisions deeming a successor organization as successor in interest by operation of law, respecting time for making return to such organizations, limiting the return to $3,000,000, requiring filing of notice of claim before expiration of one year from Aug. 23, 1954, for transfer of property to eligible persons, and declaring that filing of notice of claim would not bar payment of debt claims under section 34 of this Appendix.

1954—Subsec. (h). Act Aug. 23, 1954, added subsec. (h).

1952—Subsec. (a)(2)(D). Act June 6, 1952, increased from $5,000,000 to $9,000,000 the limitation on amount of property which may be returned to nationals.

1950—Subsec. (a)(2)(D). Act Sept. 29, 1950, clarified authority of Alien Property Custodian to return vested property to a person who possessed American citizenship at all times since Dec. 7, 1941, despite concurrent enemy citizenship and residence in enemy territory, and authorized return of vested property to American women who lost their citizenship solely because of marriage, and who have reacquired their citizenship prior to Sept. 29, 1950.

1947—Subsec. (a)(2). Act Aug. 5, 1947, provided that returns shall not be made to any owner, legal representative, or successor in interest, of the Governments of Germany, Japan, Rumania, Bulgaria, or Hungary; or to corporations or associations organized under the laws

[3] So in original. Probably should be ''hereof.''

of such countries; or to an individual voluntarily resident in such countries at any time since Dec. 7, 1941; or to an individual who was at any time after Dec. 7, 1941, a citizen or subject of such country and present in the territory of such nation.

1946—Subsec. (a)(2)(C), (D). Act Aug. 8, 1946, inserted provisos in subdivs. (C) and (D).

CHANGE OF NAME

Tax Court of the United States redesignated United States Tax Court pursuant to Pub. L. 91–172, title IX, § 951, Dec. 30, 1969, 83 Stat. 730. See section 7441 of Title 26, Internal Revenue Code.

TRANSFER OF FUNCTIONS

War Contracts Price Adjustment Board abolished and powers, functions, and duties conferred upon Board by the Renegotiation Act, section 1191 of this Appendix, except those transferred to Administrator of General Services, transferred to Renegotiation Board by section 201(a), (b) of act Mar. 23, 1951, which was classified to section 1231(a), (b) of this Appendix. Renegotiation Board terminated and all property, including records, of Board transferred to Administrator of General Services on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043, and sections 1191 and 1231 of this Appendix were omitted from the Code.

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

PURPOSE OF ACT AUGUST 5, 1947

Congress in enacting act Aug. 5, 1947, outlined the purpose of the act as follows:

''Whereas article 79 of the Treaty of Peace with Italy, signed at Paris on February 10, 1947, grants to the Allied and Associated Powers the right to seize and retain 'all property rights and interests which on the coming into force of the present treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other articles of the present treaty' and further provides that 'All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned'; and

''Whereas, pursuant to article 79 of the treaty of peace, negotiations have been entered into between the Governments of the United States and of Italy looking toward an agreement under which, upon the return of property, formerly Italian, in the United States, Italy will place at the disposal of the United States funds to be used in meeting certain claims of nationals of the United States; and

''Whereas, for the purpose of carrying out such agreement, it is desirable to authorize, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [this section], return to Italy or citizens or subjects of Italy, or corporations or associations organized under the laws of Italy, of property vested in or transferred to the United States or its agencies; and

''Whereas, for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis, it is desirable that there be returned or transferred to Italy those Italian vessels acquired by the United States after December 7, 1941, for use in the war effort and now owned by the United States and vessels of a total tonnage approximately equal to the tonnage of those Italian vessels seized by the United States after September 1, 1939, and lost while being employed in the United States war effort.''

RETURN OF ITALIAN PROPERTY

Section 1 of act Aug. 5, 1947, provided: ''That the President, or such officer or agency as he may designate, is hereby authorized to return, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act, as amended [this section], any property or interest, or the net proceeds thereof, which has been, since December 18, 1941, vested in or transferred to any officer or agency of the United States pursuant to the Trading With the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and which immediately prior to such vesting or transfer was the property or interest of Italy or a citizen or subject of Italy, or a corporation or association organized under the laws of Italy.''

TRANSFER OF VESSELS TO ITALIAN GOVERNMENT

Section 4 of act Aug. 5, 1947, provided: ''The President is authorized upon such terms as he deems necessary (a) to transfer to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, and were thereafter acquired by the United States and are now owned by the United States; and (b) with respect to any vessel under Italian registry and flag on September 1, 1939, and subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, to transfer to the Government of Italy surplus merchant vessels of the United States of a total tonnage approximately equal to the total tonnage of the Italian vessels lost: *Provided*, That no monetary compensation shall be paid either for the use by the United States or its agencies of former Italian vessels so acquired or seized or for the return or transfer of such vessels or substitute vessels.''

EXECUTIVE ORDER NO. 10587

Ex. Ord. No. 10587, Jan. 13, 1955, 20 F.R. 361, as amended by Ex. Ord. No. 11086, Feb. 26, 1963, 28 F.R. 1833, which designated the Jewish Restitution Successor Organization as successor in interest to deceased persons under subsec. (h) of this section and delegated to the Foreign Claims Settlement Commission the functions provided for in subsec. (h) of this section, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 33. Notice of claim; institution of suits; computation of time

No return may be made pursuant to section 9 or 32 [section 9 or 32 of this Appendix] unless notice of claim has been filed: (a) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (b) in the case of any property or interest acquired by the United States on or after December 18, 1941, not later than one year from February 9, 1954, or two years from the vesting of the property or interest in respect of which the claim is made, whichever is later. No suit pursuant to section 9 [section 9 of this Appendix] may be instituted after April 30, 1949, or after the expiration of two years from the date of the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought, whichever is later, but in computing such two years there shall be excluded any period during which there was pending a suit or claim for return pursuant to section 9 or 32(a) hereof [section 9 or 32(a) of this Appendix].

(Oct. 6, 1917, ch. 106, § 33, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925; amended Aug. 5, 1947, ch. 499, § 3, 61 Stat. 786; July 1, 1948, ch. 794, 62 Stat. 1218; Feb. 9, 1954, ch. 4, 68 Stat. 7; Aug. 23, 1954, ch. 830, § 2, 68 Stat. 768; Pub. L. 87–846, title II, § 204(b), Oct. 22, 1962, 76 Stat. 1115.)

CODIFICATION

Section was formerly classified to section 620 of this Appendix.

AMENDMENTS

1962—Pub. L. 87–846 struck out provision for return of property to successor organizations pursuant to section 32(h) of this Appendix if notice of claim was filed before expiration of one year from Aug. 23, 1954.

1954—Act Aug. 23, 1954, inserted before period at end of first sentence ''except that return may be made to successor organizations designated pursuant to section 32(h) hereof if notice of claim is filed before the expiration of one year from the effective date of this Act''.

Act Feb. 9, 1954, substituted ''not later than one year from February 9, 1954'' for ''by April 30, 1949'' in first sentence.

1948—Act July 1, 1948, amended section generally, extending time for filing claims under section 9 or 32 of this Appendix.

1947—Act Aug. 5, 1947, provided that notice of certain claims could be filed by Aug. 8, 1948, or that Italian notice of claim could be filed by July 31, 1949.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

§34. Payment of debts

(a) Claims allowable; defenses

Any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, shall be equitably applied by the Custodian in accordance with the provisions of this section to the payment of debts owed by the person who owned such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian. No debt claim shall be allowed under this section if it was not due and owing at the time of such vesting or transfer, or if it arose from any action or transactions prohibited by or pursuant to this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] and not licensed or otherwise authorized pursuant thereto, or (except in the case of debt claims acquired by the Custodian) if it was at the time of such vesting or transfer due and owing to any person who has since the beginning of the war been convicted of violation of this Act, as amended [said sections], sections 1 to 6 of the Criminal Code, title I of the Act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended; the Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended; the Act of June 8, 1934[1] (ch. 327, 52 Stat. 631), as amended; the Act of January 12, 1938 (ch. 2, 52 Stat. 3); title I, Alien Registration Act, 1940 (ch. 439, 54 Stat. 670); the Act of October 17, 1940 (ch. 897, 54 Stat. 1201); or the Act of June 25, 1942 (ch. 447, 56 Stat. 390). Any defense to the payment of such claims which would have been available to the debtor shall be available to the Custodian, except that the period from and after the beginning of the war shall not be included for the purpose of determining the application of any statute of limitations. Debt claims allowable hereunder shall include only those of citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the Alien Enemy Act; and those acquired by the Custodian. Legal representatives (whether or not appointed by a court in the United States) or successors in interest by inheritance, devise, bequest, or operation of law or debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) Time limit for filing claims; extension; notice

The Custodian shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of two years from the date of the last vesting in or transfer to the Custodian of any property or interest of a debtor in respect of whose debts the date is fixed, or from the date of enactment of this section [Aug. 8, 1946], whichever is later. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or interest or proceeds in respect of which a suit or proceeding pursuant to this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] for return is pending and was instituted prior to the expiration of such one hundred and twenty days.

(c) Examination of claims

The Custodian shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part.

(d) Funds for debt payments

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property or interest owned by the debtor immediately prior to its vesting in or transfer to the Alien Property Custodian, as shall remain after deduction of (1) the amount of the expenses of the Office of Alien Property Custodian (including both expenses in connection with such property or interest or proceeds thereof, and such portion as the Custodian shall fix of the other expenses of the Office of Alien Property Custodian), and of taxes, as defined in section 36 hereof [section 36 of this Appendix], paid by the Custodian in respect of such property or interest or proceeds, and (2) such amount, if any, as the Custodian may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the

[1] So in original. Probably should be ''1938''.

payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the Custodian, ratable payments shall be made in accordance with subsection (g) hereof to the extent permitted by the money available and additional payments shall be made whenever the Custodian shall determine that substantial further money has become available, through liquidation of any such property or interest or otherwise. The Custodian shall not be required through any judgment of any court, levy of execution, or otherwise to sell or liquidate any property or interest vested in or transferred to him, for the purpose of paying or satisfying any debt claim.

(e) Amount payable; disallowance; notice; review; additional evidence; judgment

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the Custodian shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the Custodian's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the United States District Court for the District of Columbia a complaint for review of such disallowance naming the Custodian as defendant. Such complaint shall be served on the Custodian. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, and the determination of the Custodian with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the Custodian's determination, and directing payment in the amount, if any, which it finds due.

(f) Pro rata payments; notice; review; additional evidence; intervention; judgment

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) hereof, payment may be made, the Custodian shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the Custodian shall assign priorities in accordance with the provisions of subsection (g) hereof. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the United States District Court for the District of Columbia a complaint for review of such schedule, naming the Custodian as defendant. A copy of such complaint shall be served upon the Custodian and on each claimant named in the schedule. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, any findings or other determinations made by the Custodian with respect thereto, and the schedule prepared by the Custodian. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the Custodian pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the Custodian and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) hereof, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Priority of claims

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed $600; (2) claims entitled to priority under sections 191 and 193 of title 31[2] of the United States Code [31 U.S.C. 3713(a) and 9309], except as provided in subsection (h) hereof, (3) all other claims for services rendered, for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) hereof, payment may be made permits payment in full of all allowed claims in every prior class.

(h) Priority as debt due United States

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the Alien Property Custodian.

(i) Exclusiveness of relief

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property or interest which shall have been vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to De-

[2] See References in Text note below.

cember 18, 1941), or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except in conformity with this section: *Provided*, That no person asserting any interest, right, or title in any property or interest or proceeds acquired by the Alien Property Custodian, shall be barred from proceeding pursuant to this Act [sections 1 to 6, and 7 to 39, and 41 to 44 of this Appendix] for the return thereof, by reason of any proceeding which he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or interest or proceeds be deemed to have been waived solely by reason of such proceeding. The Alien Property Custodian shall treat all debt claims now filed with him as claims filed pursuant to this section. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property or interest from the Alien Property Custodian shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property or interest prior to its vesting in or transfer to the Alien Property Custodian. Payment by the Alien Property Custodian to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim.

(Oct. 6, 1917, ch. 106, §34, as added Dec. 18, 1941, ch. 593, title III, §305, as added Aug. 8, 1946, ch. 878, §1, 60 Stat. 925; amended June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107.)

REFERENCES IN TEXT

Sections 1 to 6 of the Criminal Code, referred to in subsec. (a), are sections 1 to 6 of act Mar. 4, 1909, ch. 321, 35 Stat. 1088, which enacted sections 1 to 6 of former Title 18, Criminal Code and Criminal Procedure. Sections 1 to 6 of former Title 18 were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as sections 953 and 2381 to 2384 of Title 18, Crimes and Criminal Procedure.

Title I of act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended, referred to in subsec. (a), is act June 15, 1917, ch. 30, title I, 40 Stat. 217, as amended, which enacted sections 31 to 38 of Title 50, War and National Defense, and which was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as sections 792 to 794 and 2388 of Title 18, Crimes and Criminal Procedure.

Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended, referred to in subsec. (a), is act Apr. 20, 1918, ch. 59, 40 Stat. 534, as amended, which enacted sections 101 to 106 of Title 50, and which was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as sections 2151 and 2153 to 2156 of Title 18.

Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended, referred to in subsec. (a), probably means act June 8, 1938, ch. 327, 52 Stat. 631, as amended, known as the Foreign Agents Registration Act of 1938, which is classified generally to subchapter II (§611 et seq.) of chapter 11 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 22 and Tables.

Act January 12, 1938 (ch. 2, 52 Stat. 3), referred to in subsec. (a), is act Jan. 12, 1938, ch. 2, 52 Stat. 3, which enacted sections 45 to 45d of Title 50, War and National Defense, and which was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as sections 791 and 795 to 797 of Title 18, Crimes and Criminal Procedure.

Title I, Alien Registration Act, 1940 (ch. 439, 54 Stat. 670), referred to in subsec. (a), is act June 28, 1940, ch. 439, title I, 54 Stat. 670, which enacted sections 9 to 13 of former Title 18, Criminal Code and Criminal Procedure, and which was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as sections 2385 and 2387 of Title 18, Crimes and Criminal Procedure.

Act October 17, 1940 (ch. 897, 54 Stat. 1201), referred to in subsec. (a), is act Oct. 17, 1940, ch. 897, 54 Stat. 1201, which enacted sections 14 to 17 of former Title 18, Criminal Code and Criminal Procedure, and which was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and reenacted as section 2386 of Title 18, Crimes and Criminal Procedure.

Act of June 25, 1942 (ch. 447, 56 Stat. 390), referred to in subsec. (a), is act June 25, 1942, ch. 447, 56 Stat. 390, as amended, which was classified to sections 781 to 785 of this Appendix and was omitted from the Code as terminated.

The Alien Enemy Act, referred to in subsec. (a), probably means sections 4067 to 4070 of the Revised Statutes, which are classified to sections 21 to 24 of Title 50, War and National Defense.

Sections 191 and 193 of title 31 of the United States Code, referred to in subsec. (g), were repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as sections 3713(a) and 9309 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 620 of this Appendix.

CHANGE OF NAME

In subsecs. (e) and (f), ''United States District Court for the District of Columbia'' substituted for ''the district court of the United States for the District of Columbia'' on authority of act June 25, 1948, as amended by act May 24, 1949.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

§35. Hearings on claims; rules and regulations; delegation of powers

The officer or agency empowered to entertain claims under sections 9(a), 32, and 34 hereof [sections 9(a), 32, and 34 of this Appendix] shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by sections 9(a), 32, and 34 hereof [said sections] may be exercised through subordinate officers designated by such officer or agency.

(Oct. 6, 1917, ch. 106, §35, as added Dec. 18, 1941, ch. 593, title III, §305, as added Aug. 8, 1946, ch. 878, §1, 60 Stat. 928.)

CODIFICATION

Section was formerly classified to section 620 of this Appendix.

§ 36. Taxes

(a) Liability; exemptions

The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act [42 U.S.C. 401 et seq.] with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) Payment by Custodian; liability of former owner; enforcement of tax liability; transfer of property

The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act [said sections] without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest is transferred, otherwise than pursuant to section 9(a) or 32 hereof [section 9(a) or 32(a) of this Appendix], the Alien Property Custodian may transfer the property or interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Computation; suspension of limitations, etc.

Subject to the provisions of subsection (b) of this section, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended, with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) "Tax" defined

The word ''tax'' as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Exemptions

Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section.

(Oct. 6, 1917, ch. 106, § 36, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 929.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 620 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

§ 37. Insurance of property

The Alien Property Custodian may procure insurance in such amounts, and from such insurers, as he believes will adequately protect him against loss in connection with property or interest or proceeds held by him.

(Oct. 6, 1917, ch. 106, § 37, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 930.)

CODIFICATION

Section was formerly classified to section 620 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, vested in the Attorney General. See notes set out under section 6 of this Appendix.

§ 38. Shipment of relief supplies; definitions

(a) Notwithstanding any other provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], it shall be lawful, at any time after the date of cessation of hostilities with any country with which the United States is at war, for any person in the United States to donate, or otherwise dispose of to, and to transport or deliver to, any person in such country any article or articles (including food, clothing, and medicine) intended to be used solely to relieve human suffering.

(b) As used in this section—

(1) the term ''person'' means any individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic;

(2) with respect to any country with which the United States was at war on January 1, 1946, the term ''date of cessation of hostilities'' shall mean the date of enactment of this Act [May 16, 1946];

(3) with respect to any other war the term ''date of cessation of hostilities'' shall mean the date specified by proclamation of the President or by a concurrent resolution of the two Houses of Congress whichever is the earlier.

(Oct. 6, 1917, ch. 106, § 38, formerly §—, as added May 16, 1946, ch. 260, 60 Stat. 182, numbered Aug. 8, 1946, ch. 878, § 3, 60 Stat. 930.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (b)(2), probably means May 16, 1946, the date of approval of act May 16, 1946, which added this section.

§ 39. Retention of properties or interests of Germany and Japan and their nationals; proceeds covered into Treasury; ex gratia payment to Switzerland

(a) No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act [said sections] of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32, 40, 41, 42 or 43 of this Act [section 32, 40, 41, 42 or 43 of this Appendix] or of the Philippine Property Act of 1946 [22 U.S.C. 1381 et seq.].

(b) The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to the Attorney General under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]—

(1) which the Attorney General receives after the date of the enactment of the Export Enhancement Act of 1988 [August 23, 1988], or

(2) which the Attorney General received before that date and which, as of that date, the Attorney General had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his or her discretion are the subject matter of any judicial action or proceeding.

(c) Notwithstanding any of the provisions of subsections (a) and (b) of this section, the Attorney General is authorized to pay from property vested in or transferred to the Attorney General under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], the sum of $20,000 as an ex gratia payment to the Government of Switzerland in accordance with the terms of the agreement entered into by that Government and the Government of the United States on March 12, 1980.

(Oct. 6, 1917, ch. 106, § 39, as added July 3, 1948, ch. 826, § 12, 62 Stat. 1246; amended Aug. 7, 1953, ch. 344, 67 Stat. 461; Pub. L. 85–884, Sept. 2, 1958, 72 Stat. 1708; Pub. L. 87–846, title II, §§ 202, 204(c), Oct. 22, 1962, 76 Stat. 1113, 1115; Pub. L. 87–861, § 1, Oct. 23, 1962, 76 Stat. 1139; Pub. L. 89–619, Oct. 4, 1966, 80 Stat. 871; Pub. L. 99–93, title VIII, § 803, Aug. 16, 1985, 99 Stat. 449; Pub. L. 100–418, title II, § 2501(a), Aug. 23, 1988, 102 Stat. 1370.)

REFERENCES IN TEXT

The Philippine Property Act of 1946, referred to in subsec. (a), is act July 3, 1946, ch. 536, 60 Stat. 418, as amended, which is classified generally to subchapter V (§ 1381 et seq.) of chapter 15 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1381 of Title 22 and Tables.

AMENDMENTS

1988—Subsecs. (b) to (f). Pub. L. 100–418 substituted subsec. (b) for former subsecs. (b) to (e), redesignated subsec. (f) as (c), and substituted ''and (b)'' for ''through (d)''.

1985—Subsec. (f). Pub. L. 99–93 added subsec. (f).

1966—Subsec. (e). Pub. L. 89–619 added subsec. (e).

1962—Subsec. (a). Pub. L. 87–861 provided that nothing in this section shall be construed to repeal or otherwise affect the operation of section 40, 41, 42, or 43 of this Appendix.

Subsec. (b). Pub. L. 87–846, § 204(c), required Attorney General to cover $500,000 into Treasury for deposit into War Claims Fund for payments to successor organizations receiving heirless property.

Subsec. (d). Pub. L. 87–846, § 202, added subsec. (d).

1958—Subsec. (c). Pub. L. 85–884 added subsec. (c).

1953—Act Aug. 7, 1953, designated existing provisions as subsec. (a) and added subsec. (b).

§ 40. Intercustodial conflicts involving enemy property; authority of President to conclude; delegation of authority

The President, or such officer or agency as he may designate, is authorized to conclude and give effect to agreements to further the amicable and expeditious settlement of intercustodial conflicts involving enemy property, subject to the following:

(1) The authority granted in this section shall extend only to agreements with governments with which the United States was not at war in World War II.

(2) Such agreements shall be in accordance with the policy of protecting and making avail-

able for utilization the American and nonenemy interests in such property and further the elimination of enemy interests in such property and the efficient administration and liquidation of enemy property in the United States.

(3) For the purposes of this section, the United States as to any intergovernmental agreements hereafter negotiated shall seek treatment equal to that accorded United States nationals for persons who, although citizens or residents of any enemy country before or during World War II, were deprived of full rights of citizenship or substantially deprived of liberty by laws, decrees, or regulations of such enemy country discriminating against racial, religious, or political groups: *Provided*, That on September 28, 1950, such persons were (1) permanent residents of the United States and (2) had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, as amended; and that such persons shall have acquired citizenship of the United States prior to the effective date of any intergovernmental agreement hereafter negotiated.

(4) Reimbursement to the United States by other governments pursuant to such agreements shall be administered as vested property: *Provided*, That nothing contained in this section shall hinder, restrict or limit the payment of claims from the War Claims Fund established by section 13 of the War Claims Act of 1948 (Public Law 896, 80th Congress, July 3, 1948; 62 Stat. 1240; 50 U.S.C. app. 2001–2013), as amended [section 2012 of this Appendix].

(Sept. 28, 1950, ch. 1094, 64 Stat. 1079.)

REFERENCES IN TEXT

The Nationality Act of 1940, as amended, referred to in par. (3), is act Oct. 14, 1940, ch. 876, 54 Stat. 1137, as amended, which was classified principally to chapter 11 (§ 501 et seq.) of Title 8, Aliens and Nationality, prior to its repeal by act June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280. See section 1101 et seq. of Title 8.

CODIFICATION

Section was not enacted as part of the Trading with the Enemy Act which comprises sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix.

EX. ORD. NO. 10244. AUTHORIZATION OF SECRETARY OF STATE AND ATTORNEY GENERAL TO PERFORM CERTAIN FUNCTIONS

Ex. Ord. No. 10244, May 17, 1951, 16 F.R. 4639, provided:

1. The Secretary of State and the Attorney General are hereby jointly designated as the officers authorized to conclude and give effect to agreements relating to the settlement of intercustodial conflicts involving enemy property made pursuant to the said act of September 28, 1950 [this section], and to exercise all powers incident thereto which are conferred by such act, including, without limitation, the powers to receive, transfer, release or return property, interests therein, or proceeds thereof.

2. It is the policy of this order that the Secretary of State, with the concurrence of the Attorney General, shall perform all functions necessary or appropriate to give effect to any agreement made pursuant to the said act of September 28, 1950 [this section], with relation to the protection of American interests in property outside the United States, and that the Attorney General, with the concurrence of the Secretary of State, shall perform all functions necessary or appropriate to give effect to any such agreement with relation to property subject to the jurisdiction of the United States, and that all other functions relating to the effectuation of any such agreement shall be performed as may be agreed by the Secretary of State and the Attorney General. However, no action taken hereunder by either the Secretary of State or the Attorney General shall be considered to be invalid on the ground that under the provisions of this order such action was within the jurisdiction of the Secretary of State rather than the Attorney General, or vice versa, or that concurrence was not obtained, or that such action was not joint.

3. The Secretary of State and the Attorney General may each delegate to the other or to any other officer, person, or agency within his respective department such of his functions under this order as he may deem necessary.

4. Any money, property, or interest received as reimbursement by the United States by virtue of any agreement made pursuant to the said act of September 28, 1950 [this section], shall be administered and disposed of by the Attorney General as vested property pursuant to the said Trading With the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]. Any other money, property, or interest received by the Secretary of State or the Attorney General pursuant to any such agreement shall be administered and disposed of pursuant to the provisions of such agreement.

HARRY S. TRUMAN.

§ 41. Divestment of estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits; exceptions; notice of divestment

(a) Subject to the provisions of subsection (b) hereof [of this section], all rights and interests of individuals in estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits vested under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] after December 17, 1941, which have not become payable or deliverable to or have not vested in possession in the Attorney General prior to December 31, 1961, are divested: *Provided*, That the provisions of this section shall not affect the right of the Attorney General to retain all such property rights and interests and to collect all income which is payable to or vested in possession in him prior to December 31, 1961.

(b) Nothing contained in this section shall divest or require the divestment of any portion of any such interest the beneficial owner of which is a natural person who has been convicted personally and by name by a court of competent jurisdiction of murder, ill treatment, or deportation for slave labor of prisoners of war, political opponents, hostages, or civilian population in occupied territories, or of murder or ill treatment of military or naval persons, or of plunder or wanton destruction without justified military necessity.

(c) At the earliest practicable time after the effective date of this Act, the Attorney General shall transmit to the lawful owner or custodian of any interest divested by this section written notice of such divestment.

(Oct. 6, 1917, ch. 106, § 40, as added Pub. L. 87–846, title II, § 205, Oct. 22, 1962, 76 Stat. 1115.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (c), probably means the effective date of Pub. L. 87–846,

which was approved Oct. 22, 1962, which added this section.

§ 42. Claims for proceeds from sale of certain certificates: jurisdiction, limitations; divestment of copyrights: "copyrights" defined, rights of licensees and assignees, reproduction rights of United States, transfer of interests, payment of royalties to Attorney General, suits for infringement

(a) Notwithstanding any statute of limitation, lapse of time, any prior decision by any court of the United States, or any compromise, release or assignment to the Alien Property Custodian, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment upon the claims against the United States for the proceeds received by the United States from the sale of the property vested under the provisions of the Trading With the Enemy Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] by vesting order numbered 33 relating to certificate numbers 104 to 121, inclusive, 125, 126, 128 to 134, inclusive, and 137 to 139, inclusive. Proceedings with respect to such claims may be instituted hereunder not later than two years after the date of the enactment of this section [Oct. 22, 1962].

(b) As used in this section the word ''copyrights'' includes copyrights, claims of copyrights, rights to copyrights, and rights to copyright renewals.

(c) All copyrights vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [said sections], except copyrights vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), 17366 (16 F.R. 2483), and 17952 (16 F.R. 6162) and copyrights vested with respect to the motion picture listed last in exhibit A of vesting order 11803, as amended (13 F.R. 5167, 15 F.R. 1626), are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled thereto shall on that day succeed to the rights, privileges, and obligations arising out of such copyrights, subject, however, to—

(1) the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect of such copyrights;

(2) the rights of assignees under assignments by the Alien Property Custodian or the Attorney General of interests in such licenses; and

(3) the right retained by the United States to reproduce, for its own use, or exhibit any divested copyrighted motion picture films.

The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to copyrights divested hereunder are hereby transferred, effective the day of divestment, to the persons entitled to such copyrights: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(d) All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to copyrights, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), and 17366 (16 F.R. 2483),

are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(e) Nothing in this section shall be construed to transfer to a person entitled to a copyright divested hereunder the right of the Attorney General to sue for the infringement of such copyright during the period between (1) the vesting thereof or the vesting of rights and interests in a contract entered into with respect thereto, and (2) the day of divestment. The right to sue for infringement shall remain in the Attorney General.

(Oct. 6, 1917, ch. 106, § 41, as added Pub. L. 87–846, title II, § 206, Oct. 22, 1962, 76 Stat. 1115; amended Pub. L. 88–490, Aug. 26, 1964, 78 Stat. 607; Pub. L. 97–164, title I, § 161(9), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Subsec. (a). Pub. L. 97–164 substituted ''Claims Court'' for ''Court of Claims''.

1964—Subsec. (a). Pub. L. 88–490 substituted ''render judgment upon'' for ''report to the Congress concerning'' and ''two years after the date of enactment of this section [October 22, 1962]'' for ''one year after the date of the enactment of this Act''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to

property or interest in Philippines, are vested in Attorney General. See notes set out under section 6 of this Appendix.

§ 43. Divestment of trademarks

(a) "Trademarks" defined

As used in this section, the word ''trademarks'' includes trademarks, trade names, and the goodwill of the business to which a trademark or trade name is appurtenant.

(b) Effective date of divestment; rights of licensees; transfer of interests; payment of royalties to Attorney General

Trademarks vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [said sections], except trademarks vested by vesting orders 284, as amended (7 Fed. Reg. 9754, 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364), are hereby divested as a matter of grace, effective the ninety-first day after the day of enactment of this section [Oct. 23, 1962], and the persons entitled to such trademarks shall on that day succeed to the rights, privileges, and obligations arising therefrom, subject, however, to the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect to such trademarks. The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to trademarks divested hereunder are transferred, effective the day of divestment, to the persons entitled to such trademarks: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(c) Prevesting contracts; exceptions; payment of royalties to Attorney General

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to trademarks, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [said sections];

(3) rights or interests vested by vesting orders 284, as amended (7 Fed. Reg. 9754; 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364),

are hereby divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 23, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(d) Publication of ownership list in Federal Register; effective date of divestment; succession to ownership of equivalent trademarks

The Attorney General shall within forty-five days after the date of enactment of this section [Oct. 23, 1962] publish in the Federal Register a list of trademarks which at the date of vesting in the Alien Property Custodian or Attorney General were owned by persons who were resident in or had their sole or primary seat in the area of Germany now in the Soviet Zone of Occupation or in the Soviet sector of Berlin or in German territory under provisional Soviet or Polish administration. Notwithstanding the provisions of subsection (b) of this section, the effective date of divestment of the trademarks so listed and published in the Federal Register shall be the date of publication in the Federal Register by the Secretary of State of a certification identifying the cases in which an equivalent trademark has been registered in the Federal Republic of Germany for a person residing or having its sole or primary seat in the Federal Republic of Germany or in the western sectors of Berlin. In those cases of an equivalent trademark certified by the Secretary of State, the person registered by the Federal Republic of Germany as owner of such equivalent trademark shall succeed to the ownership of the divested trademark in the United States.

(Oct. 6, 1917, ch. 106, § 42, as added Pub. L. 87–861, § 2, Oct. 23, 1962, 76 Stat. 1139.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, are vested in Attorney General. See notes set out under section 6 of this Appendix.

§ 44. Motion picture prints, transfer of title

(a) Prints in custody of Library of Congress; exception

The Attorney General is authorized and directed to transfer to the Library of Congress the title to all prints of motion pictures now in the custody of the Library, which prints were vested in or transferred to the Alien Property Custodian or the Attorney General pursuant to this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] after December 17, 1941, except prints of motion pictures which are the subject of suits or claims under section 9(a) or section 32 of this Act [section 9(a) or section 32 of this Appendix].

(b) Prints in custody of Attorney General; exception; right of selection by Library of Congress; disposal of unselected prints by Attorney General

Subject to the right of selection by the Library of Congress, the authorization, direction, and exception contained in subsection (a) hereof shall apply with respect to such prints now in the custody of the Attorney General. Prints not selected by the Library of Congress may be disposed of by the Attorney General in any manner he deems appropriate.

(c) Retention, reproduction, and disposal of prints by Library of Congress

With respect to all prints concerning which title is transferred to the Library of Congress pursuant to subsections (a) and (b) hereof, the Library shall have complete discretion to retain such prints and to reproduce copies thereof, or to dispose of them in any manner it deems appropriate.

(Oct. 6, 1917, ch. 106, § 43, as added Pub. L. 87–861, § 2, Oct. 23, 1962, 76 Stat. 1140.)

TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, are vested in Attorney General. See notes set out under section 6 of this Appendix.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1918

ACT MAR. 8, 1918, CH. 20, 40 STAT. 440

§§ 101 to 104. Omitted

CODIFICATION

Sections 101 to 104 were omitted as expired. See Termination note set out under sections 161 to 165 of this Appendix.

Section 101, act Mar. 8, 1918, ch. 20, § 100, 40 Stat. 440, related to declaration of purpose of this act.

Section 102, act Mar. 8, 1918, ch. 20, § 101, 40 Stat. 440, related to definitions.

Section 103, act Mar. 8, 1918, ch. 20, § 102, 40 Stat. 441, related to territorial application of this act, jurisdiction of courts, and form of procedure.

Section 104, act Mar. 8, 1918, ch. 20, § 103, 40 Stat. 441, related to protection of persons secondarily liable.

§§ 111 to 116. Omitted

CODIFICATION

Sections 111 to 116 were omitted as expired. See Termination note set out under sections 161 to 165 of this Appendix.

Section 111, act Mar. 8, 1918, ch. 20, § 200, 40 Stat. 441, related to default judgments, affidavits and bonds, and attorneys for persons in service. See Default Judgment note set out under sections 161 to 165 of this Appendix.

Section 112, act Mar. 8, 1918, ch. 20, § 201, 40 Stat. 442, related to stay of proceedings where military service affected conduct.

Section 113, act Mar. 8, 1918, ch. 20, § 202, 40 Stat. 442, related to relief against fines and penalties on contracts, etc., while in service.

Section 114, act Mar. 8, 1918, ch. 20, § 203, 40 Stat. 442, related to stay of execution of judgments, attachments, etc., against persons in service.

Section 115, act Mar. 8, 1918, ch. 20, § 204, 40 Stat. 442, related to duration and terms of stay and to codefendants not in service.

Section 116, act Mar. 8, 1918, ch. 20, § 205, 40 Stat. 443, related to exclusion of period of military service from time of statutes of limitation.

§§ 121 to 124. Omitted

CODIFICATION

Sections 121 to 124 were omitted as expired. See Termination note set out under sections 161 to 165 of this Appendix.

Section 121, act Mar. 8, 1918, ch. 20, § 300, 40 Stat. 443, related to rents, evictions, stay of proceedings, and allotment of pay to discharge.

Section 122, act Mar. 8, 1918, ch. 20, § 301, 40 Stat. 443, related to contracts for the purchase of real or personal property and to actions on such contracts.

Section 123, act Mar. 8, 1918, ch. 20, § 302, 40 Stat. 444, related to mortgages or trust deeds, actions thereon, stays, and sales under powers. See Limitation of Actions note set out under sections 161 to 165 of this Appendix.

Section 124, act Mar. 8, 1918, ch. 20, § 303, as added Sept. 16, 1940, ch. 720, § 13(c), 54 Stat. 896, related to installments contracts and agreements to terminate, repossess, or retain property transferred.

§§ 131 to 146. Omitted

CODIFICATION

Sections 131 to 146 were omitted as expired. See Termination note set out under sections 161 to 165 of this Appendix.

Section 131, act Mar. 8, 1918, ch. 20, § 400, 40 Stat. 444, related to definitions concerning insurance.

Section 132, act Mar. 8, 1918, ch. 20, § 401, 40 Stat. 444, related to application for insurance benefits and forms.

Section 133, act Mar. 8, 1918, ch. 20, § 402, 40 Stat. 444, related to persons entitled to insurance benefits.

Section 134, act Mar. 8, 1918, ch. 20, § 403, 40 Stat. 445, related to lists of persons entitled to insurance benefits.

Section 135, act Mar. 8, 1918, ch. 20, § 404, 40 Stat. 445, related to applications on policies totaling more than $5,000.

Section 136, act Mar. 8, 1918, ch. 20, § 405, 40 Stat. 445, related to lapse of policies for nonpayment of premiums.

Section 137, act Mar. 8, 1918, ch. 20, § 406, 40 Stat. 445, related to reports to the Bureau of War Risk Insurance.

Section 138, act Mar. 8, 1918, ch. 20, § 407, 40 Stat. 446, related to verification of differences between premiums defaulted and paid.

Section 139, act Mar. 8, 1918, ch. 20, § 408, 40 Stat. 446, related to bonds of the United States for the difference between premiums defaulted and paid.

Section 140, act Mar. 8, 1918, ch. 20, § 409, 40 Stat. 446, related to holding of United States bonds as security for payment of premiums.

Section 141, act Mar. 8, 1918, ch. 20, § 410, 40 Stat. 446, related to deduction of unpaid premiums from proceeds of policies.

Section 142, act Mar. 8, 1918, ch. 20, § 411, 40 Stat. 446, related to payment of past due premiums on termination of service.

Section 143, act Mar. 8, 1918, ch. 20, § 412, 40 Stat. 446, related to accounts stated between insurers and the United States.

Section 144, act Mar. 8, 1918, ch. 20, § 413, 40 Stat. 447, related to payments of balances due insurers.

Section 145, act Mar. 8, 1918, ch. 20, § 414, 40 Stat. 447, related to policies to which these provisions did not apply.

Section 146, act Mar. 8, 1918, ch. 20, § 415, 40 Stat. 447, related to companies or associations to which these provisions applied.

§§ 151, 152. Omitted

CODIFICATION

Sections 151 and 152 were omitted as expired. See Termination note set out under sections 161 to 165 of this Appendix.

Section 151, act Mar. 8, 1918, ch. 20, § 500, 40 Stat. 447, related to application of this section to taxes or assessments and to sale of property for failure to pay taxes or assessments.

Section 152, act Mar. 8, 1918, ch. 20, § 501, 40 Stat. 448, related to rights to public lands as not forfeited.

§§ 161 to 165. Omitted

CODIFICATION

Sections 161 to 165 were omitted as expired. See Termination note set out below.

Section 161, act Mar. 8, 1918, ch. 20, § 600, 40 Stat. 448, related to transfers to take advantage of this act.

Section 162, act Mar. 8, 1918, ch. 20, § 601, 40 Stat. 448, related to certificates of military service, persons reported missing, and presumptions.

Section 163, act Mar. 8, 1918, ch. 20, § 602, 40 Stat. 449, related to revocation of interlocutory orders.

Section 164, act Mar. 8, 1918, ch. 20, § 603, 40 Stat. 449, provided that the act of Mar. 8, 1918, remain in force until the termination of the war and for six months thereafter and that the provisions of the Act remain in effect as long as necessary for the exercise or enjoyment of any proceeding, remedy, privilege, stay, limitation, accounting, or other transaction authorized by the Act.

Section 165, act Mar. 8, 1918, ch. 20, § 604, 40 Stat. 449, provided that this Act be cited as the Soldiers' and Sailors' Civil Relief Act.

TERMINATION AFTER OCTOBER 17, 1940

Sections 101 to 104, 111 to 116, 121 to 124, 131 to 146, 151, 152, and 161 to 165 of this Appendix were rendered inapplicable to military service performed after Oct. 17, 1940, under Selective Training and Service Act of 1940 and Army Reserve and Retired Personnel Law of 1940 by section 585 of this Appendix. Some of the sections had previously been made applicable to those 1940 acts by sections 313 and 404 of this Appendix. Present provisions on soldier's and sailor's civil relief are contained in section 501 et seq. of this Appendix.

DEFAULT JUDGMENTS

Act Sept. 3, 1919, ch. 55, 41 Stat. 282, provided that where default judgments were entered and no affidavits required by section 111 of this Appendix had been filed, the plaintiff, on notice, could file an affidavit stating that persons in default were not in military service at time of entry of default judgment and authorized court to enter an order making the judgment effective as of date of entry.

LIMITATION OF ACTIONS ON CLAIMS UNDER SECTION 123(3)

Act Mar. 4, 1923, ch. 284, 42 Stat. 1510, provided that claims under section 123(3) of this Appendix must have been asserted prior to Mar. 4, 1923 or within one year thereafter.

SELECTIVE DRAFT ACT OF 1917

ACT MAY 18, 1917, CH. 15, 40 STAT. 76

§§ 201 to 211. Omitted

CODIFICATION

Sections 201 to 211 were omitted pursuant to section 4 of act June 15, 1917, set out as an Effect of Termination of World War I note under sections 213, 214 of this Appendix.

Section 201, act May 18, 1917, ch. 15, § 1, 40 Stat. 76, related to emergency increase in the Army, draft of National Guard and additional forces, volunteer divisions, and to the organization of the Army.

Section 202, acts May 18, 1917, ch. 15, § 2, 40 Stat. 77; July 9, 1918, ch. 143, subch. XII, 40 Stat. 885; Aug. 31, 1918, ch. 166, § 1, 40 Stat. 955; Oct. 14, 1940, ch. 876, § 504, 54 Stat. 1172, related to manner of attaining increased forces, eligibility for the draft, quotas, period of service, and the government of the forces raised.

Section 203, act May 18, 1917, ch. 15, § 3, 40 Stat. 78, related to bounties to induce enlistments, substitutes, and payments to escape service.

Section 204, acts May 18, 1917, ch. 15, § 4, 40 Stat. 78; Aug. 31, 1918, ch. 166, § 2, 40 Stat. 955, related to exemptions from the draft and to draft and appeal boards, and was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643.

Section 205, acts May 18, 1917, ch. 15, § 5, 40 Stat. 80; Aug. 31, 1918, ch. 166, § 3, 40 Stat. 955, related to registration, the persons required to register, and to penalties for failure to register.

Section 206, act May 18, 1917, ch. 15, § 6, 40 Stat. 80, related to utilization of departments and officers, etc., use of franks, and offenses and punishments, and was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643.

Section 207, acts May 18, 1917, ch. 15, § 7, 40 Stat. 81; July 9, 1918, ch. 143, subch. XIII, 40 Stat. 885, related to voluntary enlistments and to geographical groupings of enlisted or drafted men.

Section 208, acts May 18, 1917, ch. 15, § 8, 40 Stat. 81; Apr. 20, 1918, ch. 61, 40 Stat. 534, related to temporary appointment of general officers and to vacancies in the Regular Army.

Section 209, act May 18, 1917, ch. 15, § 9, 40 Stat. 82, related to periods of appointments and discharges for cause.

Section 210, act May 18, 1917, ch. 15, § 10, 40 Stat. 82, related to pay, allowances, and pensions.

Section 211, act May 18, 1917, ch. 15, § 11, 40 Stat. 82, related to suspension of restrictions on detail, detachment and employment of personnel.

§ 212. Repealed. Aug. 27, 1935, ch. 740, title II, § 203, 49 Stat. 878

Section, act May 18, 1917, ch. 15, § 12, 40 Stat. 82, related to regulation and prohibition of alcoholic liquors by the President.

§§ 213, 214. Omitted

CODIFICATION

Sections 213 and 214 were omitted pursuant to section 4 of act June 15, 1917, set out as an Effect of Termination of World War I note below.

Section 213, acts May 18, 1917, ch. 15, § 13, 40 Stat. 83; July 9, 1918, ch. 143, subch. XIV, 40 Stat. 885, related to prohibition of prostitution. See section 1384 of Title 18, Crimes and Criminal Procedure.

Section 214, act May 18, 1917, ch. 15, § 14, 40 Stat. 83, related to suspension of conflicting laws.

EFFECT OF TERMINATION OF WORLD WAR I

Act June 15, 1917, ch. 29, § 4, 40 Stat. 217, provided in part that compulsory military service under sections 201 to 214 of this Appendix should cease four months after proclamation of peace by the President.

DURATION OF SERVICE

Act June 15, 1917, ch. 29, § 4, 40 Stat. 217, provided in part that draftees and enlistees should serve for the duration of the war.

SUPPLEMENTAL PROVISIONS RELATING TO GENERAL OFFICERS

Act Oct. 6, 1917, ch. 105, § 3, 40 Stat. 410, provided that section 208 of this Appendix should be construed to authorize the President to appoint the Chief of Staff and the commander of United States forces in France as generals, the commander of an army corps as lieutenant general, and their rate of pay and allowances.

EXTENSION OF SECTIONS 212 AND 213 OF THIS APPENDIX TO THE NAVY

Act Oct. 6, 1917, ch. 92, 40 Stat. 393, extended the provisions of sections 212 and 213 of this Appendix to include the Navy.

CALLING OF CERTAIN DEFERRED CLASSES FOR SERVICE

Act May 16, 1918, ch. 76, 40 Stat. 554, authorized the President to call for immediate military service persons who were placed in deferred classes.

REGISTRATION OF PERSONS ATTAINING AGE OF 21 SINCE JUNE 5, 1917

Act May 20, 1918, ch. 79, 40 Stat. 557, authorized the President to proclaim a registration date for persons who attained the age of 21 since June 5, 1917, and au-

thorized further proclamations from time to time as necessary.

POWER OF PRESIDENT TO INCREASE DRAFTED ARMY

Act July 9, 1918, ch. 143, subch. XXI, 40 Stat. 894, authorized the President to draft the maximum number of men necessary for prosecution of the war.

SERVICES FOR WHICH DRAFTEE LIABLE

Act Aug. 31, 1918, ch. 166, § 4, 40 Stat. 955, provided for allotment of draftees to Army, Navy, and Marine Corps.

REPEAL OF RESTRICTIONS ON ENLISTMENTS; PERIOD OF ENLISTMENTS; SERVICE WITH RESERVES; PAY OF ENLISTED MEN

Act Feb. 28, 1919, ch. 79, 40 Stat. 1211, provided for repeal of so much of sections 207 and 214 of this Appendix as imposed restrictions on enlistments in Regular Army, the period of such enlistments, did not require service with the reserves, rate of pay, and discharge after one year's service to those who enlisted for three years, in discretion of Secretary of the Army.

STATUS OF DESERTERS; PROSECUTION OF DRAFT VIOLATORS

Act Mar. 8, 1922, ch. 101, 42 Stat. 421, provided for extension of time within which deserters and draft violators could be prosecuted.

PROC. NO. 2068. PARDON OF PERSONS CONVICTED OF VIOLATING SECTION 205

Proc. No. 2068, Dec. 23, 1933, 48 Stat. 1725, granted full pardon to all persons who had theretofore been convicted of a violation of or of a conspiracy to violate section 205 of this Appendix, and who had complied with their sentences.

SELECTIVE TRAINING AND SERVICE ACT OF 1940

ACT SEPT. 16, 1940, CH. 720, 54 STAT. 885

§§ 301 to 309a. Omitted

CODIFICATION

Section 301, acts Sept. 16, 1940, ch. 720, § 1, 54 Stat. 885; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to declaration of emergency and policy, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 451 of this Appendix.

Section 302, acts Sept. 16, 1940, ch. 720, § 2, 54 Stat. 885; Dec. 20, 1941, ch. 602, § 1, 55 Stat. 844; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to registration and age limits, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 453 of this Appendix.

Section 303, acts Sept. 16, 1940, ch. 720, § 3, 54 Stat. 885; Aug. 18, 1941, ch. 362, § 5, 55 Stat. 627; Dec. 20, 1941, ch. 602, §§ 2, 9, 55 Stat. 845, 846; Nov. 13, 1942, ch. 638, §§ 1, 5, 56 Stat. 1018, 1019; May 9, 1945, ch. 112, § 2, 59 Stat. 166; May 14, 1946, ch. 253, § 3, 60 Stat. 181; June 29, 1946, ch. 522, §§ 2–4, 60 Stat. 341, which related to liability for service, number of armed forces and term of service, expired in part on Mar. 31, 1947 and after July 1, 1947, pursuant to section 316 of this Appendix. See section 454 of this Appendix.

Section 303a, acts June 28, 1944, ch. 301, title I, 58 Stat. 544; July 17, 1945, ch. 319, 59 Stat. 485; July 23, 1946, ch. 591, title I, 60 Stat. 613, related to medical and burial expenses of registrants. See section 461 of this Appendix.

Section 303a was enacted as part of act July 23, 1946, known as the Third Deficiency Appropriation Act, 1946, and not as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 304, acts Sept. 16, 1940, ch. 720, § 4, 54 Stat. 887; Dec. 20, 1941, ch. 602, § 3, 55 Stat. 815; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to manner of selecting men, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 455 of this Appendix.

Section 304a, act Dec. 5, 1943, ch. 342, § 5, 57 Stat. 599, related to pre-induction physical examinations.

Section 304a was not enacted as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 305, acts Sept. 16, 1940, ch. 720, § 5, 54 Stat. 887; May 29, 1941, ch. 155, 55 Stat. 211; Aug. 16, 1941, ch. 355, §§ 1, 2, 55 Stat. 621; Dec. 20, 1941, ch. 602, §§ 4–6, 55 Stat. 845; June 23, 1942, ch. 443, title II, § 201(a), 56 Stat. 386; Nov. 13, 1942, ch. 638, §§ 2, 4, 56 Stat. 1019; July 9, 1943, ch. 211, 57 Stat. 391; Dec. 5, 1943, ch. 342, § 1, 57 Stat. 596; May 14, 1946, ch. 253, § 2, 60 Stat. 181; June 29, 1946, ch. 522, §§ 5, 6, 60 Stat. 342; Oct. 12, 1949, ch. 681, title V, § 531(d), 63 Stat. 841, which related to exceptions, exemptions and deferments, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 456 of this Appendix.

Section 305a, act Apr. 8, 1943, ch. 33, 57 Stat. 57, related to deferments of Federal Government employees.

Section 305a was not enacted as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 305b, act Dec. 5, 1943, ch. 342, § 6, 57 Stat. 599, related to monthly reports by Director of Selective Service.

Section 305b was not enacted as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 306, acts Sept. 16, 1940, ch. 720, § 6, 54 Stat. 889; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to number inducted as limited by appropriations, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix.

Section 307, acts Sept. 16, 1940, ch. 720, § 7, 54 Stat. 890; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to bounties for enlistment and substitutes, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 458 of this Appendix.

Section 308, acts Sept. 16, 1940, ch. 720, § 8, 54 Stat. 890; July 28, 1942, ch. 529, § 2, 56 Stat. 724; Dec. 8, 1944, ch. 548, § 1, 58 Stat. 798; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to service certificates and reemployment rights, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 459 of this Appendix.

Section 309, acts Sept. 16, 1940, ch. 720, § 9, 54 Stat. 892; June 25, 1943, ch. 144, § 3, 57 Stat. 164; June 29, 1946, ch. 522, § 1, 60 Stat. 341, which related to conscription of industry, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 468 of this Appendix.

Section 309a, acts July 12, 1943, ch. 221, title VII, 57 Stat. 518; June 28, 1944, ch. 301, title I, 58 Stat. 544; July 17, 1945, ch. 319, 59 Stat. 485; July 23, 1946, ch. 591, title I, 60 Stat. 614, related to a work program for conscientious objectors. See section 456 of this Appendix.

Section 309a was enacted as part of act July 23, 1946, known as the Third Deficiency Appropriation Act, 1946, and not as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

§ 310. Repealed. Pub. L. 89–554, § 8(a), Sept. 16, 1966, 80 Stat. 651, 652

Section, acts Sept. 16, 1940, ch. 720, § 10, 54 Stat. 893; Dec. 5, 1943, ch. 342, §§ 2–4, 57 Stat. 597, 598; June 29, 1946, ch. 522, § 1, 60 Stat. 341; 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, related to administrative provisions. See section 460 of this Appendix.

§§ 310a to 318. Omitted

Section 310a, acts Oct. 8, 1940, ch. 756, title I, 54 Stat. 971; Apr. 5, 1941, ch. 40, 55 Stat. 117; Apr. 28, 1942, ch. 247, title III, 56 Stat. 237; July 12, 1943, ch. 221, title VII, 57 Stat. 519; June 28, 1944, ch. 301, title I, 58 Stat. 544; July 17, 1945, ch. 319, 59 Stat. 485; July 23, 1946, ch. 591, title

I, 60 Stat. 614, related to travel expenses. See section 460(f) of this Appendix.

Section 310a was enacted as part of act July 23, 1946, known as the Third Deficiency Appropriation Act, 1946, and not as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 310b, act July 2, 1945, ch. 219, §§1–4, 59 Stat. 312, related to Selective Service Medal.

Section 310b was not enacted as part of act Sept. 16, 1940, ch. 720, 54 Stat. 885, known as the Selective Training and Service Act of 1940.

Section 311, acts Sept. 16, 1940, ch. 720, §11, 54 Stat. 894; June 29, 1946, ch. 522, §1, 60 Stat. 341, related to offenses and punishment, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 462 of this Appendix.

Section 312, acts Sept. 16, 1940, ch. 720, §12, 54 Stat. 895; Mar. 28, 1942, ch. 206, 56 Stat. 190; June 16, 1942, ch. 413, §19, 56 Stat. 369, eff. June 1, 1942; June 29, 1946, ch. 522, §1, 60 Stat. 341, related to pay and allowances. Subsections (a) to (c) were repealed on June 1, 1942, and the other subsections expired on Mar. 31, 1947, pursuant to section 316 of this Appendix.

Section 313, acts Sept. 16, 1940, ch. 720, §13, 54 Stat. 895; June 29, 1946, ch. 522, §1, 60 Stat. 341, which related to applicability of Soldiers' and Sailors' Civil Relief Act, section 501 et seq. of this Appendix, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix.

Section 314, acts Sept. 16, 1940, ch. 720, §14, 54 Stat. 896; June 29, 1946, ch. 522, §1, 60 Stat. 341, which related to notice of requirements of the act, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 465 of this Appendix.

Section 315, acts Sept. 16, 1940, ch. 720, §15, 54 Stat. 896; Dec. 20, 1941, ch. 602, §7, 55 Stat. 845; June 23, 1942, ch. 443, title II, §201(b), 56 Stat. 387; Nov. 13, 1942, ch. 638, §3, 56 Stat. 1019; July 1, 1944, ch. 376, 58 Stat. 720; June 29, 1946, ch. 522, §1, 60 Stat. 341, which related to definitions, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix. See section 466 of this Appendix.

Section 316, act Sept. 16, 1940, ch. 720, §16, 54 Stat. 897; May 9, 1945, ch. 112, §1, 59 Stat. 166; May 14, 1946, ch. 253, §1, 60 Stat. 181; June 29, 1946, ch. 522, §7, 60 Stat. 342, related to suspension of conflicting laws and expiration of the act. See section 467 of this Appendix.

Section 317, acts Sept. 16, 1940, ch. 720, §17, 54 Stat. 897; June 29, 1946, ch. 522, §1, 60 Stat. 341, related to the effective date of the act.

Section 318, acts Sept. 16, 1940, ch. 720, §18, 54 Stat. 897; June 29, 1946, ch. 522, §1, 60 Stat. 341, which related to short title of act, expired on Mar. 31, 1947, pursuant to section 316 of this Appendix.

STATUS AND TERM OF SERVICE OF PERSONS INDUCTED INTO NAVY, MARINE CORPS OR COAST GUARD

Act Dec. 20, 1941, ch. 602, §8, 55 Stat. 846, related to the status and term of service of persons inducted into Navy, Marine Corps, or Coast Guard under Selective Training and Service Act of 1940.

RECOGNITION OF UNCOMPENSATED SERVICE OF MEMBERS OF LOCAL BOARDS, ETC.

Act June 30, 1947, ch. 167, 61 Stat. 210, directed the Director of Selective Service to issue to uncompensated personnel of the Selective Service System, upon the expiration of the Selective Training and Service Act of 1940, as amended, suitable certificates of separation.

OFFICE OF SELECTIVE SERVICE RECORDS

ACT MAR. 31, 1947, CH. 26, 61 STAT. 31

Sec.
321. Establishment of Office of Selective Service Records; appointment of Director.
322. Functions, duties, and responsibilities of Office.
323. Transfer of funds; appropriations.
324. Transfer of property, records, and personnel to Office; transfer of surplus property to National Guard.
325. Transfer of functions and responsibilities of Personnel Division, National Headquarters, Selective Service System to Office; effective date.
326. Powers and duties of Director; acceptance of voluntary services; fiscal, disbursing, and accounting agent; status of officers of military and naval Services and Reserves and departments or agencies detailed to Office.
327. Rules and regulations; penalties.
328. Suspension of conflicting laws.
329. Effective date.
330. Destruction of records; use of appropriations; procedures; transfers to other agencies.

TERMINATION AND REESTABLISHMENT OF OFFICE OF SELECTIVE SERVICE RECORDS; TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, ETC.

Act June 24, 1948, ch. 625, title I, §10(a)(4), 62 Stat. 618, provided that: ''The functions of the Office of Selective Service Records (established by the Act of March 31, 1947) [sections 321 to 329 of this Appendix] and of the Director of the Office of Selective Service Records are hereby transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are hereby transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking of effect of the provisions of this title [sections 451, 453, 454 and 455 to 471 of this Appendix]: *Provided*, That, effective upon the termination of this title [said sections] and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is hereby reestablished on the same basis and with the same functions as obtained prior to the effective date of this title [June 24, 1948], (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.''

§ 321. Establishment of Office of Selective Service Records; appointment of Director

There is hereby established an Office of Selective Service Records, to be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(Mar. 31, 1947, ch. 26, §1, 61 Stat. 31.)

CODIFICATION

Provisions that fixed the compensation of the Director at $10,000 per year were omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

§322. Functions, duties, and responsibilities of Office

The functions, duties, and responsibilties[1] of the Office of Selective Service Records shall be (a) to liquidate the Selective Service System, which liquidation shall be completed as rapidly as possible after March 31, 1947, but in any event not later than March 31, 1948, except as herein provided; (b) to preserve and service the records of Selective Service; and (c) to perform such other duties relating to the preservation of records, knowledge, and methods of Selective Service, not inconsistent with law.

(Mar. 31, 1947, ch. 26, §2, 61 Stat. 31.)

REESTABLISHMENT OF OFFICE

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§323. Transfer of funds; appropriations

The unexpended balances of funds available to the Selective Service System are made available to the Office of Selective Service Records for the purposes of this Act [sections 321 to 329 of this Appendix] and such additional appropriations as are necessary therefor are authorized.

(Mar. 31, 1947, ch. 26, §3, 61 Stat. 31.)

REESTABLISHMENT OF OFFICE

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§324. Transfer of property, records, and personnel to Office; transfer of surplus property to National Guard

All property, records, and personnel of the Selective Service System are hereby transferred to the Office of Selective Service Records and authority is hereby granted to the Director of the Office of Selective Service Records to transfer, without reimbursement, and with the approval of the War Assets Administration,[1] to the National Guard in the several States, the District of Columbia, and Territories and possessions of the United States, or to the Organized Reserves of the armed forces, surplus property of the Selective Service System.

(Mar. 31, 1947, ch. 26, §4, 61 Stat. 31; June 30, 1949, ch. 288, title I, §105, 63 Stat. 381.)

TRANSFER OF FUNCTIONS

War Assets Administration abolished and functions, records, etc., transferred to General Services Administration by act June 30, 1949, ch. 288, title I, §105, 63 Stat. 381, effective July 1, 1949, see section 605, formerly section 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583.

REESTABLISHMENT OF OFFICE

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§325. Transfer of functions and responsibilities of Personnel Division, National Headquarters, Selective Service System to Office; effective date

Pursuant to the third sentence of section 7 of Public Law 473, approved June 29, 1946 [section 316(b) of this Appendix], all functions and responsibilities of the Personnel Division, National Headquarters, Selective Service System, established under authority of section 8(g) of the Selective Training and Service Act of 1940, as amended [section 308(g) of this Appendix], together with so much of the records of the Selective Service System, and so much of the unexpended balances of appropriations of the Selective Service System, as the Director of the Bureau of the Budget[1] may determine to relate primarily to such functions, are transferred, effective March 29, 1947, from the Selective Service System to the Secretary of Labor.

(Mar. 31, 1947, ch. 26, §5(a), 61 Stat. 32.)

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2, of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

§326. Powers and duties of Director; acceptance of voluntary services; fiscal, disbursing, and accounting agent; status of officers of military and naval Services and Reserves and departments or agencies detailed to Office

(a) The Director is authorized—

(1) to prescribe the necessary rules and regulations to carry out the provisions of this Act [sections 321 to 329 of this Appendix];

(2) to create and establish, on the date hereinafter specified, Federal record depots in the several States, the District of Columbia, Territories, and possessions of the United States, and to maintain such other offices as may be necessary for the purposes of this Act [said sections];

(3) to utilize the agencies of the Federal Government with the consent of the heads thereof, and to accept the services of all officers and agents of the several States, the District of Columbia, Territories, and possessions of the United States, and subdivisions thereof, in the execution of this Act [said sections];

(4) to appoint and fix the compensation of such officers and employees (not to exceed 1,200 in number by November 1, 1947), as may be necessary for the purposes of this Act [said sections];

(5) to delegate and provide for the delegation of any authority vested in him under this Act [said sections] to such officers, agents, or persons as he may designate or appoint for such purpose or as may be designated or appointed for such purpose pursuant to such rules and regulations as he may prescribe.

(b) In the administration of this Act [sections 321 to 329 of this Appendix] voluntary services may be accepted.

(c) The Chief of Finance, United States Army,[1] is designated, empowered, and directed to act as the fiscal, disbursing, and accounting agent of the Director of the Office of Selective Service

[1] So in original. Should be "responsibilities".

[1] See Transfer of Functions note below.

[1] See Transfer of Functions note below.

[1] See Transfer of Functions note below.

Records in carrying out the provisions of this Act [sections 321 to 329 of this Appendix].

(d) Any officer of the Armed Forces or any officer or employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out the provisions of this Act [sections 321 to 329 of this Appendix] may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer of the Armed Forces or as such officer or employee in any department or agency of the United States.

(Mar. 31, 1947, ch. 26, § 6, 61 Stat. 32; Pub. L. 96–513, title V, § 507(c), Dec. 12, 1980, 94 Stat. 2919.)

CODIFICATION

Provisions of subsec. (a)(4) that authorized the Director to fix the compensation of officers and employees "with or without regard to the Classification Act of 1923, as amended: *Provided*, That the compensation of such persons shall not be in excess of that provided in said Act" were omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–513 substituted "Any officer of the Armed Forces" for "Any officer on the active or retired list of the Army, Navy, Marine Corps, or Coast Guard, or of any Reserve component thereof," and "as such officer of the Armed Forces" for "as such officer in the Army, Navy, Marine Corps, or Coast Guard or Reserve component thereof,".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

Pursuant to Department of Defense Reorganization Order, Jan. 10, 1962, set out as a note under section 3036 of Title 10, Armed Forces, Office of Chief of Finance, United States Army, abolished and functions transferred to Secretary of the Army, with power in Secretary to delegate.

REESTABLISHMENT OF OFFICES

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§ 327. Rules and regulations; penalties

The Director is authorized to prescribe such rules and regulations as may be necessary to preserve the confidential nature of the individual confidential records previously obtained under the Selective Training and Service Act of 1940, as amended [sections 301 to 318 of this Appendix]. Any person charged with the duty of carrying out any of the provisions of this Act [sections 321 to 329 of this Appendix], and who fails to carry out such provisions or who shall knowingly violate the regulations promulgated under this section, or any person or persons who shall unlawfully obtain, gain access to, or use such records, shall, upon conviction in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than five years, or a fine of not more than $10,000, or by both such fine and imprisonment, or if subject to military or naval law, may be tried by court martial, and, on conviction, shall suffer such punishment as the court martial may direct.

(Mar. 31, 1947, ch. 26, § 7, 61 Stat. 32.)

REESTABLISHMENT OF OFFICE

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§ 328. Suspension of conflicting laws

Except as provided in this Act [sections 321 to 329 of this Appendix], all laws and parts of laws in conflict with the provisions of this Act [said sections] are suspended to the extent of such conflict for the period in which this Act [said sections] shall be in force.

(Mar. 31, 1947, ch. 26, § 8, 61 Stat. 33.)

REESTABLISHMENT OF OFFICE

For termination and reestablishment dates, see note set out preceding section 321 of this Appendix.

§ 329. Effective date

Except as otherwise provided by the terms of this Act [sections 321 to 329 of this Appendix], the provisions hereof shall take effect at 12 o'clock post meridian, March 31, 1947.

(Mar. 31, 1947, ch. 26, § 9, 61 Stat. 33.)

§ 330. Destruction of records; use of appropriations; procedures; transfers to other agencies

Appropriations for the Selective Service System may on and after August 28, 1958, be used for the destruction of records accumulated under the Selective Training and Service Act of 1940, as amended [sections 301 to 318 of this Appendix], by the Director of Selective Service after compliance with the procedures for the destruction of records prescribed pursuant to the Records Disposal Act of 1943, as amended (44 U.S.C. 366–380): *Provided*, That no records may be transferred to any other agency without the approval of the Director of Selective Service.

(Pub. L. 85–844, title I, Aug. 28, 1958, 72 Stat. 1073.)

REFERENCES IN TEXT

The Records Disposal Act of 1943, as amended (44 U.S.C. 366–380), is act July 7, 1943, ch. 192, 57 Stat. 380, which enacted sections 366 to 380 of former Title 44, Public Printing and Documents. Sections 366 to 376, and 378 to 380 of former Title 44 were repealed by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1306, and reenacted as sections 3301 to 3303 and 3304 to 3314, respectively, of Title 44, Public Printing and Documents. Sections 3304 to 3307 of Title 44 were repealed by Pub. L. 91–287, § 2(c), June 23, 1970, 84 Stat. 321. Section 377 of former Title 44 was also repealed by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1306.

CODIFICATION

Section was enacted as part of Pub. L. 85–844, known as the Independent Offices Appropriation Act, 1959, and

not as part of act Mar. 31, 1947, ch. 26, 61 Stat. 31, which comprises sections 321 to 329 of this Appendix.

PRIOR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 85–69, title I, June 29, 1957, 71 Stat. 235.
June 27, 1956, ch. 452, title I, 70 Stat. 348.
June 30, 1955, ch. 244, title I, 69 Stat. 209.
June 24, 1954, ch. 359, title I, 68 Stat. 287.
July 27, 1953, ch. 241, title I, 67 Stat. 189.
July 5, 1952, ch. 578, title I, 66 Stat. 406.

SERVICE EXTENSION ACT OF 1941

ACT AUG. 18, 1941, CH. 362, 55 STAT. 626–628

§§ 351 to 357. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 351, act Aug. 18, 1941, ch. 362, §1, 55 Stat. 626, related to the declaration of national peril for purposes of extending service under section 303(b) of this Appendix.

Section 352, act Aug. 18, 1941, ch. 362, §2, 55 Stat. 626, authorized an eighteen-month extension of periods of service for persons inducted under the Selective Training and Service Act of 1940, sections 301 to 318 of this Appendix.

Section 353, act Aug. 18, 1941, ch. 362, §3, 55 Stat. 626, extended time for application for National Service Life Insurance.

Section 354, act Aug. 18, 1941, ch. 362, §4, 55 Stat. 627, related to release from service in hardship cases.

Section 355, act Aug. 18, 1941, ch. 362, amended section 303(c) of this Appendix.

Section 356, act Aug. 18, 1941, ch. 362, §6, 55 Stat. 627, authorized President to order Regular Army retired personnel to active duty. See section 471 of this Appendix.

Section 357, acts Aug. 18, 1941, ch. 362, §7, 55 Stat. 627; Dec. 8, 1944, ch. 548, §3, 58 Stat. 799; Aug. 9, 1946, ch. 936, 60 Stat. 971, related to reemployment rights. See section 459 of this Appendix.

§ 358. Repealed. June 16, 1942, ch. 413, § 19, 56 Stat. 369, eff. June 1, 1942

Section, act Aug. 18, 1941, ch. 362, §8, 55 Stat. 627, related to additional compensation for active service in excess of twelve months.

ADDITIONAL REPEAL

Section was also repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

§§ 359 to 362. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 359, acts Aug. 18, 1941, ch. 362, §9, 55 Stat. 628; Aug. 7, 1946, ch. 770, §1(58), 60 Stat. 871, suspended limitations on number of inductees.

Section 360, act Aug. 18, 1941, ch. 362, §10, 55 Stat. 628, related to enlistments in Army without regard to component. See section 3252 of Title 10, Armed Forces.

Section 361, act Aug. 18, 1941, ch. 362, §11, 55 Stat. 628, amended section 401 of this Appendix.

Section 362, act Aug. 18, 1941, ch. 362, §12, 55 Stat. 628, gave short title of act.

ARMY RESERVE AND RETIRED PERSONNEL SERVICE LAW OF 1940

ACT AUG. 27, 1940, CH. 689, 54 STAT. 858

§§ 401 to 405. Omitted

CODIFICATION

Section 401, acts Aug. 27, 1940, ch. 689, §1, 54 Stat. 858; Aug. 18, 1941, ch. 362, §11, 55 Stat. 628, authorized for the period ending the later of June 30, 1942, or 6 months after the termination of the authority under section 352 of this Appendix the President to order reserve and retired personnel to active service. See section 471 of this Appendix.

Section 402, act Aug. 27, 1940, ch. 689, §2, 54 Stat. 859, related to laws and regulations governing personnel called to active service.

Section 403, acts Aug. 27, 1940, ch. 689, §3, 54 Stat. 859; Sept. 16, 1940, ch. 720, §8(d), (f), 54 Stat. 891; July 28, 1942, ch. 529, §1, 56 Stat. 723; Dec. 8, 1944, ch. 548, §2, 58 Stat. 799, related to service and health certificates and reemployment rights. See section 459 of this Appendix.

Section 404, act Aug. 27, 1940, ch. 689, §4, 54 Stat. 860, made applicable the Soldiers' and Sailors' Civil Relief Act and section 101 et seq. of this Appendix. See section 501 et seq. of this Appendix.

Section 405, act Aug. 27, 1940, ch. 689, §5, 54 Stat. 860, suspended all laws in conflict with sections 401 to 405 of this Appendix.

PAY OF PERSONS INDUCTED IN ERRONEOUS RANK OR GRADE

Act Feb. 6, 1942, ch. 42, 56 Stat. 50, related to pay of persons inducted in erroneous rank or grade under sections 401 to 405 of this Appendix.

MILITARY SELECTIVE SERVICE ACT

ACT JUNE 24, 1948, CH. 625, 62 STAT. 604

Sec.
451. Short title; Congressional declaration of policy.
452. Repealed.
453. Registration.
454. Persons liable for training and service.
454a to 454d. Omitted.
454e. Volunteer service of physicians and dentists; minimum period.
455. Manner of selection of men for training and service; quotas.
456. Deferments and exemptions from training and service.
457. Repealed.
458. Bounties for induction; substitutes; purchase of release.
459. Separation from service.
460. Selective Service System.
461. Emergency medical care.
462. Offenses and penalties.
463. Nonapplicability of certain laws.
464. Repealed.
465. Notice of requirements of Act; voluntary enlistments unaffected.
466. Definitions.
467. Repeals; appropriations; termination date.
468. Utilization of industry.
469. Savings provisions.
470. Effective date.
471. Authority of President to order Reserve components to active service; release from active duty; retention of unit organizations and equipment.
471a. Procedural rights.
472. Period of increased service applicable to all personnel.
473. Regulations governing liquor sales; penalties.

§ 451. Short title; Congressional declaration of policy

(a) This Act may be cited as the ''Military Selective Service Act''.

(b) The Congress declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.

(c) The Congress further declares that in a free society the obligations and privileges of serving

in the armed forces and the reserve components thereof should be shared generally, in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

(d) The Congress further declares, in accordance with our traditional military policy as expressed in the National Defense Act of 1916, as amended, that it is essential that the strength and organization of the National Guard, both Ground and Air, as an integral part of the first line defenses of this Nation, be at all times maintained and assured.

To this end, it is the intent of the Congress that whenever Congress shall determine that units and organizations are needed for the national security in excess of those of the Regular components of the Ground Forces and the Air Forces, and those in active service under this title [sections 451 to 471a of this Appendix], the National Guard of the United States, both Ground and Air, or such part thereof as may be necessary, together with such units of the Reserve components as are necessary for a balanced force, shall be ordered to active Federal service and continued therein so long as such necessity exists.

(e) The Congress further declares that adequate provision for national security requires maximum effort in the fields of scientific research and development, and the fullest possible utilization of the Nation's technological, scientific, and other critical manpower resources.

(f) The Congress further declares that the Selective Service System should remain administratively independent of any other agency, including the Department of Defense.

(June 24, 1948, ch. 625, title I, § 1, 62 Stat. 604; June 19, 1951, ch. 144, title I, § 1(a), 65 Stat. 75; Pub. L. 90–40, § 1(1), June 30, 1967, 81 Stat. 100; Pub. L. 92–129, title I, § 101(a)(1), Sept. 28, 1971, 85 Stat. 348; Pub. L. 96–107, title VIII, § 812, Nov. 9, 1979, 93 Stat. 816.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, originally called the ''Selective Service Act of 1948'', renamed the ''Universal Military Training and Service Act'' by act June 19, 1951, ch. 144, title I, § 1(a), 65 Stat. 75, then renamed the ''Military Selective Service Act of 1967'' by Pub. L. 90–40, § 1(1), June 30, 1967, 81 Stat. 100, and now designated the Military Selective Service Act by Pub. L. 92–129, title I, § 101(a)(1), Sept. 28, 1971, 85 Stat. 348. Act June 24, 1948 consisted of titles I and II. Title I of such act enacted sections 451 to 454 and 455 to 471a of this Appendix. Title II of such act was classified to the Articles of War set out in former Title 10, Army and Air Force, to sections 61, 61a, 62a, 65, and 652a of former Title 10, and to section 180 of former Title 14, Coast Guard. Title II of act June 24, 1948 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

The National Defense Act of 1916, as amended, referred to in subsec. (d), is act June 3, 1916, ch. 134, 39 Stat. 166, as amended, which was classified generally throughout former Title 10, Army and Air Force. The Act was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and the provisions thereof were reenacted as parts of Title 10, Armed Forces, and Title 32, National Guard.

AMENDMENTS

1979—Subsec. (f). Pub. L. 96–107 added subsec. (f).

1971—Subsec. (a). Pub. L. 92–129 substituted ''Military Selective Service Act'' for ''Military Selective Service Act of 1967''.

1967—Subsec. (a). Pub. L. 90–40 substituted ''Military Selective Service Act of 1967'' for ''Universal Military Training and Service Act''.

1951—Subsec. (a). Act June 19, 1951, substituted ''Universal Military Training and Service Act'' for ''Selective Service Act of 1948''.

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91–124, § 1, Nov. 26, 1969, 83 Stat. 220, provided: ''That this Act [amending section 455 of this Appendix] may be cited as the 'Selective Service Amendment Act of 1969'.''

SHORT TITLE OF 1955 AMENDMENT

Act June 30, 1955, ch. 250, § 1, 69 Stat. 223, provided: ''That this Act [amending sections 454, 454a, 456, 467, and 2216 of this Appendix, and section 234 of former Title 37, Pay and Allowances] may be cited as the '1955 Amendments to the Universal Military Training and Service Act'.''

SHORT TITLE OF 1951 AMENDMENT

Section 7 of title I of act June 19, 1951, provided that: ''This title [enacting sections 472 and 473 of this Appendix, amending this section and sections 452 to 454, 455, 456, 459, 460, 463, 466, 467, and 471 of this Appendix, repealing section 457 of this Appendix, enacting provisions set out as notes under this section, and amending provisions set out as notes under section 454 of this Appendix and section 351 of Title 14, Coast Guard] may be cited as the '1951 Amendments to the Universal Military Training and Service Act'.''

SHORT TITLE OF 1950 AMENDMENTS

Act Sept. 9, 1950, ch. 939, 64 Stat. 826, which amended section 454 of this Appendix, is popularly known as the ''Doctors Draft Act''.

Act June 30, 1950, ch. 445, § 4, 64 Stat. 319, provided that: ''This Act [enacting section 471 and amending sections 460 and 467 of this Appendix] may be cited as the 'Selective Service Extension Act of 1950'.''

SEPARABILITY

Section 5 of act June 19, 1951, provided that: ''If any provisions of this Act [enacting sections 472 and 473 of this Appendix, amending this section, sections 452 to 454, 455, 456, 459, 460, 463, 466, 467, and 471 of this Appendix, and section 621c of former Title 10, Army and Air Force, repealing section 457 of this Appendix, enacting provisions set out as notes under this section, and amending provisions set out as notes under section 454 of this Appendix and section 351 of Title 14, Coast Guard] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

SELECTIVE SERVICE REFORM; PRESIDENTIAL PLAN, LEGISLATIVE PROPOSALS, ETC.

Section 811 of Pub. L. 96–107 directed President to prepare and transmit to Congress a plan for reform of law providing for registration and induction of persons in the Armed Forces, along with proposals for implementing legislation, on the later of Jan. 15, 1980, or the end of the three-month period beginning on Nov. 9, 1979.

§ 452. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, acts June 24, 1948, ch. 625, title I, § 2, 62 Stat. 605; June 19, 1951, ch. 144, title I, § 1(b), 65 Stat. 75, related to authorized personnel strength of various services.

§ 453. Registration

(a) Except as otherwise provided in this title [sections 451 to 471a of this Appendix] it shall be

the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

(b) Regulations prescribed pursuant to subsection (a) may require that persons presenting themselves for and submitting to registration under this section provide, as part of such registration, such identifying information (including date of birth, address, and social security account number) as such regulations may prescribe.

(June 24, 1948, ch. 625, title I, §3, 62 Stat. 605; June 19, 1951, ch. 144, title I, §1(c), 65 Stat. 76; Pub. L. 92–129, title I, §101(a)(2), Sept. 28, 1971, 85 Stat. 348; Pub. L. 97–86, title IX, §916(a), Dec. 1, 1981, 95 Stat. 1129.)

AMENDMENTS

1981—Pub. L. 97–86 designated existing provisions as subsec. (a) and added subsec. (b).

1971—Pub. L. 92–129 substituted ''male person residing in the United States'' for ''male person now or hereafter in the United States'' and inserted provision making section inapplicable to aliens lawfully admitted to the United States as nonimmigrants under section 1101(a)(15) of Title 8 for so long as they maintain lawful nonimmigrant status in the United States.

1951—Act June 19, 1951, made all male persons now or hereafter in the United States subject to registration.

PROCLAMATION NO. 2799

Proc. No. 2799, July 20, 1948, 13 F.R. 4173, 62 Stat. 1531, which related to registration, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 2937

Proc. No. 2937, Aug. 16, 1951, 16 F.R. 8263, 65 Stat. c.27, which related to registration in the Canal Zone, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 2938

Proc. No. 2938, Aug. 16, 1951, 16 F.R. 8265, 65 Stat. c.30, which related to registration in Guam, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 2942

Proc. No. 2942, Aug. 30, 1951, 16 F.R. 8969, 65 Stat. c.35, which concerned the supplementing of prior Proclamations relating to registration, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 2972

Proc. No. 2972, Apr. 17, 1952, 17 F.R. 3473, 66 Stat. c.28, which related to extra registration, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 3314

Proc. No. 3314, Sept. 14, 1959, 24 F.R. 7517, 73 Stat. c.78, which concerned the supplementing of prior Proclamations relating to registration, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROCLAMATION NO. 4101

Proc. No. 4101, Jan. 13, 1972, 37 F.R. 659, which concerned the supplementing of prior Proclamations relating to registration, was revoked by Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, set out below.

PROC. NO. 4360. TERMINATION OF REGISTRATION PROCEDURES

Proc. No. 4360, Mar. 29, 1975, 40 F.R. 14567, 89 Stat. 1255, provided:

Under authority vested in the President by the Military Selective Service Act (62 Stat. 604), as amended [see References In Text note set out under section 451 of this Appendix], procedures have been established for the registration of male citizens of the United States and of other male persons who are subject to registration under section 3 of said act, as amended (85 Stat. 348) [this section].

In order to evaluate an annual registration system, existing procedures are being terminated and will be replaced by new procedures which will provide for periodic registration.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by the Constitution and the statutes of the United States, including the Military Selective Service Act, as amended, do hereby revoke Proclamations No. 2799 of July 20, 1948, No. 2937 of August 16, 1951, No. 2938 of August 16, 1951, No. 2942 of August 30, 1951, No. 2972 of April 17, 1952, No. 3314 of September 14, 1959, and No. 4101 of January 13, 1972; thereby terminating the present procedures for registration under the Military Selective Service Act, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD.

PROC. NO. 4771. REGISTRATION UNDER THE SELECTIVE SERVICE ACT

Proc. No. 4771, July 2, 1980, 45 F.R. 45247, 94 Stat. 3775, as amended by Proc. No. 7275, Feb. 22, 2000, 65 F.R. 9199, provided:

Section 3 of the Military Selective Service Act, as amended (50 U.S.C. App. 453), provides that male citizens of the United States and other male persons residing in the United States who are between the ages of 18 and 26, except those exempted by Sections 3 and 6(a) of the Military Selective Service Act [50 U.S.C. App. 453 and 456(a)], must present themselves for registration at such time or times and place or places, and in such manner as determined by the President. Section 6(k) [50 U.S.C. App. 456(k)] provides that such exceptions shall not continue after the cause for the exemption ceases to exist.

The Congress of the United States has made available the funds (H.J. Res. 521, approved by me on June 27, 1980 [Pub. L. 96–282, June 27, 1980, 93 Stat. 552]), which are needed to initiate this registration, beginning with those born on or after January 1, 1960.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Military Selective Service Act, as amended (50 U.S.C. App. 451 et seq.), do hereby proclaim as follows:

1–1. PERSONS TO BE REGISTERED AND DAYS OF REGISTRATION

1–101. Male citizens of the United States and other males residing in the United States, unless exempted

by the Military Selective Service Act, as amended, who were born on or after January 1, 1960, and who have attained their eighteenth birthday, shall present themselves for registration in the manner and at the time and places as hereinafter provided.

1–102. Persons born in calendar year 1960 shall present themselves for registration on any of the six days beginning Monday, July 21, 1980.

1–103. Persons born in calendar year 1961 shall present themselves for registration on any of the six days beginning Monday, July 28, 1980.

1–104. Persons born in calendar year 1962 shall present themselves for registration on any of the six days beginning Monday, January 5, 1981.

1–105. Persons born on or after January 1, 1963, shall present themselves for registration on the day they attain the 18th anniversary of their birth or on any day within the period of 60 days beginning 30 days before such date; however, in no event shall such persons present themselves for registration prior to January 5, 1981.

1–106. Aliens who would be required to present themselves for registration pursuant to Sections 1–101 to 1–105, but who are in processing centers on the dates fixed for registration, shall present themselves for registration within 30 days after their release from such centers.

1–107. Aliens and noncitizen nationals of the United States who reside in the United States, but who are absent from the United States on the days fixed for their registration, shall present themselves for registration within 30 days after their return to the United States.

1–108. Aliens and noncitizen nationals of the United States who, on or after July 1, 1980, come into and reside in the United States shall present themselves for registration in accordance with Sections 1–101 to 1–105 or within 30 days after coming into the United States, whichever is later.

1–109. Persons who would have been required to present themselves for registration pursuant to Sections 1–101 to 1–108 but for an exemption pursuant to Section 3 or 6(a) of the Military Selective Service Act, as amended [50 U.S.C. App. 453 or 456(a)], or but for some condition beyond their control such as hospitalization or incarceration, shall present themselves for registration within 30 days after the cause for their exempt status ceases to exist or within 30 days after the termination of the condition which was beyond their control.

1–2. PLACES AND TIMES FOR REGISTRATION

1–201. Persons who are required to be registered and who are in the United States shall register at the places and by the means designated by the Director of Selective Service. These places and means may include but are not limited to any classified United States Post Office, the Selective Service Internet web site, telephonic registration, registration on approved Government forms, registration through high school and college registrars, and the Selective Service reminder mailback card.

1–202. Citizens of the United States who are required to be registered and who are not in the United States, shall register via any of the places and methods authorized by the Director of Selective Service pursuant to paragraph 1–201 or present themselves at a United States Embassy or Consulate for registration before a diplomatic or consular officer of the United States or before a registrar duly appointed by a diplomatic or consular officer of the United States.

1–203. The hours for registration in United States Post Offices shall be the business hours during the days of operation of the particular United States Post Office. The hours for registration in United States Embassies and Consulates shall be those prescribed by the United States Embassies and Consulates.

1–3. MANNER OF REGISTRATION

1–301. Persons who are required to be registered shall comply with the registration procedures and other rules and regulations prescribed by the Director of Selective Service.

1–302. When reporting for registration each person shall present for inspection reasonable evidence of his identity. After registration, each person shall keep the Selective Service System informed of his current address.

Having proclaimed these requirements for registration, I urge everyone, including employers in the private and public sectors, to cooperate with and assist those persons who are required to be registered in order to ensure a timely and complete registration. Also, I direct the heads of Executive agencies, when requested by the Director of Selective Service and to the extent permitted by law, to cooperate and assist in carrying out the purposes of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of July, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

§ 454. Persons liable for training and service

(a) Age limits; training in National Security Training Corps; physical and mental fitness; adequate training facilities; assignment to stations and units; training period; medical specialist categories

Except as otherwise provided in this title [sections 451 to 471a of this Appendix], every person required to register pursuant to section 3 of this title [section 453 of this Appendix] who is between the ages of eighteen years and six months and twenty-six years, at the time fixed for his registration, or who attains the age of eighteen years and six months after having been required to register pursuant to section 3 of this title [section 453 of this Appendix], or who is otherwise liable as provided in section 6(h) of this title [section 456(h) of this Appendix], shall be liable for training and service in the Armed Forces of the United States: *Provided*, That each registrant shall be immediately liable for classification and examination, and shall, as soon as practicable following his registration, be so classified and examined, both physically and mentally, in order to determine his availability for induction for training and service in the Armed Forces: *Provided further*, That, notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted. The President is authorized, from time to time, whether or not a state of war exists, to select and induct into the Armed Forces of the United States for training and service in the manner provided in this title [said sections] (including but not limited to selection and induction by age group or age groups) such number of persons as may be required to provide and maintain the strength of the Armed Forces.

At such time as the period of active service in the Armed Forces required under this title [said sections] of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated pursuant to the provisions of section 4(k) of this title [subsection (k) of this section], and except as otherwise provided in this title [said sections], every person who is required to register under this title [said sections] and who has not attained

the nineteenth anniversary of the day of his birth on the date such period of active service is reduced or eliminated or who is otherwise liable as provided in section 6(h) of this title [section 456(h) of this Appendix], shall be liable for training in the National Security Training Corps: *Provided*, That persons deferred under the provisions of section 6 of this title [section 456 of this Appendix] shall not be relieved from liability for induction into the National Security Training Corps solely by reason of having exceeded the age of nineteen years during the period of such deferment. The President is authorized, from time to time, whether or not a state of war exists, to select and induct for training in the National Security Training Corps as hereinafter provided such number of persons as may be required to further the purposes of this title [said sections].

No person shall be inducted into the Armed Forces for training and service or shall be inducted for training in the National Security Training Corps under this title [said sections] until his acceptability in all respects, including his physical and mental fitness, has been satisfactorily determined under standards prescribed by the Secretary of Defense: *Provided*, That the minimum standards for physical acceptability established pursuant to this subsection shall not be higher than those applied to persons inducted between the ages of 18 and 26 in January 1945: *Provided further*, That the passing requirement for the Armed Forces Qualification Test shall be fixed at a percentile score of 10 points: *And provided further*, That except in time of war or national emergency declared by the Congress the standards and requirements fixed by the preceding two provisos may be modified by the President under such rules and regulations as he may prescribe.

No persons shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical care, and hospital accommodations for such persons as may be determined by the Secretary of Defense or the Secretary of Homeland Security to be essential to the public and personal health.

The persons inducted into the Armed Forces for training and service under this title [said sections] shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title [said sections] shall be deemed to be members of the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title [said sections] shall be deemed to be members of the United States Navy or the United States Marine Corps or the United States Coast Guard, as appropriate; and persons inducted into the air forces of the United States pursuant to this title [said sections] shall be deemed to be members of the Air Force of the United States.

Every person inducted into the Armed Forces pursuant to the authority of this subsection after the date of enactment of the 1951 Amendments to the Universal Military Training and Service Act [June 19, 1951] shall, following his induction, be given full and adequate military training for service in the armed force into which he is inducted for a period of not less than twelve weeks, and no such person shall, during this twelve weeks period, be assigned for duty at any installation located on land outside the United States, its Territories and possessions (including the Canal Zone): *Provided*, That no funds appropriated by the Congress shall be used for the purpose of transporting or maintaining in violation of the provisions of this paragraph any person inducted into, or enlisted, appointed, or ordered to active duty in, the Armed Forces under the provisions of this title [said sections].

No person, without his consent, shall be inducted for training and service in the Armed Forces or for training in the National Security Training Corps under this title [said sections], except as otherwise provided herein, after he has attained the twenty-sixth anniversary of the day of his birth.

(b) Length of service; release of individuals accepted into Army National Guard, Air National Guard, and other Reserve components

Each person inducted into the Armed Forces under the provisions of subsection (a) of this section shall serve on active training and service for a period of twenty-four consecutive months, unless sooner released, transferred, or discharged in accordance with procedures prescribed by the Secretary of Defense (or the Secretary of Homeland Security with respect to the United States Coast Guard) or as otherwise prescribed by subsection (d) of section 4 of this title [subsection (d) of this section]. The Secretaries of the Army, Navy, and Air Force, with the approval of the Secretary of Defense (and the Secretary of Homeland Security with respect to the United States Coast Guard), may provide, by regulations which shall be as nearly uniform as practicable, for the release from training and service in the armed forces prior to serving the periods required by this subsection of individuals who volunteered for and are accepted into organized units of the Army National Guard and Air National Guard and other reserve components.

(c) Opportunity to enlist in Regular Army; voluntary induction; volunteers under 18 years old

(1) Under the provisions of applicable laws and regulations any person between the ages of eighteen years and six months and twenty-six years shall be offered an opportunity to enlist in the regular army for a period of service equal to that prescribed in subsection (b) of this section: *Provided*, That, notwithstanding the provisions of this or any other Act, any person so enlisting shall not have his enlistment extended without his consent until after a declaration of war or national emergency by the Congress after the date of enactment of the 1951 Amendments to the Universal Military Training and Service Act [June 19, 1951].

(2) Any enlisted member of any reserve component of the Armed Forces may, during the effective period of this Act, apply for a period of service equal to that prescribed in subsection (b) of this section and his application shall be accepted: *Provided*, That his services can be effectively utilized and that his physical and mental

fitness for such service meet the standards prescribed by the head of the department concerned: *Provided further*, That active service performed pursuant to this section shall not prejudice his status as such member of such reserve component: *And provided further*, That any person who was a member of a reserve component on June 25, 1950, and who thereafter continued to serve satisfactorily in such reserve component, shall, if his application for active duty made pursuant to this paragraph is denied, be deferred from induction under this title [sections 451 to 471a of this Appendix] until such time as he is ordered to active duty or ceases to serve satisfactorily in such reserve component.

(3) Within the limits of the quota determined under sections 5(b) [section 455(b) of this Appendix] for the subdivision in which he resides, any person, between the ages of eighteen and twenty-six, shall be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in subsection (b), but no person who so volunteers shall be inducted for such training and service so long as he is deferred after classification.

(4) Within the limits of the quota determined under section 5(b) [section 455(b) of this Appendix] for the subdivision in which he resides, any person after attaining the age of seventeen shall with the written consent of his parents or guardian be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in subsection (b).

(5) Within the limits of the quota determined under section 5(b) [section 455(b) of this Appendix] for the subdivision in which he resides, at such time as induction into the National Security Training Corps is authorized pursuant to the provisions of this title [sections 451 to 471a of this Appendix], any person after attaining the age of seventeen shall with the written consent of his parents or guardian be afforded an opportunity to volunteer for induction into the National Security Training Corps for the training prescribed in subsection (k) of section 4 of this title [subsection (k) of this section].

(d) Transfer to Reserve component; period of service

(1) Each person who hereafter and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act [June 19, 1951] is inducted, enlisted, or appointed and serves for a period of less than three years in one of the armed forces and meets the qualifications for enlistment or appointment in a reserve component of the armed force in which he serves, shall be transferred to a reserve component of such armed force, and until the expiration of a period of five years after such transfer, or until he is discharged from such reserve component, whichever occurs first, shall be deemed to be a member of such reserve component and shall be subject to such additional training and service as may now or hereafter be prescribed by law for such reserve component: *Provided*, That any such person who completes at least twenty-one months of service in the armed forces and who thereafter serves satisfactorily (1) on active duty in the armed forces under a voluntary extension for a period of at least one year, which extension is authorized, or (2) in an organized unit of any reserve component of any of the armed forces for a period of at least thirty-six consecutive months, shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces.

(2) Each person who hereafter and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act [June 19, 1951] is enlisted under the provisions of subsection (g) of this section and who meets the qualifications for enlistment or appointment in a reserve component of the armed forces shall, upon discharge from such enlistment under honorable conditions, be transferred to a reserve component of the armed forces of the United States and shall serve therein for a period of six years or until sooner discharged. Each such person shall, so long as he is a member of such reserve component, be liable to be ordered to active duty, but except in time of war or national emergency declared by the Congress no such person shall be ordered to active duty, without his consent and except as hereinafter provided, for more than one month in any year. In case the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can without undue hardship be filled by, any such person, it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to, such organized unit or officers' training program and to serve satisfactorily therein for a period of four years. Any such person who fails or refuses to perform such duty may be ordered to active duty, without his consent, for an additional period of not more than twelve consecutive months. Any such person who enlists or accepts appointment in any such organized unit and serves satisfactorily therein for a period of four years shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces. The Secretary of Defense is authorized to prescribe regulations governing the transfer of such persons within and between reserve components of the armed forces and determining, for the purpose of the requirements of the foregoing provisions of this paragraph, the credit to be allowed any person so transferring for his previous service in one or more reserve components.

(3) Each person who, subsequent to June 19, 1951, and on or before August 9, 1955, is inducted,

enlisted, or appointed, under any provision of law, in the Armed Forces, including the reserve components thereof, or in the National Security Training Corps prior to attaining the twenty-sixth anniversary of his birth, shall be required to serve on active training and service in the Armed Forces or in training in the National Security Training Corps, and in a reserve component, for a total period of eight years, unless sooner discharged on grounds of personal hardship, in accordance with regulations and standards prescribed by the Secretary of Defense (or the Secretary of Transportation with respect to the United States Coast Guard). Each such person, on release from active training and service in the Armed Forces or from training in the National Security Training Corps, shall, if physically and mentally qualified, be transferred to a reserve component of the Armed Forces, and shall serve therein for the remainder of the period which he is required to serve under this paragraph and shall be deemed to be a member of the reserve component during that period. If the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the Secretary of Transportation with respect to the United States Coast Guard, determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can, without undue personal hardship, be filled by such a person, that person shall enlist, enroll, or accept appointment in, or accept assignment to, the organized unit or officers' training program, and serve satisfactorily therein.

(e) Pay and allowances

With respect to the persons inducted for training and service under this title [sections 451 to 471a of this Appendix] there shall be paid, allowed, and extended the same pay, allowances, pensions, disability and death compensation, and other benefits as are provided by law in the case of other enlisted men of like grades and length of service of that component of the armed forces to which they are assigned. Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), is amended by deleting therefrom the following: ''Act of March 7, 1942 (56 Stat. 143 to 148, ch. 166), as amended''. The Act of March 7, 1942 (56 Stat. 143 to 148), as amended, is made applicable to persons inducted into the armed forces pursuant to this title [said sections].

(f) Additional compensation from civilian sources

Notwithstanding any other provision of law, any person who is inducted into the armed forces under this Act and who, before being inducted, was receiving compensation from any person may, while serving under that induction, receive compensation from that person.

(g) Occupational deferment recommendations by National Security Council

The National Security Council shall periodically advise the Director of the Selective Service System and coordinate with him the work of such State and local volunteer advisory committees which the Director of Selective Service may establish, with respect to the identification, selection, and deferment of needed professional and scientific personnel and those engaged in, and preparing for, critical skills and other essential occupations. In the performance of its duties under this subsection the National Security Council shall consider the needs of both the Armed Forces and the civilian segment of the population.

(h) Repealed. June 19, 1951, ch. 144, title I, § 1(h), 65 Stat. 80

(i), (j) Omitted

(k) Reduction of periods of service; establishment of National Security Training Corps; composition; service; pay

(1) Upon a finding by him that such action is justified by the strength of the Armed Forces in the light of international conditions, the President, upon recommendation of the Secretary of Defense, is authorized, by Executive order, which shall be uniform in its application to all persons inducted under this title [sections 451 to 471a of this Appendix] but which may vary as to age groups, to provide for (A) decreasing periods of service under this title [said sections] but in no case to a lesser period of time than can be economically utilized, or (B) eliminating periods of service required under this title [said sections].

(2) Whenever the Congress shall by concurrent resolution declare—

(A) that the period of active service required of any age group or groups of persons inducted under this title [said sections] should be decreased to any period less than twenty-four months which may be designated in such resolution; or

(B) that the period of active service required of any age group or groups of persons inducted under this title [said sections] should be eliminated,

the period of active service in the Armed Forces of the age group or groups designated in any such resolution shall be so decreased or eliminated, as the case may be. Whenever the period of active service required under this title [said sections] of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated by the President or as a result of the adoption of a concurrent resolution of the Congress in accordance with the foregoing provisions of this section, all individuals then or thereafter liable for registration under this title [said sections] who on that date have not attained the nineteenth anniversary of the day of their birth and have not been inducted into the Armed Forces shall be liable, effective on such date, for induction into the National Security Training Corps as hereinafter established for initial military training for a period of six months.

(3), (4) Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 656.

(5) The Commission shall, subject to the direction of the President, exercise general supervision over the training of the National Security Training Corps, which training shall be basic

military training. The Commission shall establish such policies and standards with respect to the conduct of the training of members of the National Security Training Corps as are necessary to carry out the purposes of this Act. The Commission shall make adequate provisions for the moral and spiritual welfare of members of the National Security Training Corps. The Secretary of Defense shall designate the military departments to carry out such training. Each military department so designated shall carry out such military training in accordance with the policies and standards of the Commission. The military department or departments so designated to carry out such military training shall, subject to the approval of the Secretary of Defense, and subject to the policies and standards established by the Commission, determine the type or types of basic military training to be given to members of the National Security Training Corps.

(6) Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 656.

(7) Not later than four months following confirmation of the members of the Commission, the Commission shall submit to the Congress legislative recommendations which shall include, but not be limited to—

(A) a broad outline for a program deemed by the Commission and approved by the Secretary of Defense to be appropriate to assure that the training carried out under the provisions of this Act shall be of a military nature, but nothing contained in this paragraph shall be construed to grant to the Commission the authority to prescribe the basic type or types of military training to be given members of the National Security Training Corps;

(B) measures for the personal safety, health, welfare and morals of members of the National Security Training Corps;

(C) a code of conduct, together with penalties for violation thereof;

(D) measures deemed necessary to implement the policies and standards established under the provisions of paragraph (5) of this subsection; and

(E) disability and death benefits and other benefits, and the obligations, duties, liabilities and responsibilities, to be granted to or imposed upon members of the National Security Training Corps.

All legislative recommendations submitted under this paragraph shall be referred to the Committees on Armed Services of the two Houses, and each of such committees shall, not later than the expiration of the first period of 45 calendar days of continuous sessions of the Congress, following the date on which the recommendations provided for in this paragraph are transmitted to the Congress, report thereon to its House: *Provided*, That any bill or resolution reported with respect to such recommendations shall be privileged and may be called up by any member of either House but shall be subject to amendment as if it were not so privileged.

(8) No person shall be inducted into the National Security Training Corps until after—

(A) a code of conduct, together with penalties for violation thereof, and measures providing for disability and death benefits have been enacted into law; and

(B) such other legislative recommendations as are provided for in paragraph (7) shall have been considered and such recommendations or any portion thereof shall have been enacted with or without amendments into law; and

(C) the period of service required under this title [sections 451 to 471a of this Appendix] of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated by the President or as a result of the adoption of a concurrent resolution of the Congress in accordance with paragraph (2) of this subsection.

(9) Six months following the commencement of induction of persons into the National Security Training Corps, and semiannually thereafter, the Commission shall submit to the Congress a comprehensive report describing in detail the operation of the National Security Training Corps, including the number of persons inducted therein, a list of camps and stations at which training is being conducted, a report on the number of deaths and injuries occurring during such training and the causes thereof, an estimate of the performance of the persons inducted therein, including an analysis of the disciplinary problems encountered during the preceding six months, the number of civilian employees of the Commission and the administrative costs of the Commission. Simultaneously, there shall be submitted to the Congress by the Secretary of Defense a report setting forth an estimate of the value of the training conducted during the preceding six months, the cost of the training program chargeable to the appropriations made to the Department of Defense, and the number of personnel of the Armed Forces directly engaged in the conduct of such training.

(10) Each person inducted into the National Security Training Corps shall be compensated at the monthly rate of $30: *Provided, however*, That each such person, having a dependent or dependents shall be entitled to receive a dependency allowance equal to the basic allowance for housing provided for persons in pay grade E–1 under section 403 of title 37 plus $40 so long as such person has in effect an allotment equal to the amount of such dependency allowance for the support of the dependent or dependents on whose account the allowance is claimed.

(11) No person inducted into the National Security Training Corps shall be assigned for training at an installation located on land outside the continental United States, except that residents of Territories and possessions of the United States may be trained in the Territory or possession from which they were inducted.

(*l*) Terminated

(June 24, 1948, ch. 625, title I, § 4, 62 Stat. 605; Sept. 9, 1950, ch. 939, § 1, 64 Stat. 826; Sept. 27, 1950, ch. 1059, §§ 1(1)–(5), 3(a), 64 Stat. 1073; June 19, 1951, ch. 144, title I, § 1(d)–(j), 65 Stat. 76; July 9, 1952, ch. 608, pt. VIII, § 813, 66 Stat. 509; June 29, 1953, ch. 158, §§ 1, 2, 6, 67 Stat. 86, 89; June 30, 1955, ch. 250, title II, § 202, 69 Stat. 224; Aug. 9, 1955, ch. 665, § 3(a), 69 Stat. 602; Aug. 10, 1956, ch. 1041, §§ 22(a)–(c), 53, 70A Stat. 630, 641; Pub. L. 85–62, §§ 1–3, June 27, 1957, 71 Stat. 206, 207; Pub. L. 85–564, July 28, 1958, 72 Stat. 424; Pub. L. 85–861, §§ 9, 36A, Sept. 2, 1958, 72 Stat. 1556, 1569;

Pub. L. 87–651, title III, §301, Sept. 7, 1962, 76 Stat. 524; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 656; Pub. L. 90–40, §1(2), June 30, 1967, 81 Stat. 100; Pub. L. 92–129, title I, §101(a)(3)–(7), Sept. 28, 1971, 85 Stat. 348, 349; Pub. L. 94–106, title VIII, §802(c), Oct. 7, 1975, 89 Stat. 537; Pub. L. 105–85, div. A, title VI, §603(d)(5), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 107–296, title XVII, §1704(e)(11)(A), (B), Nov. 25, 2002, 116 Stat. 2315.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (c)(1), (2), (f), and (k)(5), (7)(A), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

The effective period of this Act, referred to in subsec. (c)(2), is set out in section 467 of this Appendix.

Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), referred to in subsec. (e), is section of act July 25, 1947, ch. 327, 61 Stat. 451, which is not classified to the Code.

Act of March 7, 1942 (56 Stat. 143 to 148), as amended, referred to in subsec. (e), popularly known as the Missing Persons Act, was classified to sections 1001 to 1018 of this Appendix. The Act was repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted as subchapter VII of chapter 55 of Title 5, Government Organization and Employees, and chapter 10 of Title 37, Pay and Allowances of the Uniformed Services.

Subsection (g) of this section, referred to in subsec. (d)(2), refers to the subsection (g) that was repealed by act June 19, 1951, §1(h).

The Commission, referred to in subsec. (k)(5), means the National Security Training Commission, which expired June 30, 1957, pursuant to letter of the President on Mar. 25, 1957, following the Commission's own recommendation for its termination.

AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

1997—Subsec. (k)(10). Pub. L. 105–85 substituted ''shall be entitled to receive a dependency allowance equal to the basic allowance for housing provided for persons in pay grade E–1 under section 403 of title 37'' for ''as such terms are defined in the Career Compensation Act of 1949, shall be entitled to receive a dependency allowance equal to the sum of the basic allowance for quarters provided for persons in pay grade E–1 by section 302(f) of the Career Compensation Act of 1949 as amended by section 3 of the Dependents' Assistance Act of 1950 as may be extended or amended''.

1975—Subsec. (a). Pub. L. 94–106 in paragraph relating to military training for persons inducted after June 19, 1951, for service in the armed force into which they were inducted, substituted twelve weeks for four months in two places.

1971—Subsec. (a). Pub. L. 92–129, §101(a)(3), (4), struck out provisions which had given special coverage for male aliens and substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

Subsec. (b). Pub. L. 92–129, §101(a)(5), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

Subsec. (d)(1). Pub. L. 92–129, §101(a)(6), struck out ''(except a person enlisted under subsection (g) of this section)'' after ''inducted, enlisted, or appointed''.

Subsec. (d)(3). Pub. L. 92–129, §101(a)(7), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1967—Subsec. (a). Pub. L. 90–40, §1(2)(a), inserted proviso that registrants failing or refusing to report for induction continue to remain liable for induction and to be immediately inducted when available.

Subsec. (g). Pub. L. 90–40, §1(2)(b), added subsec. (g). A former subsec. (g), authorizing one year enlistments in the armed services by male persons between 18 and 19, was repealed by act June 19, 1951, ch. 144, §1(h), 65 Stat. 80.

1966—Subsec. (k)(3), (4), (6). Pub. L. 89–554 repealed pars. (3), (4) and (6) which established the National Security Training Commission, provided for its composition, tenure, pay and duties, and authorized appointment and pay of employees.

1962—Subsec. (d)(3). Pub. L. 87–651 amended par. (3) generally, striking out provisions which required each person inducted into the National Security Training Corps to serve in the Armed Forces or the National Security Training Corps for a total of eight years, unless sooner discharged because of personal hardship, and requiring each person covered by this subsection who is not a reserve, and who is qualified, upon his release from training, to be transferred to a reserve component to complete the service required by this subsection.

1958—Subsec. (a). Pub. L. 85–564 inserted, at end of third par., proviso authorizing President to modify standards fixed by preceding two provisos, except in war or national emergency.

Subsec. (d)(3). Pub. L. 85–861 repealed provisions that required persons inducted, enlisted, or appointed, in the Armed Forces to serve on active training and service in the Armed Forces and in a reserve component for a total of six years, and inserted provisions requiring transfer to reserve components of persons released from active training and service in the Armed Forces or from training in the National Security Training Corps and authorizing enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which a person served. See section 651 of Title 10, Armed Forces.

1957—Subsec. (a). Pub. L. 85–62, §§1, 9, temporarily inserted next to last paragraph providing that no medical, dental, or allied specialist shall be inducted if he applies or applied for appointment as a Reserve officer in one of such categories and is rejected on the sole ground of physical disqualification. See Effective and Termination Dates of 1957 Amendment note below.

Subsec. (j). Pub. L. 85–62, §§3, 9, temporarily struck out ''as referred to in subsection (i)'' after ''categories of persons'' at end of first sentence, and substituted ''thirty-fifth'' for ''fifty-first'' in last sentence of second par. See Effective and Termination Dates of 1957 Amendment note below.

Subsec. (*l*). Pub. L. 85–62, §§2, 9, temporarily added subsec. (*l*). See Effective and Termination Dates of 1957 Amendment note below.

1956—Subsec. (a). Act Aug. 10, 1956, §53, repealed provisions prohibiting assignment to duty outside the United States until the member of the Armed Forces has had the equivalent of four months of basic training, and relating to communications with Members of Congress. See sections 671 and 1034 of Title 10, Armed Forces.

Subsec. (b). Act Aug. 10, 1956, §22(a), authorized Secretaries of the Army, Navy, Air Force, and Treasury, to provide by regulations for release from training and service in the Armed Forces of those individuals who are accepted into organized units of the Army National Guard and Air National Guard and other reserve components.

Subsec. (d)(3). Act Aug. 10, 1956, §22(b), purportedly repealed par. (3) and amended it to provide that ''Each person who is inducted into the National Security Training Corps shall serve in the armed forces or the National Security Training Corps for a total of eight years, unless he is sooner discharged because of personal hardship under regulations prescribed by the Secretary of Defense. Each person covered by this subsection who is not a Reserve, and who is qualified, shall, upon his release from training, be transferred to a reserve component of an armed force to complete the service required by this subsection.'' See 1958 and 1962 Amendment notes above.

Subsec. (f). Act Aug. 10, 1956, §53, purportedly repealed subsec. (f). However, section 22(c) of the act

amended subsection to clarify authority to receive compensation. See also section 103 of Title 10, Armed Forces.

1955—Subsec. (d)(3). Act Aug. 9, 1955, provided for a six-year term of duty for persons who are inducted, enlisted, or appointed after Aug. 9, 1955.

Subsec. (i)(1). Act June 30, 1955, exempted from service persons who attained their thirty-fifth anniversary of their date of birth and who were rejected for service on the ground of physical disqualification, and to reduce maximum age of liability of induction from 51 to 46 years of age.

1953—Subsec. (i)(2). Act June 29, 1953, §6, in cl. ''First'' struck out ''subsequent to the completion of or release from the program or course of instruction'' after ''Public Health Service''; and, in cl. ''Second'', substituted ''seventeen months'' for ''twenty-one months'', and struck out ''subsequent to the completion of or release from the program or course of instruction'' after ''Public Health Service''.

Subsec. (i)(4) to (7). Act June 29, 1953, §1, added pars. (4) to (7).

Subsec. (j). Act June 29, 1953, §2, added third par.

1952—Subsec. (d)(3). Act July 9, 1952, substituted ''appointed under any provision of law, in the Armed Forces, including the reserve components thereof,'' for ''appointed in the Armed Forces''.

1951—Subsec. (a). Act June 19, 1951, §1(d), lowered age limit from 19 years to 18½, provided for training in National Security Training Corps, lowered physical and mental standards, provided for a basic training period, and allowed communication with Members of Congress.

Subsec. (b). Act June 19, 1951, §1(e), increased length of service from 21 to 24 months.

Subsec. (c). Act June 19, 1951, §1(f), struck out short-term Army enlistment period and the General Classification Test, and established age for voluntary induction.

Subsec. (d). Act June 19, 1951, §1(g), inserted ''and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act'' after ''hereafter'' in pars. (1) and (2), and added par. (3).

Subsec. (e). Act June 19, 1951, §1(i), inserted ''6g'' after ''sections'' in par. (1), and extended period of service from 21 to 24 months.

Subsec. (g). Act June 19, 1951, §1(h), repealed subsec. (g) which related to enlistments in armed service for one year by male persons between 18 and 19 years.

Subsec. (h). Act June 19, 1951, §1(h), repealed subsec. (h) which related to permanent assignment outside continental United States.

Subsec. (k). Act June 19, 1951, §1(j), added subsec. (k).

1950—Subsec. (a). Act Sept. 27, 1950, §1(1)–(4), inserted before period in third sentence of first par. ''and such number of persons as in his judgment may be required for the United States Coast Guard'', inserted before period in second par. ''or the Secretary of the Treasury'', inserted after ''the Secretary of Defense'' in third par. ''or the Secretary of the Treasury'', inserted after ''United States Marine Corps'' in fourth par. ''or the United States Coast Guard''.

Subsec. (b). Act Sept. 27, 1950, §1(5), inserted before period ''or the Secretary of the Treasury''.

Subsec. (c). Act Sept. 27, 1950, §3(a), added par. (4).

Subsecs. (i), (j). Act Sept. 9, 1950, §§1, 9, temporarily added subsecs. (i) and (j). See Termination Date of Subsection (i) and Former Subsection (j) note below.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 1957 AMENDMENT

Pub. L. 85–62, §9, June 27, 1957, 71 Stat. 208, as amended by Pub. L. 86–4, §4, Mar. 23, 1959, 73 Stat. 13; Pub. L. 88–2, §4, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90–40, §4, June 30, 1967, 81 Stat. 105; Pub. L. 92–129, title I, §103, Sept. 28, 1971, 85 Stat. 355, provided that: ''This Act [amending this section, sections 454a to 456 of this Appendix, and provisions set out as a note under this section] takes effect July 1, 1957, and shall terminate July 1, 1973.''

EFFECTIVE DATE OF 1952 AMENDMENT

Section 813 of act July 9, 1952, provided that the amendment made by that section is effective as of June 19, 1951.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of act July 3, 1952, repealed act Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by acts May 28, 1952, ch. 339, 66 Stat. 96; June 14, 1952, ch. 437, 66 Stat. 137; June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of act July 3, 1952.

TERMINATION DATE OF SUBSECTION (i) AND FORMER SUBSECTION (j)

Section 7 of act Sept. 9, 1950, as amended by acts June 19, 1951, §2(b); June 29, 1953, §9; and June 30, 1955, §201, and by Pub. L. 85–62, §8, provided that subsecs. (i) and (j) of this section, which were added by act Sept. 9, 1950, shall terminate as of June 30, 1957. See Effective and Termination Dates of 1957 Amendment note set out above with respect to subsec. (j) as reenacted and amended by Pub. L. 85–62.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE ORDER NO. 10164

Ex. Ord. No. 10164, Sept. 27, 1950, 15 F.R. 6570, provided for extension for a period of twelve months of all enlistments in the United States Coast Guard, including the Coast Guard Reserve, which would have expired at any time after Sept. 27, 1950, and prior to July 9, 1951.

EXECUTIVE ORDER NO. 10166

Ex. Ord. No. 10166, Oct. 4, 1950, 15 F.R. 6777, as amended by Ex. Ord. No. 10185, Dec. 1, 1950, 15 F.R. 8557, which established the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists, was revoked by Ex. Ord. No. 11415, June 24, 1968, 33 F.R. 9329, formerly set out below.

EX. ORD. NO. 10762. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE

Ex. Ord. No. 10762, Mar. 28, 1958, 23 F.R. 2119, provided:

1. There is hereby delegated to the Secretary of Defense:

(a) The authority vested in the President by section 4(*l*)(1) of the Universal Military Training and Service Act, as added by section 2 of the Act of June 27, 1957 (P.L. 85–62; 71 Stat. 206) [subsection (*l*)(1) of this section], to order to active duty (other than for training) for a period of not more than 24 consecutive months, with or without his consent, any member of a reserve component of the armed forces of the United States who is in a medical, dental, or allied specialist category, who has not attained the thirty-fifth anniversary of the date of his birth, and who has not performed

at least one year of active duty (other than for training).

(b) The authority vested in the President by section 5(c) of the Universal Military Training and Service Act, as added by section 5 of the Act of June 27, 1957 (P.L. 85–62; 71 Stat. 207) [section 455(c) of this Appendix], to prescribe regulations with respect to the appointment, reappointment, or promotion of any qualified person who (1) is liable for induction or (2) as a member of a reserve component is ordered to active duty as a physician or dentist or in an allied specialist category in the armed forces of the United States.

2. Executive Order No. 10478 of August 5, 1953, as amended by Executive Order No. 10658 of February 15, 1956, is hereby revoked.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10776. DELEGATION OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 10776, July 28, 1958, 23 F.R. 5683, provided:

By virtue of the authority vested in me by title 3 of the United States Code, and as President of the United States and Commander in Chief of the Armed Forces, there is hereby delegated to the Secretary of Defense the authority (relating to the prescribing of rules and regulations modifying the standards and requirements with respect to induction of persons into the armed forces) vested in the President by the last proviso of section 4(a) of the Universal Military Training and Service Act [subsec. (a) of this section], added by the act of July 28, 1958 [Pub. L. 85–564]. The Secretary of Defense is hereby authorized to re-delegate that authority to any official of the Department of Defense who is required to be appointed by and with the advice and consent of the Senate. No person shall be inducted into the armed forces for training and service who does not meet the standards and requirements specified in the rules and regulations prescribed by the Secretary or his designee pursuant to this order.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER NO. 11415

Ex. Ord. No. 11415, June 24, 1968, 33 F.R. 9329, which established the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists and the National Health Resources Advisory Committee, was revoked by section 5–110 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

PROC. NO. 2906. REGISTRATION OF DOCTORS, DENTISTS AND ALLIED SPECIALISTS

Proc. No. 2906, Oct. 6, 1950, 15 F.R. 6845, 64 Stat. Pt. 2, p. A437, as amended Proc. No. 2915, Dec. 28, 1950, 15 F.R. 9419, 64 Stat. Pt. 2, p. A455, provided:

1. Every male person who participated as a student in the Army specialized training program or any similar program administered by the Navy, or was deferred from service during World War II for the purpose of pursuing a course of instruction leading to education in a medical, dental, or allied specialist category, and has had less than twenty-one months of active duty in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service subsequent to the completion of, or release from, such program or course of instruction (exclusive of time spent in postgraduate training), and who, on the day or any of the days hereinafter fixed for his registration (a) shall have received from any school, college, university, or similar institution of learning, one or more of the degrees of bachelor of medicine, doctor of medicine, doctor of dental surgery, doctor of dental medicine, doctor of veterinary surgery, and doctor of veterinary medicine, (b) is within any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands, (c) is not a member of any reserve component of the armed forces of the United States, and (d) shall not have attained the fiftieth anniversary of the day of his birth is required to and shall on that day or any of those days present himself for and submit to registration before a duly designated registration official or selective service local board having jurisdiction in the area in which he has his permanent home or in which he may happen to be on that day or any of those days.

2. The special registration of the male persons required to submit to registration by paragraph numbered 1 hereof shall take place in the several States of the United States, the District of Columbia, the Territories of Alaska and Hawaii, Puerto Rico, and the Virgin Islands between the hours of 8:00 a.m. and 5:00 p.m. on the day or days hereinafter designated for their registration, as follows:

(a) Persons who shall have received any of the degrees above referred to on or before October 16, 1950, shall be registered on Monday, the 16th day of October, 1950.

(b) Persons who receive any of the degrees above referred to after October 16, 1950, shall be registered on the day they receive any such degree, or within five days thereafter.

(c) Persons who shall have received any of the degrees above referred to and who enter any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands after October 16, 1950, shall be registered on the day of such entrance, or within five days thereafter.

3. Every male person who has not had active service in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service subsequent to September 16, 1940, and every male person not included in the first or the second of the priorities defined in section 4(i)(2) of the Selective Service Act of 1948, as amended [now the Military Selective Service Act, formerly subsec. (i)(2) of this section], who has had active service in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service subsequent to September 16, 1940, who on the day or any of the days hereafter fixed by the Director of Selective Service for his registration (a) shall have received from a school, college, university, or similar institution of learning one or more of the degrees of bachelor of medicine, doctor of medicine, doctor of dental surgery, doctor of dental medicine, doctor of veterinary surgery, and doctor of veterinary medicine, (b) is within any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands, (c) is not a member of any reserve component of the armed forces of the United States, and (d) shall not have attained the fiftieth anniversary of the day of his birth is required to and shall on that day or any of those days present himself for and submit to registration before a duly designated registration official or selective service local board having jurisdiction in the area in which he has his permanent home or in which he may happen to be on that day or any of those days.

4. The Director of Selective Service is hereby authorized and directed to fix the date or dates for the special registration required under paragraph numbered 3 hereof: *Provided*, that the date or dates so fixed shall be not later than January 16, 1951.

5. The Director of Selective Service is hereby authorized to require special registration of, and fix the date or dates of registration for, all other persons who are subject to registration under section 4(i) of the Selective Service Act of 1948, as amended [subsection (i) of this section], and who are not required to register under or pursuant to this proclamation.

6. All orders and directives of the Director of Selective Service issued pursuant to paragraph numbered 4 or paragraph numbered 5 hereof shall be published in the Federal Register.

7. (a) A person subject to registration under or pursuant to this proclamation who, because of circumstances beyond his control, is unable to present himself for and submit to registration during the hours of the day or

any of the days fixed for registration shall do so as soon as possible after the cause for such inability ceases to exist.

(b) Every person subject to registration under or pursuant to this proclamation who has registered in accordance with Proclamation No. 2799 of July 20, 1948 [formerly set out under section 453 of this Appendix], issued under the Selective Service Act of 1948, as amended, [now the Military Selective Service Act] and the regulations prescribed thereunder, shall, notwithstanding such registration, present himself for and submit to registration as required by or pursuant to this proclamation.

(c) The duty of any person to present himself for and submit to registration in accordance with Proclamation No. 2799 of July 20, 1948, issued under the Selective Service Act of 1948, as amended [now the Military Selective Service Act] and the regulations prescribed thereunder, shall not be affected by this proclamation.

8. Every person subject to registration under or pursuant to this proclamation is required to familiarize himself with the rules and regulations governing such registration and to comply therewith.

9. I call upon the Governors of each of the several States, the Territories of Alaska and Hawaii, Puerto Rico, and the Virgin Islands and the Board of Commissioners of the District of Columbia, and all officers and agents of the United States and all officers and agents of the several States, the Territories of Alaska and Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia, and political subdivisions thereof, and all local boards and agents thereof appointed under the provisions of title I of the Selective Service Act of 1948, as amended [now the Military Selective Service Act, sections 451 to 471a of this Appendix], or the regulations prescribed thereunder, to do and perform all acts and services necessary to accomplish effective and complete registration.

10. In order that there may be full cooperation in carrying into effect the purposes of section 4(i) of title I of the Selective Service Act of 1948, as amended [now the Military Selective Service Act, formerly subsec. (i) of this section], I urge all employers and Government agencies of all kinds—Federal, State, territorial, and local—to give those under their charge sufficient time in which to fulfill the obligations of registration incumbent upon them under the said Act and under or pursuant to this proclamation.

PROC. NO. 2915. EXEMPTIONS FROM REGISTRATION

Proc. No. 2915, Dec. 28, 1950, 15 F.R. 9419, 64 Stat. 494, provided:

Proclamation No. 2906 of October 6, 1950 [set out above], be, and it is hereby, amended, effective as of October 6, 1950, so as to exempt from the force and effect thereof, until otherwise directed by the President by proclamation, (1) commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service, and (2) aliens who are residing in the United States and have not declared their intention of becoming citizens of the United States and who are also in one of the following categories: (a) alien students admitted under subdivision (e) of section 4 of the Immigration Act approved May 26, 1924, as amended [former section 204 of Title 8 Aliens and Nationality], (b) aliens recognized as diplomatic, consular, military or civilian officials or employees of a foreign government and members of their families, (c) aliens who are officials or employees of a public international organization recognized under the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669) [22 U.S.C. 288 et seq.], and members of their families, (d) aliens who have entered the United States and remain therein pursuant to the provisions of section 11 of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, as approved in Public Law 357, 80th Congress (61 Stat. 756) [set out as a note under section 287 of Title 22, Foreign Relations and Intercourse], (e) aliens who are nationals of a country with which there is in effect a treaty or international agreement exempting its nationals from military service while they are within the United States, or (f) other aliens whose admission to the United States is for a temporary stay only: *Provided*, That such exemption shall not continue after the cause thereof shall cease to exist.

§§ 454a, 454b. Omitted

CODIFICATION

Section 454a, acts Sept. 9, 1950, ch. 939, § 4, 64 Stat. 828; June 29, 1953, ch. 158, § 3, 67 Stat. 88; June 18, 1954, ch. 307, 68 Stat. 254; June 30, 1955, ch. 250, title II, § 201, 69 Stat. 224, which provided for promotion of physicians, dentists, and allied specialist categories, period of service, and discharge and resignation of such personnel, expired on June 30, 1957. See sections 451 and 455 of this Appendix.

Section 454b, act Sept. 9, 1950, ch. 939, § 6, 64 Stat. 828, which defined ''allied specialist categories'' as used in sections 454(i) and 454a of this Appendix, expired on June 30, 1957.

TERMINATION DATE

Section 7 of act Sept. 9, 1950, as amended by acts June 19, 1951, ch. 144, title I, § 2(b), 65 Stat. 88; June 29, 1953, § 9; June 30, 1955, § 201 and by Pub. L. 85–62, § 8, June 27, 1957, 71 Stat. 208, provided that sections 454a and 454b of this Appendix shall terminate as of June 30, 1957.

§§ 454c, 454d. Omitted

Section 454c, act June 29, 1953, ch. 158, § 4, 67 Stat. 88, provided for release, discharge, or resignation of special registrants who made application therefor on or before 90th day after June 29, 1953.

Section 454d, act June 29, 1953, ch. 158, § 5, 67 Stat. 89, provided for extension of reserve commissions of certain doctors, dentists, and other special registrants.

§ 454e. Volunteer service of physicians and dentists; minimum period

Any physician or dentist who meets the qualifications for a reserve commission in the respective military departments shall, so long as there is a need for the services of such a physician or dentist, be afforded an opportunity to volunteer for a period of active duty of not less than twenty-four months. Any physician or dentist who so volunteers his service, and meets the qualifications for a reserve commission shall be ordered to active duty for not less than twenty-four months, notwithstanding the grade or rank to which such physician or dentist is entitled under the provisions of the Act of September 9, 1950, as amended.

(June 29, 1953, ch. 158, § 7, 67 Stat. 89.)

REFERENCES IN TEXT

Act of September 9, 1950, as amended, referred to in text, is act Sept. 9, 1950, ch. 939, 64 Stat. 826, as amended. Section 7 of the Act, as amended (71 Stat. 208), provided that the Act, except for sections 3 and 5, shall terminate as of June 30, 1957. Section 3 of the Act amended section 202 of the National Security Act of 1947, by adding subsections (g) to (i) which were classified to section 171a(g) to (i) of former Title 5 and which were later omitted from the Code following the codification of section 202(a) to (f) and (j) of the National Security Act of 1947 in Title 10, Armed Forces, by Pub. L. 87–651, Sept. 7, 1972, 76 Stat. 506. Section 5 of the Act was classified to section 234b of former Title 37, and was later omitted from the Code following the enact-

ment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 451.

CODIFICATION

Section was not enacted as part of the Military Selective Service Act, title I of which comprises sections 451 to 471a of this Appendix.

§455. Manner of selection of men for training and service; quotas

(a)(1) The selection of persons for training and service under section 4 [section 454 of this Appendix] shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the persons who are liable for such training and service and who at the time of selection are registered and classified, but not deferred or exempted: *Provided*, That in the selection of persons for training and service under this title [sections 451 to 471a of this Appendix], and in the interpretation and execution of the provisions of this title [said sections], there shall be no discrimination against any person on account of race or color: *Provided further*, That in the classification of registrants within the jurisdiction of any local board, the registrants of any particular registration may be classified, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after the registrants of any prior registration or registrations; and in the selection for induction of persons within the jurisdiction of any local board and within any particular classification, persons who were registered at any particular registration may be selected, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after persons who were registered at any prior registration or registrations: *And provided further*, That nothing herein shall be construed to prohibit the selection or induction of persons by age group or groups under rules and regulations prescribed by the President: *And provided further*, That—

(1) no local board shall order for induction for training and service in the Armed Forces of the United States any person who has not attained the age of nineteen unless there is not within the jurisdiction of such local board a sufficient number of persons who are deemed by such local board to be available for induction and who have attained the age of nineteen to enable such local board to meet a call for men which it has been ordered to furnish for induction;

(2) no local board shall order for induction for training and service in the Armed Forces of the United States any person who has not attained the age of nineteen, if there is any person within the jurisdiction of such local board who (i) is as much as ninety days older, (ii) has not attained the age of nineteen, and (iii) is deemed by the local board to be available for induction; and

(3) no local board shall order for induction for training and service in the Armed Forces of the United States an alien unless such alien shall have resided in the United States for one year.

(2) Repealed. Pub. L. 91–124, §2, Nov. 26, 1969, 83 Stat. 220.

(b) Quotas of men to be inducted for training and service under this title [sections 451 to 471a of this Appendix] shall be determined for each State, Territory, possession, and the District of Columbia, and for subdivisions thereof, on the basis of the actual number of men in the several States, Territories, possessions, and the District of Columbia, and the subdivisions thereof, who are liable for such training and service but who are not deferred after classification, except that credits shall be given in fixing such quotas for residents of such subdivisions who are in the armed forces of the United States on the date fixed for determining such quotas. After such quotas are fixed, credits shall be given in filling such quotas for residents of such subdivisions who subsequently become members of such forces. Until the actual numbers necessary for determining the quotas are known, the quotas may be based on estimates, and subsequent adjustments therein shall be made when such actual numbers are known. All computations under this subsection shall be made in accordance with such rules and regulations as the President may prescribe.

(c) Terminated

(d) Whenever the President has provided for the selection of persons for training and service in accordance with random selection under subsection (a) of this section, calls for induction may be placed under such rules and regulations as he may prescribe, notwithstanding the provisions of subsection (b) of this section.

(e) Notwithstanding any other provision of this Act, not more than 130,000 persons may be inducted into the Armed Forces under this Act in the fiscal year ending June 30, 1972, and not more than 140,000 in the fiscal year ending June 30, 1973, unless a number greater than that authorized in this subsection for such fiscal year or years is authorized by a law enacted after the date of enactment of this subsection [Sept. 28, 1971].

(June 24, 1948, ch. 625, title I, §5, 62 Stat. 608; June 19, 1951, ch. 144, title I, §1(k), 65 Stat. 83; Pub. L. 85–62, §§4, 5, June 27, 1957, 71 Stat. 207; Pub. L. 90–40, §1(3), June 30, 1967, 81 Stat. 100; Pub. L. 91–124, §2, Nov. 26, 1969, 83 Stat. 220; Pub. L. 92–129, title I, §101(a)(8), (9), Sept. 28, 1971, 85 Stat. 349.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

AMENDMENTS

1971—Subsec. (a)(1). Pub. L. 92–129, §101(a)(8), added cl. (3) covering induction orders for aliens residing in the United States for one year, to last proviso.

Subsecs. (d), (e). Pub. L. 92–129, §101(a)(9), added subsecs. (d) and (e).

1969—Subsec. (a). Pub. L. 91–124 repealed cl. (2) which prohibited President from effecting any change in method of determining relative order of induction.

1967—Subsec. (a). Pub. L. 90–40 designated existing provisions as par. (1) and added par. (2).

1957—Subsec. (a). Pub. L. 85–62, §§ 4, 9, temporarily, substituted third and fourth provisos for former third proviso ''that nothing herein shall be construed to prohibit the selection or induction of persons by age group or groups under rules and regulations prescribed by the President:''. See Effective and Termination Dates of 1957 Amendment note below.

Subsec. (c). Pub. L. 85–62, §§ 5, 9, temporarily added subsec. (c). See Effective and Termination Dates of 1957 Amendment note below.

1951—Subsec. (a). Act June 19, 1951, inserted last two provisos.

EFFECTIVE AND TERMINATION DATES OF 1957 AMENDMENT

Amendment by Pub. L. 85–62 to take effect on July 1, 1957, and terminate on July 1, 1973, see section 9 of Pub. L. 85–62, set out as a note under section 454 of this Appendix.

PROC. NO. 3945. RANDOM SELECTION FOR MILITARY SERVICE

Proc. No. 3945, Nov. 26, 1969, 34 F.R. 19017, 83 Stat. 972, provided:

WHEREAS section 5(a)(1) of the Military Selective Service Act of 1967, as amended (50 U.S.C. App. 455(a)(1)) [now the Military Selective Service Act], provides that selection of persons for training and service under that Act shall be made in an impartial manner without discrimination on account of race or color, under such rules and regulations as the President may prescribe; and

WHEREAS section 5(a)(2) of that Act (50 U.S.C. App. 455(a)(2)) limited the President's authority to prescribe rules and regulations by requiring, in effect, the selection of registrants through a method known as ''oldest first''; and

WHEREAS such section 5(a)(2) has been repealed by Public Law 91–124 of November 26, 1969:

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me by section 5(a) of the Military Selective Service Act of 1967, as amended, and having determined that a method of random selection will provide the most equitable basis for selection of registrants for military training and service, do hereby proclaim the following:

That a random selection sequence will be established by a drawing to be conducted in Washington, D.C., on December 1, 1969, and will be applied nationwide. The random selection method will use 366 days to represent the birthdays (month and day only) of all registrants who, prior to January 1, 1970, shall have attained their nineteenth year of age but not their twenty-sixth. The drawing, commencing with the first day selected and continuing until all 366 days are drawn, shall be accomplished impartially.

On the day designated above, a supplemental drawing or drawings will be conducted to determine alphabetically the random selection sequence by name among registrants who have the same birthday.

The random selection sequence obtained as described above shall determine the order of selection of registrants who prior to January 1, 1970, shall have attained their nineteenth year of age but not their twenty-sixth and who are not volunteers and not delinquents. New random selection sequences shall be established, in a similar manner, for registrants who attain their nineteenth year of age on or after January 1, 1970.

The random sequence number determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord nineteen hundred and sixty-nine, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON.

§ 456. Deferments and exemptions from training and service

(a)(1) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, and the Environmental Science Services Administration;[1] cadets, United States Military Academy; midshipmen, United States Naval Academy; cadets, United States Air Force Academy; cadets, United States Coast Guard Academy; midshipmen, Merchant Marine Reserve, members of the United States Navy Reserve; students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense; members of the reserve components of the Armed Forces and the Coast Guard, while on active duty; and foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President who are not citizens of the United States, shall not be required to be registered under section 3 [section 453 of this Appendix] and shall be relieved from liability for training and service under section 4 [section 454 of this Appendix], except that aliens admitted for permanent residence in the United States shall not be so exempted: *Provided*, That any alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of such section 101(a) [8 U.S.C. 1101(a)(15)(A), (E), or (G)] but who executes a waiver in accordance with section 247(b) of that Act [8 U.S.C. 1257(b)] of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status, shall be subject to registration under section 3 of this Act [section 453 of this Appendix], but shall be deferred from induction for training and service for so long as such occupational status continues. Any person who subsequent to June 24, 1948, serves on active duty for a period of not less than twelve months in the armed forces of a nation with which the United States is associated in mutual defense activities as defined by the President, may be exempted from training and service, but not from registration, in accordance with regulations prescribed by the President, except that no such exemption shall be granted to any person who is a national of a country which does not grant reciprocal privileges to citizens of the United States: *Provided*, That any active duty performed prior to June 24, 1948, by a person in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities, shall be credited in the computation of such twelve-month period: *Provided further*, That any person who is in a

[1] See Transfer of Functions note below.

medical, dental, or allied specialist category not otherwise deferred or exempted under this subsection shall be liable for registration and training and service until the thirty-fifth anniversary of the date of his birth.

(2) Commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons, Department of Justice, the Environmental Protection Agency, or the Environmental Science Services Administration[1] or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended [42 U.S.C. 2001 et seq.], shall not be required to be registered under section 3 [section 453 of this Appendix] and shall be relieved from liability for training and service under section 4 [section 454 of this Appendix]. Notwithstanding the preceding sentence, commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service who, prior to the enactment of this paragraph [June 30, 1967], had been detailed or assigned to duty other than that specified in the preceding sentence shall not be required to be registered under section 3 [section 453 of this Appendix] and shall be relieved from liability for training and service under section 4 [section 454 of this Appendix].

(b)(1) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title [June 24, 1948] for a period of twelve months or more, or between December 7, 1941, and September 2, 1945, for a period in excess of ninety days, in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title [sections 451 to 471a of this Appendix], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(2) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title [June 24, 1948] for a period of ninety days or more but less than twelve months in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title [sections 451 to 471a of this Appendix], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948], if—

(A) the local board determines that he is regularly enlisted or commissioned in any organized unit of a reserve component of the armed force in which he served, provided such unit is reasonably accessible to such person without unduly interrupting his normal pursuits and activities (including attendance at a college or university in which he is regularly enrolled), or in a reserve component (other than in an organized unit) of such armed force in any case in which enlistment or commission in an organized unit of a reserve component of such armed force is not available to him; or

(B) the local board determines that enlistment or commission in a reserve component of such armed force is not available to him or that he has voluntarily enlisted or accepted appointment in an organized unit of a reserve component of an armed force other than the armed force in which he served.

Nothing in this paragraph shall be deemed to be applicable to any person to whom paragraph (1) of this subsection is applicable.

(3) Except as provided in section 5(a) of this Act [section 455(a) of this Appendix], and notwithstanding any other provision of this Act, no person who (A) has served honorably on active duty after September 16, 1940, for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (B) subsequent to September 16, 1940, was discharged for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (C) has served for a period of not less than twenty-four months (i) as a commissioned officer in the Public Health Service or (ii) as a commissioned officer in the Coast and Geodetic Survey,[2] shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(4) No person who is honorably discharged upon the completion of an enlistment pursuant to section 4(c) [section 454(c) of this Appendix] shall be liable for induction for training and service under this title [sections 451 to 471a of this Appendix], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(5) For the purposes of computation of the periods of active duty referred to in paragraphs (1), (2), or (3) of this subsection, no credit shall be allowed for—

(A) periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes;

(B) periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(C) periods of active duty as a cadet at the United States Military Academy or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies; or

[2] See Transfer of Functions note below.

(D) periods of active duty in any of the armed forces while being processed for entry into or separation from any educational program or institution referred to in paragraphs (B) or (C);

(c)(1) Persons who, on February 1, 1951, were members of organized units of the federally recognized National Guard, the federally recognized Air National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, or the Public Health Service Reserve, shall, so long as they continue to be such members and satisfactorily participate in scheduled drills and training periods as prescribed by the Secretary of Defense, be exempt from training and service by induction under the provisions of this title [sections 451 to 471a of this Appendix], but shall not be exempt from registration unless on active duty.

(2)(A) Any person, other than a person referred to in subsection (d) of this section, who—

(i) prior to the issuance of orders for him to report for induction; or

(ii) prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any organized unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction under this title [sections 451 to 471a of this Appendix]; or

(iii) prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction under this title [sections 451 to 471a of this Appendix];

enlists or accepts appointment, before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard, shall be deferred from training and service under this title [sections 451 to 471a of this Appendix] so long as he serves satisfactorily as a member of an organized unit of such Reserve or National Guard in accordance with section 10147 of title 10 or section 502 of title 32, United States Code, as the case may be, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense. Enlistments or appointments under subparagraphs (ii) and (iii) of this clause may be accepted notwithstanding the provisions of section 15(d) of this title [section 465(d) of this Appendix]. Notwithstanding the provisions of subsection (h) of this section, no person deferred under this clause who has completed six years of such satisfactory service as a member of the Ready Reserve or National Guard, and who during such service has performed active duty for training with an armed force for not less than twelve consecutive weeks, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress after August 9, 1955. In no event shall the number of enlistments or appointments made under authority of this paragraph in any fiscal year in any Reserve component of the Armed Forces or in the Army National Guard or the Air National Guard cause the personnel strength of such Reserve component or the Army National Guard or the Air National Guard, as the case may be, to exceed the personnel strength for which funds have been made available by the Congress for such fiscal year.

(B) A person who, under any provision of law, is exempt or deferred from training and service under this Act by reason of membership in a reserve component, the Army National Guard, or the Air National Guard, as the case may be, shall, if he becomes a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, continue to be exempt or deferred to the same extent as if he had not become a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, so long as he continues to serve satisfactorily.

(C) Except as provided in subsection (b) and the provisions of this subsection, no person who becomes a member of a reserve component after February 1, 1951, shall thereby be exempt from registration or training and service by induction under the provisions of this Act.

(D) Notwithstanding any other provision of this Act, the President, under such rules and regulations as he may prescribe, may provide that any person enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 12103 of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining age of twenty-six years, or any person enlisted or appointed in the Army National Guard or the Air National Guard or enlisted in the Ready Reserve of any reserve component prior to attaining the age of eighteen years and six months and deferred under the prior provisions of this paragraph as amended by the Act of October 4, 1961, Public Law 87–378 (75 Stat. 807), or under section 262 of the Armed Forces Reserve Act of 1952, as amended [50 U.S.C. 1013], who fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member, may be selected for training and service and inducted into the armed force of which such reserve component is a part, prior to the selection and induction of other persons liable therefor.

(d)(1) Within such numbers as may be prescribed by the Secretary of Defense, any person who (A) has been or may hereafter be selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the naval and Marine Corps officer candidate training program established by the Act of August 13, 1946 (60 Stat. 1057), as amended, or the Reserve

officers' candidate program of the Navy, or the platoon leaders' class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or appointed an ensign, United States Navy Reserve, while undergoing professional training; (B) agrees, in writing, to accept a commission, if tendered, and to serve, subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Homeland Security with respect to the United States Coast Guard), not less than two years on active duty after receipt of a commission; and (C) agrees to remain a member of a regular or reserve component until the eighth anniversary of the receipt of a commission in accordance with his obligation under the first sentence of section 651 of title 10, United States Code, or until the sixth anniversary of the receipt of a commission in accordance with his obligation under the second sentence of section 651 of title 10, United States Code, shall be deferred from induction under this title [sections 451 to 471a of this Appendix] until after completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration. Such persons, except those persons who have previously completed an initial period of military training or an equivalent period of active military training and service, shall be required while enrolled in such programs to complete a period of training equal (as determined under regulations approved by the Secretary of Defense or the Secretary of Homeland Security with respect to the United States Coast Guard) in duration and type of training to an initial period of military training. There shall be added to the obligated active commissioned service of any person who has agreed to perform such obligatory service in return for financial assistance while attending a civilian college under any such training program a period of not to exceed one year. Except as provided in paragraph (5), upon the successful completion by any person of the required course of instruction under any program listed in clause (A) of the first sentence of this paragraph, such person shall be tendered a commission in the appropriate reserve component of the Armed Forces if he is otherwise qualified for such appointment. If, at the time of, or subsequent to, such appointment, the armed force in which such person is commissioned does not require his service on active duty in fulfillment of the obligation undertaken by him in compliance with clause (B) of the first sentence of this paragraph, such person shall be ordered to active duty for training with such armed force in the grade in which he was commissioned for a period of active duty for training of not more than six months (not including duty performed under section 10147 of title 10, United States Code), as determined by the Secretary of the military department concerned to be necessary to qualify such person for a mobilization assignment. Upon being commissioned and assigned to a reserve component, such person shall be required to serve therein, or in a reserve component of any other armed force in which he is later appointed, until the eighth anniversary of the receipt of such commission pursuant to the provisions of this section. So long as such person performs satisfactory service, as determined under regulations prescribed by the Secretary of Defense, he shall be deferred from training and service under the provisions of this Act. If such person fails to perform satisfactory service, and such failure is not excused under regulations prescribed by the Secretary of Defense, his commission may be revoked by the Secretary of the military department concerned.

(2) In addition to the training programs enumerated in paragraph (1) of this subsection, and under such regulations as the Secretary of Defense (or the Secretary of the Treasury[3] with respect to the United States Coast Guard) may approve, the Secretaries of the military departments and the Secretary of the Treasury[3] are authorized to establish officer candidate programs leading to the commissioning of persons on active duty. Any person heretofore or hereafter enlisted in the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve who thereafter has been or may be commissioned therein upon graduation from an Officers' Candidate School of such Armed Force shall, if not ordered to active duty as a commissioned officer, be deferred from training and service under the provisions of this Act so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned. If such person fails to perform satisfactory service in such unit, and such failure is not excused under such regulations, his commission may be revoked by such Secretary.

(3) Nothing in this subsection shall be deemed to preclude the President from providing, by regulations prescribed under subsection (h) of this section, for the deferment from training and service of any category or categories of students for such periods of time as he may deem appropriate.

(4) Omitted.

(5) Notwithstanding paragraph (1), upon the successful completion by any person of the required course of instruction under any Reserve Officers' Training Corps program listed in clause (A) of the first sentence of paragraph (1) and subject to the approval of the Secretary of the military department having jurisdiction over him, such person may, without being relieved of his obligation under that sentence, be tendered, and accept, a commission in the National Oceanic and Atmospheric Administration instead of a commission in the appropriate reserve component of the Armed Forces. If he does not serve on active duty as a commissioned officer of the National Oceanic and Atmospheric Administration for at least six years, he shall, upon discharge therefrom, be tendered a commission in the appropriate reserve component of the Armed Forces, if he is otherwise qualified for such appointment, and, in fulfillment of his obligation under the first sentence of paragraph (1), remain a member of a reserve component until the sixth anniversary of the receipt of his commission in the National Oceanic and Atmospheric Adminis-

[3] See Transfer of Functions note below.

tration. While a member of a reserve component he may, in addition to as otherwise provided by law, be ordered to active duty for such period that, when added to the period he served on active duty as a commissioned officer of the National Oceanic and Atmospheric Administration, equals two years.

(e) Fully qualified and accepted aviation cadet applicants of the Army, Navy, or Air Force who have signed an agreement of service shall, in such numbers as may be designated by the Secretary of Defense, be deferred, during the period covered by the agreement but not to exceed four months, from induction for training and service under this title [sections 451 to 471a of this Appendix] but shall not be exempt from registration.

(f) The Vice President of the United States; the governors of the several States, Territories, and possessions, and all other officials chosen by the voters of the entire State, Territory, or possession; members of the legislative bodies of the United States and of the several States, Territories, and possessions; judges of the courts of record of the United States and of the several States, Territories, possessions, and the District of Columbia shall, while holding such offices, be deferred from training and service under this title [sections 451 to 471a of this Appendix] in the armed forces of the United States.

(g)(1) Regular or duly ordained ministers of religion, as defined in this title [sections 451 to 471a of this Appendix], shall be exempt from training and service, but not from registration, under this title [said sections].

(2) Students preparing for the ministry under the direction of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been preenrolled, shall be deferred from training and service, but not from registration, under this title [sections 451 to 471a of this Appendix]. Persons who are or may be deferred under the provisions of this subsection shall remain liable for training and service in the Armed Forces under the provisions of section 4(a) of this Act [section 454(a) of this Appendix] until the thirty-fifth anniversary of the date of their birth. The foregoing sentence shall not be construed to prevent the exemption or continued deferment of such persons if otherwise exempted or deferrable under any other provision of this Act.

(h) Except as otherwise provided in this subsection the President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons whose employment in industry, agriculture, or other occupations or employment, or whose continued service in an Office (other than an Office described in subsection (f)) under the United States or any State, territory, or possession, or the District of Columbia, or whose activity in study, research, or medical, dental, veterinary, optometric, osteopathic, scientific, pharmaceutical, chiropractic, chiropodial, or other endeavors is found to be necessary to the maintenance of the national health, safety, or interest: *Provided*, That no person within any such category shall be deferred except upon the basis of his individual status: *Provided further*, That persons who are or may be deferred under the provisions of this section shall remain liable for training and service in the Armed Forces under the provisions of section 4(a) of this Act [section 454(a) of this Appendix] until the thirty-fifth anniversary of the date of their birth. This proviso shall not be construed to prevent the continued deferment of such persons if otherwise deferrable under any other provisions of this Act. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces (1) of any or all categories of persons in a status with respect to persons (other than wives alone, except in cases of extreme hardship) dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those persons found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of any person is advisable, because of his status with respect to persons dependent upon him for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the Armed Forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the ground for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents. Except as otherwise provided in this subsection, the President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons who have children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service in the Armed Forces shall be made in the case of any individual except upon the basis of the status of such individual. There shall be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those persons who have been classified by such local board. The President may, in carrying out the provisions of this title [sections 451 to 471a of this Appendix], recommend criteria for the classification of persons subject to induction under this title [said sections], and to the extent that such action is determined by the President to be consistent with the national interest, recommend that such criteria be administered uniformly throughout the United States whenever practicable; except that no local board, appeal board, or other agency of appeal of the Selective Service System shall be required to postpone or defer any person by reason of his activity in study, research, or medical, dental, veterinary, optometric, osteopathic, scientific,

pharmaceutical, chiropractic, chiropodial, or other endeavors found to be necessary to the maintenance of the national health, safety, or interest solely on the basis of any test, examination, selection system, class standing, or any other means conducted, sponsored, administered, or prepared by any agency or department of the Federal Government, or any private institution, corporation, association, partnership, or individual employed by an agency or department of the Federal Government.

(i)(1) Any person who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order for induction shall, upon the facts being presented to the local board, have his induction postponed (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest. Notwithstanding the preceding sentence, any person who attains the twentieth anniversary of his birth after beginning his last academic year of high school shall have his induction postponed until the end of that academic year if and so long as he continues to pursue satisfactorily a full-time course of instruction.

(2) Any person who while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution is ordered to report for induction under this title [sections 451 to 471a of this Appendix], shall, upon the appropriate facts being presented to the local board, have his induction postponed (A) until the end of the semester or term, or academic year in the case of his last academic year, or (B) until he ceases satisfactorily to pursue such course of instruction, whichever is the earlier.

(j) Nothing contained in this title [sections 451 to 471a of this Appendix] shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. As used in this subsection, the term ''religious training and belief'' does not include essentially political, sociological, or philosophical views, or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the armed forces under this title [said sections], be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) [section 454(b) of this Appendix] such civilian work contributing to the maintenance of the national health, safety, or interest as the Director may deem appropriate and any such person who knowingly fails or neglects to obey any such order from his local board shall be deemed, for the purposes of section 12 of this title [section 462 of this Appendix], to have knowingly failed or neglected to perform a duty required of him under this title [said sections]. The Director shall be responsible for finding civilian work for persons exempted from training and service under this subsection and for the placement of such persons in appropriate civilian work contributing to the maintenance of the national health, safety, or interest.

(k) No exception from registration, or exemption or deferment from training and service, under this title [sections 451 to 471a of this Appendix], shall continue after the cause therefor ceases to exist.

(*l*) Notwithstanding any other provisions of law, no person between the ages of eighteen and twenty-one shall be discharged from service in the armed forces of the United States while this title [sections 451 to 471a of this Appendix] is in effect because such person entered such service without the consent of his parent or guardian.

(m) No person shall be relieved from training and service under this title [sections 451 to 471a of this Appendix] by reason of conviction of a criminal offense, except where the offense of which he has been convicted may be punished by death, or by imprisonment for a term exceeding one year.

(n) In the case of any registrant whose principal place of employment is located outside the appeal board area in which the local board having jurisdiction over the registrant is located, any occupational deferment made under subsection (h) of this section may, within five days after such deferment is made, be submitted for review and decision to the appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant. Such decision of the appeal board shall be final unless modified or changed by the President, and such decision shall be made public.

(*o*) Except during the period of a war or a national emergency declared by Congress, no person may be inducted for training and service under this title [sections 451 to 471a of this Appendix] unless he volunteers for such induction—

(1) if the father or the mother or a brother or a sister of such person was killed in action or died in line of duty while serving in the Armed Forces after December 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in line of duty during such service, or

(2) during any period of time in which the father or the mother or a brother or a sister of such person is in a captured or missing status as a result of such service.

As used in this subsection, the term ''brother'' or ''sister'' means a brother of the whole blood or a sister of the whole blood, as the case may be.

(June 24, 1948, ch. 625, title I, §6, 62 Stat. 609; Sept. 27, 1950, ch. 1059, §1(6), 64 Stat. 1074; June 19, 1951, ch. 144, title I, §1(*l*)–(q), 65 Stat. 83; June 30, 1955, ch. 250, title I, §101, 69 Stat. 223; Aug. 9, 1955, ch. 665, §3(b)–(d), 69 Stat. 603, 604; Pub. L. 85–62, §§6, 7, June 27, 1957, 71 Stat. 208; Pub. L. 85–722, Aug. 21, 1958, 72 Stat. 711; Pub. L. 87–378, §1, Oct. 4, 1961, 75 Stat. 807; Pub. L. 87–536, July 18, 1962, 76 Stat. 167; Pub. L. 88–110, §2, Sept. 3, 1963, 77 Stat. 134; Pub. L. 88–360, July 7, 1964, 78

Stat. 296; Pub. L. 90–40, § 1(4)–(7), June 30, 1967, 81 Stat. 100–102, 104; Pub. L. 91–604, § 15(b)(8)(B), Dec. 31, 1970, 84 Stat. 1712; Pub. L. 92–129, title I, § 101(a)(10)–(22), Sept. 28, 1971, 85 Stat. 349–351; Pub. L. 93–638, title I, § 104(c), formerly § 105(c), Jan. 4, 1975, 88 Stat. 2208, renumbered § 104(c), Pub. L. 100–472, title II, § 203(a), Oct. 5, 1988, 102 Stat. 2290; Pub. L. 94–106, title VIII, § 802(d), Oct. 7, 1975, 89 Stat. 537; Pub. L. 96–584, § 3(a), Dec. 23, 1980, 94 Stat. 3377; Pub. L. 98–525, title XV, § 1531, Oct. 19, 1984, 98 Stat. 2631; Pub. L. 103–337, div. A, title XVI, § 1677(f), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 107–296, title XVII, § 1704(e)(11)(C), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109–163, div. A, title V, § 515(g)(3)(A), (h), Jan. 6, 2006, 119 Stat. 3236, 3237.)

REFERENCES IN TEXT

Act of August 5, 1954 (68 Stat. 674), as amended, referred to in subsec. (a)(2), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (a)(3), (b)(3), (c)(2)(A) to (D), (d)(1), (2), (g)(2), and (h), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

Section 262 of the Armed Forces Reserve Act of 1952, as amended [50 U.S.C. 1013], referred to in subsec. (c)(2)(D), was repealed by Pub. L. 88–110, § 1, Sept. 3, 1963, 77 Stat. 134.

Act of August 13, 1946 (60 Stat. 1057), as amended, referred to in subsec. (d)(1), is act Aug. 13, 1946, ch. 962, 60 Stat. 1057, as amended. The Act was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641, section 1 of which enacted Title 10, Armed Forces. Provisions of the 1946 Act relating to the naval and Marine Corps officer candidate training program were reenacted in sections 6903 to 6908 of Title 10. Sections 6903 to 6908 of Title 10 were repealed by Pub. L. 88–647, § 301(17), Oct. 13, 1964, 78 Stat. 1072, and replaced by chapters 102 and 103 of Title 10.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–163, § 515(g)(3)(A), substituted ''members of the United States Navy Reserve'' for ''United States Naval Reserves''.

Subsec. (d)(1)(A). Pub. L. 109–163, § 515(h), substituted ''United States Navy Reserve'' for ''United States Naval Reserve''.

Subsec. (d)(2). Pub. L. 109–163, § 515(h), substituted ''Navy Reserve'' for ''Naval Reserve''.

2002—Subsec. (d)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in two places.

1994—Subsec. (c)(2)(A). Pub. L. 103–337, § 1677(f)(1), substituted ''section 10147 of title 10'' for ''section 270 of title 10'' in concluding provisions.

Subsec. (c)(2)(D). Pub. L. 103–337, § 1677(f)(2), substituted ''section 12103 of title 10'' for ''section 511(b) of title 10''.

Subsec. (d)(1). Pub. L. 103–337, § 1677(f)(3), substituted ''section 10147 of title 10'' for ''section 270(a) of title 10''.

1984—Subsec. (*o*). Pub. L. 98–525 inserted reference to mother in cls. (1) and (2), exempting from induction any person whose mother was killed in line of duty.

1980—Subsec. (d)(1). Pub. L. 96–584 struck out minimum active duty requirement of not less than three months.

1975—Subsec. (a)(2). Pub. L. 93–638 inserted provision relating to assignment of personnel to assist Indian tribes, groups, bands or communities.

Subsec. (c)(2)(A). Pub. L. 94–106, in provisions relating to deferment of certain persons from induction who completed six years of active service as members of the Ready Reserve or National Guard, substituted requirement of performance of active duty for training with an armed force for not less than twelve consecutive weeks during such service for requirement of performance of such active duty for not less than four consecutive months.

1971—Subsec. (a)(1). Pub. L. 92–129, § 101(a)(10), (11), inserted proviso making subject to registration an alien lawfully admitted for permanent residence who by reason of occupational status is subject to adjustment to non-immigrant status but who executes a waiver of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status, and granting a deferment from induction to such alien for so long as such occupational status continues, and substituted ''twelve months'' for ''eighteen months'' as the period of requisite service in the armed forces of a nation with which the United States is associated in mutual defense activities in order to gain an exemption from training and service.

Subsec. (b)(3). Pub. L. 92–129, § 101(a)(12), substituted reference to ''section 5(a) of this Act [section 455(a) of this Appendix]'' for reference to ''section 4(i) of this Act [section 454(i) of this Appendix]''.

Subsec. (b)(4). Pub. L. 92–129, § 101(a)(13), struck out reference to section 4(g) [section 454(g) of this Appendix].

Subsec. (d)(1). Pub. L. 92–129, § 101(a)(14), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury'' and ''section 651 of Title 10'' for ''section 4(d)(3) of this Act'', respectively.

Subsec. (d)(5). Pub. L. 92–129, § 101(a)(15), reflected creation of National Oceanic and Atmospheric Administration and transfer to such newly created Administration of former Coast and Geodetic Survey.

Subsec. (g). Pub. L. 92–129, § 101(a)(16), changed from an exemption to a deferment the status to be accorded divinity students, with such students to remain liable for training and service until their 35th birthday.

Subsec. (h). Pub. L. 92–129, § 101(a)(17), (18), struck out provisions formerly designated as par. (1) which had covered college student deferments, struck the designation ''(2)'' preceding the remaining provisions which had theretofore been designated par. (2), and, in such provisions, struck out reference to deferments for persons engaged in graduate study.

Subsec. (i)(1). Pub. L. 92–129, § 101(a)(19), substituted provisions allowing a postponement of induction for high school students for provisions creating a deferment for such students and inserted provisions allowing an additional postponement of induction until the end of the academic year for high school students who turn 20 during their last year of high school provided that they continue to pursue satisfactorily a full-time course of instruction.

Subsec. (i)(2). Pub. L. 91–129, § 101(a)(20), substituted provisions allowing a postponement of induction for college students for provisions creating a deferment for such students and struck out references to previous deferments and postponements and to the President's former authority to allow for student deferments.

Subsec. (j). Pub. L. 92–129, § 101(a)(21), substituted ''Director'' for ''local board pursuant to Presidential regulations'' and inserted sentence charging the Director with the responsibility for finding civilian work for persons exempted from training and service and for their placement in appropriate civilian work.

Subsec. (*o*). Pub. L. 92–129, § 101(a)(22), inserted provisions for an exemption from training and service during a period of time in which the father or a brother or sister of a person is in a captured or missing status and struck out provisions limiting the exemption from service provided under this subsection to the sole surviving son of the family.

1970—Subsec. (b)(2). Pub. L. 91–604 inserted ''the Environmental Protection Agency,'' after ''Department of Justice,''.

1967—Subsec. (a). Pub. L. 90–40, § 1(5), designated existing provisions as par. (1), substituted ''Environ-

mental Science Services Administration'' for ''Coast and Geodetic Survey'', removed commissioned officers, warrant officers, pay clerks, enlisted men, aviation cadets, and, while on active duty, members of the reserve component, of the Public Health Service from the list of enumerated personnel relieved from the registration requirement of section 453 and the training and service requirement of section 454, added cadets, United States Air Force Academy, to such lists, and inserted proviso that a person in a medical, dental, or allied specialist category not otherwise deferred or exempted under subsec. (a) be liable for registration, training, and service until the thirty-fifth anniversary of the date of his birth, and added par. (2).

Subsec. (c)(2)(A). Pub. L. 90–40, §1(4), gave standby authority to both the Governors of the individual States, in the case of the National Guard, and to the President, in the case of the other reserve components, to permit the voluntary enlistment of registrants into these components during the period following their receipt of an induction notice and the date required for their actual induction, provided that there had previously issued a proclamation that the Governor or the President is not otherwise able to maintain the personnel strengths of the respective components.

Subsec. (h). Pub. L. 90–40, §1(6), established uniform criteria for all undergraduate deferments to continue only until a registrant receives a baccalaureate degree, fails to pursue a full-time course of instruction satisfactorily, or reaches the age of 24, whichever occurs first, at which point students are required to be exposed to the hazards of induction in the prime age group in the same manner as their contemporaries who had not been provided student deferments, continued the President's wide latitude in providing deferments for graduate students in medicine, dentistry, or other subjects deemed essential to the national health, safety, or interest, continued the President's authority to prescribe areas of deferment based upon occupations or professions essential to the national interest, and called for greater uniformity in the administration of classification criteria for persons subject to induction.

Subsec. (j). Pub. L. 90–40, §1(7), struck out provision that religious training and belief stem from the individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relationship, and struck out requirement for a hearing by the Department of Justice when there is an appeal from a local board decision denying conscientious objector status.

1964—Subsec. (*o*). Pub. L. 88–360 exempted sole surviving sons from induction in cases where the father was killed in action or in line of duty, permitted the sole surviving son to volunteer for induction, and terminated the exemption during time of war or national emergency thereafter declared by Congress.

1963—Subsec. (c)(2). Pub. L. 88–110, among other changes, authorized deferment of persons who prior to attaining age 26 and to the issuance of induction orders enlisted or accepted appointment in the Ready Reserve of any reserve component, Army National Guard, or Air National Guard, and served satisfactorily, exempted such persons from induction after completing 6 years service and who during such service performed active duty for training for not less than 4 consecutive months, and struck out provisions which deferred persons who prior to attaining 18 years and 6 months of age, and prior to issuance of induction orders, enlisted or accepted appointment in any organized unit of the National Guard, exempted such persons from training and service by reason of subsec. (h) of this section after they attained age 28, or who completed 8 years of service in such unit and performed active duty for training for not less than 3 consecutive months, authorized the President to accept enlistments in the Ready Reserve, whenever he determined its strength could not be maintained at a necessary level for defense, of persons who had not attained age 18 years and 6 months, and who had not been ordered to report for induction, and exempted such persons from liability under subsec. (h) of this section after attaining age 28 years, permitted volunteers to perform a period of active duty pursuant to section 1013 of Title 50, and exempted such persons from induction after serving 8 years in the Ready Reserve.

1962—Subsec. (d). Pub. L. 87–536 inserted ''Except as provided in paragraph (5),'' before ''upon the successful completion by any person'' and added par. (5).

1961—Subsec. (c)(2). Pub. L. 87–378, §1(1), included members of the National Guard deferred by clause (A) of this paragraph, or any person enlisted or appointed in the Ready Reserve of any reserve component other than under section 511(b) of this title, the Army National Guard or the Air National Guard after Oct. 4, 1961, but prior to attaining age 26, who fail to serve satisfactorily as a member of their components within clause (E) of this paragraph, and struck out ''or appointed'' after ''may provide that any person enlisted''.

Subsec. (d)(1). Pub. L. 87–378, §1(2), substituted ''If, at the time of, or subsequent to, such appointment'' for ''If, at the time of such appointment'', changed the period of active duty for training in grade, where the armed force in which such person is commissioned does not require his service on active duty, from 6 months to a period of not less than 3 months or more than 6 months, not including duty performed under section 270(a) of Title 10, Armed Forces, as is determined to qualify such person for a mobilization assignment, and substituted the requirement that upon being commissioned and assigned to a reserve component, such person must serve therein, or in a reserve component of any other armed force in which he is later appointed, for provisions which required such person to be returned to inactive duty and assigned to an appropriate reserve unit upon completion of the required period of active duty for training.

1958—Subsec. (c)(2)(F). Pub. L. 85–722 added subpar. (F).

1957—Subsec. (b)(5)(E). Pub. L. 85–62, §§6, 9, temporarily, added subpar. (E). See Effective and Termination Dates of 1957 Amendment note below.

Subsec. (d)(4). Pub. L. 85–62, §§7, 9, added par. (4). See Effective and Termination Dates of 1957 Amendment note below.

1955—Subsec. (a). Act June 30, 1955, §101(a), exempted from training and service, but not from registration, those persons who served on active duty for not less than 18 months since June 24, 1948 in the armed forces of a nation with which the United States is associated in mutual defense activities.

Subsec. (b)(3). Act June 30, 1955, §101(b), exempted individuals who have served not less than one year after September 16, 1940, or who were discharged after such date for the convenience of the Government and had served not less than six months, or who served not less than twenty-four months in the Public Health Service or in the Coast and Geodetic Survey.

Subsec. (c)(2). Act Aug. 9, 1955, §3(b), exempted from induction persons who have completed eight years of satisfactory service as members of an organized unit of the National Guard, with a minimum of not less than three consecutive months of active duty for training, and added cls. (C), (D), and (E).

Subsec. (c)(2)(A). Act June 30, 1955, §101(c), inserted provisions to exempt persons from liability for induction after attaining age 28.

Subsec. (d)(1). Act Aug. 9, 1955, §3(c), deferred from induction any person who agrees to remain a member of a regular or reserve component until the sixth anniversary of the receipt of a commission, provided that all qualified graduates must be tendered a commission in the appropriate reserve component, and permitted active duty for training for a period of six months upon completion of which he must serve in the component in which appointed until the eighth anniversary of the receipt of the commission.

Subsec. (d)(2). Act Aug. 9, 1955, §3(d), permitted deferment of commissioned officers who perform satisfactory service in an appropriate unit of the Ready Reserve.

Subsec. (h). Act June 30, 1955, § 101(d), provided that determination of deferment shall not be based on existence of a shortage or a surplus of any agricultural commodity.

1951—Subsec. (a). Act June 19, 1951, § 1(*l*), exempted Naval reserve midshipmen attending merchant marine schools and students enrolled in military colleges which have approved ROTC courses from registration and induction.

Subsec. (c). Act June 19, 1951, § 1(m), substituted ''February 1, 1941'' for ''the effective date of this title'' in par. (1), inserted ''prior to the determination by the Secretary of Defense that adequate trained personnel are available to the National Guard to enable it to maintain its strength authorized by current appropriations, and prior to the issuance of orders for him to report for induction'' after ''six months'' in par. (2)(A), and inserted '', paragraph (1) of this subsection'' after ''subsection (b)'' in par. (2)(B).

Subsec. (d). Act June 19, 1951, § 1(n), continued deferments to ROTC members but increased their period of service from 2 years to 6 years after receiving their commission (including 2 years active duty or 3 years active duty if financial assistance is received), authorized establishment of other training programs, and provided for the President's deferment power.

Subsec. (h). Act June 19, 1951, § 1(*o*), removed the President's authority to defer married men who have no dependents other than a wife solely on a basis of such marriage unless extreme hardship is involved, permitted the induction of persons now deferred until the thirty-fifth anniversary of their birth should the basis for deferment terminate after their 26th birthday, and inserted ''dental, optometric, osteopathic, and chiropractic'' to list of endeavors which may be considered for deferment purposes.

Subsec. (i). Act June 19, 1951, § 1(p), authorized deferment of high school and college students in lieu of postponement of induction in order to give them an opportunity to enlist in the branch of service of their choice during such deferment period.

Subsec. (j). Act June 19, 1951, § 1(q), substituted ''in lieu of such induction, be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the local board may deem appropriate and any such person who knowingly fails or neglects to obey any such order from his local board shall be deemed, for the purposes of section 12 of this title, to have knowingly failed or neglected to perform a duty required of him under this title'' for ''be deferred'' in third sentence, and ''he shall in lieu of such induction be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the local board may deem appropriate and any such person who knowingly fails or neglects to obey any such order from his local board shall be deemed, for the purposes of section 12 of this title, to have knowingly failed or neglected to perform a duty required of him under this title'' for ''he shall be deferred'' in seventh sentence.

1950—Subsec. (b)(2). Act Sept. 27, 1950, struck out of subpars. (A) and (B) ''or the Coast Guard'', ''(or the Coast Guard)'', and ''or in the Coast Guard'' wherever appearing.

Change of Name

References to Naval Reserve, other than references to Naval Reserve regarding the United States Naval Reserve Retired List, deemed to refer to Navy Reserve, see section 515(h) of Pub. L. 109–163, set out as a note under section 10101 of Title 10, Armed Forces.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

Effective Date of 1980 Amendment

Section 3(b) of Pub. L. 96–584 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only to persons ordered to active duty for training after the effective date of this Act [Dec. 23, 1980].''

Effective and Termination Dates of 1957 Amendment

Amendment by Pub. L. 85–62 to take effect on July 1, 1957, and terminate on July 1, 1973, see section 9 of Pub. L. 85–62, set out as a note under section 454 of this Appendix.

Savings Provision; Repeal of College Student Deferment

Section 101(b) of Pub. L. 92–129 provided that: ''Notwithstanding the repeal of section 6(h)(1) of the Military Selective Service Act of 1967 [subsec. (h)(1) of this section] made by subsection (a)(17) of this section, any person (1) who is satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of higher learning, (2) who met the academic requirements of a student deferment prescribed in such section 6(h)(1), and (3) who was satisfactorily pursuing such a full-time course prior to the date of enactment of this Act [Sept. 28, 1971] and during the 1970–1971 regular academic school year shall be deferred from induction for training and service in the Armed Forces under the same terms and conditions such person would have been deferred under the provisions of such section 6(h)(1) had such provision not been repealed.''

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of all other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Coast Guard, and Commandant of Coast Guard, excepted from transfer when Coast Guard is operating as part of Navy under sections 1 and 3 of Title 14, Coast Guard.

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by

Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created National Oceanic and Atmospheric Administration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories.

In order to implement the provisions of Reorganization Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, which covers administration of National Oceanic and Atmospheric Administration, were changed by order of Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, as follows: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey; and Weather Bureau to National Weather Service.

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

DELEGATION OF FUNCTIONS

Functions of President delegated to Director of Selective Service concerning establishment, implementation, and administration of program for return of Vietnam era draft evaders and military deserters, see Ex. Ord. No. 11804, Sept. 16, 1974, 39 F.R. 33299, set out under section 462 of this Appendix.

DISCHARGE OF SURVIVING SONS

Section 101(d) of Pub. L. 92–129 provided that:

''(1) Subject to the provisions of paragraph (2) of this subsection any surviving son or sons of a family who (A) were inducted into the Armed Forces under the Military Selective Service Act of 1967 [see References in Text note set out under section 451 of this Appendix], (B) have not reenlisted or otherwise voluntarily extended their period of active duty in the Armed Forces, and (C) are serving on active duty with the Armed Forces on or after the date of enactment of this subsection [Sept. 28, 1971], and such son or sons could not, if they were not in the Armed Forces, be involuntarily inducted into military service under the Military Selective Service Act as a result of the amendment made by paragraph (22) of subsection (a) of this section [amending subsec. (*o*) of this section], such surviving son or sons shall, upon application, be promptly discharged from the Armed Forces.

''(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any member of the Armed Forces against whom court-martial charges are pending, or in the case of any member who has been tried and convicted by a court-martial for an offense and whose case is being reviewed or appealed, or in the case of any member who has been tried and convicted by a court-martial for an offense and who is serving a sentence (or otherwise satisfying punishment) imposed by such court-martial, until final action (including completion of any punishment imposed pursuant to such court-martial) has been completed with respect to such charges, review, or appeal, or until the sentence has been served (or until any other punishment imposed has been satisfied), as the case may be. The President shall have authority to implement the provisions of this subsection by regulations.

''(3) Notwithstanding the amendment made by paragraph (22) of subsection (a) of this section [amending subsec. (*o*) of this section], except during the period of a war or a national emergency declared by Congress, the sole surviving son of any family in which the father or one or more sons or daughters thereof were killed in action before January 1, 1960, or died in line of duty before January 1, 1960, while serving in the Armed Forces of the United States, or died subsequent to such date as a result of injuries received or disease incurred before such date during such service shall not be inducted under the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] unless he volunteers for induction.''

PRIOR OBLIGATED SERVICE

Section 5 of Pub. L. 88–110 provided that: ''This Act [amending subsec. (c)(2) of this section, section 463(a) of this Appendix and sections 270(b) and 511 [now 12103] of Title 10, Armed Forces, and repealing section 1013 of Title 50, War and National Defense] shall not affect any term of obligated service incurred before the effective date of this Act [Sept. 3, 1963]. In addition, the enactment of this Act [Sept. 3, 1963] shall not increase the minimum period of active duty or active duty for training that is required on the day before the effective date of this Act to earn an exemption from training and service under the Universal Military Training and Service Act, as amended (50 U.S.C. App. 451 et seq.), in the case of persons who entered the Armed Forces before the effective date of this Act.''

PROGRAM FOR RETURN OF VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

Proc. No. 4313, Sept. 16, 1974, 39 F.R. 33293, 88 Stat. 2504, set out under section 462 of this Appendix, provided for a program for return of Vietnam era draft evaders and military deserters.

EXECUTIVE ORDER NO. 11803

Ex. Ord. No. 11803, Sept. 16, 1974, 39 F.R. 33297, set out under section 462 of this Appendix, provided for review by Clemency Board of convictions of violations under subsec. (j) of this section.

EX. ORD. NO. 10028. DEFINITION OF NONCOMBATANT SERVICE AND NONCOMBATANT TRAINING

Ex. Ord. No. 10028, Jan. 13, 1949, 14 F.R. 211, provided:

1. The term ''noncombatant service'' shall mean (a) service in any unit of the armed forces which is unarmed at all times; (b) service in the medical department of any of the armed forces, wherever performed; or (c) any other assignment the primary function of which does not require the use of arms in combat; provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

2. The term ''noncombatant training'' shall mean any training which is not concerned with the study, use, or handling of arms or weapons.

HARRY S TRUMAN.

§ 457. Repealed. June 19, 1951, ch. 144, § 1(r), 65 Stat. 86

Section, act June 24, 1948, ch. 625, title I, § 7, 62 Stat. 614, related to active duty for certain members of reserve components.

§ 458. Bounties for induction; substitutes; purchase of release

No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this Act may furnish a substitute for that training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 [section 454 of this Appendix] may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

(June 24, 1948, ch. 625, title I, § 8, 62 Stat. 614; Aug. 10, 1956, ch. 1041, § 22(d), 70A Stat. 630.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

CODIFICATION

Section 8 of act June 24, 1948, 62 Stat. 614, cited as a credit to this section, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, 678, and provisions thereof (as applicable to induction) were restated in this section by section 22(d) of act Aug. 10, 1956. Provisions of such section 8 (less applicability to induction) were restated by first section of act Aug. 10, 1956, as section 514 of Title 10, Armed Forces.

AMENDMENTS

1956—Act Aug. 10, 1956, struck out provisions which prohibited payment of any bounty to induce any person to enlist into Armed Forces. See section 514 of Title 10, Armed Forces.

§ 459. Separation from service

(a) Certificate recording proficiency and merit; physical examination

Any person inducted into the armed forces under this title [sections 451 to 471a of this Appendix] for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 4(b) [section 454(b) of this Appendix] shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. In addition, each such person who is inducted into the armed forces under this title [said sections] for training and service shall be given a physical examination at the beginning of such training and service, and upon the completion of his period of training and service under this title [said sections], each such person shall be given another physical examination and, upon his written request, shall be given a statement of physical condition by the Secretary concerned: *Provided*, That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains: *Provided further*, That, if upon completion of training and service under this title [said sections], such person continues on active duty without an interruption of more than seventy-two hours as a member of the Armed Forces of the United States, a physical examination upon completion of such training and service shall not be required unless it is requested by such person, or the medical authorities of the Armed Force concerned determine that the physical examination is warranted.

(b) Right to vote; manner; poll tax

Any person inducted into the armed forces for training and service under this title [sections 451 to 471a of this Appendix] shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in the State of which he is a resident, whether he is within or outside such State at the time of such election, if under the laws of such State he is otherwise entitled so to vote in such election; but nothing in this subsection shall be construed to require granting to any such person a leave of absence or furlough for longer than one day in order to permit him to vote in person in any such election. No person inducted into, or enlisted in, the armed forces for training and service under this title [said sections] shall, during the period of such service, as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, be required to pay any poll tax or other tax or make any other payment to any State or political subdivision thereof.

(c) Reports on separated personnel

The Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard, shall furnish to the Selective Service System hereafter established a report of separation for each person separated from active duty.

(June 24, 1948, ch. 625, title I, § 9, 62 Stat. 614; Sept. 27, 1950, ch. 1059, § 1(7)–(10), 64 Stat. 1074; June 19, 1951, ch. 144, title I, § 1(s), 65 Stat. 86; July 12, 1955, ch. 327, 69 Stat. 295; July 9, 1956, ch. 523, § 1, 70 Stat. 509; Pub. L. 86–632, § 1, July 12, 1960, 74 Stat. 467; Pub. L. 87–391, Oct. 4, 1961, 75 Stat. 821; Pub. L. 90–491, § 1, Aug. 17, 1968, 82 Stat. 790; Pub. L. 92–129, title I, § 101(a)(23), Sept. 28, 1971, 85 Stat. 351; Pub. L. 93–508, title IV, § 405, Dec. 3, 1974, 88 Stat. 1600; Pub. L. 107–296, title XVII, § 1704(e)(11)(D), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted ''Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,'' for ''Secretaries of Army, Navy, Air Force, or Transportation''.

1974—Subsecs. (b), (c). Pub. L. 93–508, § 405(1), (2), redesignated subsecs. (i) and (j) as (b) and (c), respec-

tively. Former subsecs. (b) and (c), relating to reemployment rights and consideration of training and service in the armed forces as furlough or leave of absence, were struck out. See section 2021 et seq. of Title 38, Veterans' Benefits.

Subsecs. (d) to (h). Pub. L. 93–508, §405(1), repealed subsecs. (d) to (h) relating to jurisdiction of district courts to enforce compliance with the reemployment provisions, legal assistance by United States attorneys to claimants of reemployment benefits, reemployment by Federal Government, priority of rights to reemployment, and reemployment benefits to persons enlisting or called to active duty. See section 2021 et seq. of Title 38, Veterans' Benefits.

Subsecs. (i), (j). Pub. L. 93–508, §405(2), redesignated subsecs. (i) and (j) as (b) and (c), respectively.

1971—Subsec. (j). Pub. L. 92–129 substituted ''or Transportation'' for ''or Treasury''.

1968—Subsec. (c)(3). Pub. L. 90–491, §1(1), added par. (3).

Subsec. (d). Pub. L. 90–491, §1(2), included cases where any private employer fails or refuses to comply with provisions of subsec. (c)(3) of this section.

Subsec. (g)(1). Pub. L. 90–491, §1(3), substituted ''does not exceed five years, provided that the service in excess of four years after August 1, 1961, is at the request and for the convenience of the Federal Government'' for ''does not exceed four years''.

Subsec. (g)(2). Pub. L. 90–491, §1(4), designated existing provisions as par. (A) and added par. (B).

1961—Subsec. (g)(1). Pub. L. 87–391 permitted four years service after Aug. 1, 1961, in addition to four years service between June 24, 1948, and Aug. 1, 1961, without loss of reemployment rights.

Subsec. (g)(2). Pub. L. 87–391 permitted four years service after Aug. 1, 1961, in addition to four years service between June 24, 1948, and Aug. 1, 1961, without loss of reemployment rights.

Subsec. (g)(4). Pub. L. 87–391 struck out requirement that persons who are rejected for military service must have requested a leave of absence from their employers for purpose of determining their physical fitness to enter Armed Forces in order to insure reemployment rights.

Subsec. (g)(5), (6). Pub. L. 87–391 added par. (5) and redesignated former par. (5) as (6).

1960—Subsec. (g)(2). Pub. L. 86–632, §1(1), inserted ''and other than for training'' after ''physical fitness'' in parenthetical phrase.

Subsec. (g)(3). Pub. L. 86–632, §1(2), substituted the existing reemployment provisions for provisions granting a leave of absence to perform training duty or to be examined to determine fitness to enter the armed forces and requiring application for reinstatement to be made within thirty days following release from training duty or rejection for service.

Subsec. (g)(4), (5). Pub. L. 86–632, §1(3), added pars. (4) and (5).

1956—Subsec. (d). Act July 9, 1956, inserted reference to subsection (g) of this section.

1955—Subsec. (a). Act July 12, 1955, inserted proviso removing requirement for a final physical examination for inductees who continue on active duty in another status in the Armed Forces.

1951—Subsec. (g). Act June 19, 1951, clarified reemployment rights with respect to restoration to a position of like seniority, status, and pay.

1950—Subsec. (g)(1). Act Sept. 27, 1950, §1(7), struck out ''or the Coast Guard (other than a reserve component)'' and ''or the Coast Guard'' after ''(other than in a reserve component)''.

Subsec. (g)(2). Act Sept. 27, 1950, §1(8), struck out '', the Coast Guard'' after ''United States''.

Subsec. (h). Act Sept. 27, 1950, §1(9), struck out '', the Coast Guard'' after ''United States''.

Subsec. (j). Act Sept. 27, 1950, §1(10), struck out ''or'' after ''Navy'' and inserted '', or Treasury'' after ''Air Force''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3 of Pub. L. 86–632 provided that: ''This Act [amending this section and section 1013 of Title 50, War and National Defense] shall take effect upon the expiration of sixty days from the date of its enactment [July 12, 1960].''

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act July 9, 1956, provided that: ''The amendment made by the first section of this Act [amending this section] shall take effect as of June 19, 1951.''

§460. Selective Service System

(a) Establishment; construction; appointment of Director; termination and reestablishment of Office of Selective Service Records

(1) There is established in the executive branch of the Government an agency to be known as the Selective Service System, and a Director of Selective Service who shall be the head thereof.

(2) The Selective Service System shall include a national headquarters, at least one State headquarters in each State, Territory, and possession of the United States, and in the District of Columbia, and the local boards, appeal boards, and other agencies provided for in subsection (b)(3) of this section.

(3) The Director shall be appointed by the President, by and with the advice and consent of the Senate.

(4) The functions of the Office of Selective Service Records (established by the Act of March 31, 1947 [sections 321 to 329 of this Appendix]) and of the Director of the Office of Selective Service Records are transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking effect of the provisions of this title [sections 451 to 471a of this Appendix]: *Provided*, That, effective upon the termination of this title [said sections] and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is reestablished on the same basis and with the same functions as obtained prior to the effective date of this title [June 24, 1948], (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.

(b) Administrative provisions

The President is authorized to undertake the following:

(1) To prescribe the necessary rules and regulations to carry out the provisions of this title [sections 451 to 471a of this Appendix].

(2) To appoint, upon recommendation of the respective governor or comparable executive official, a State director of the Selective Service System for each headquarters in each State, Territory, and possession of the United States and for the District of Columbia, who shall represent the governor and be in immediate charge of the state headquarters of the Selective Service System: *Provided*, That no State director shall serve concurrently in an elected or appointed position of a State or local government; to employ such number of civilians, and, subject to subsection (e), to order to active duty with their consent and to assign to the Selective Service System such officers of the selective-service section of the State headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several State headquarters of the Selective Service System.

(3) To create and establish within the Selective Service System civilian local boards, civilian appeal boards, and such other civilian agencies, including agencies of appeal, as may be necessary to carry out its functions with respect to the registration, examination, classification, selection, assignment, delivery for induction, and maintenance of records of persons registered under this title [sections 451 to 471a of this Appendix], together with such other duties as may be assigned under this title [said sections]: *Provided*, That no person shall be disqualified from serving as a counselor to registrants, including service as Government appeal agent, because of his membership in a Reserve component of the Armed Forces. He shall create and establish one or more local boards in each county or political subdivision corresponding thereto of each State, territory, and possession of the United States, and in the District of Columbia. The local board and/or its staff shall perform their official duties only within the county or political subdivision corresponding thereto for which the local board is established, or in the case of an intercounty board, within the area for which such board is established, except that the staffs of local boards in more than one county of a State or comparable jurisdiction may be collocated or one staff may serve local boards in more than one county of a State or comparable jurisdiction when such action is approved by the Governor or comparable executive official or officials. Each local board shall consist of three or more members to be appointed by the President from recommendations made by the respective Governors or comparable executive officials. In making such appointments after the date of the enactment of the Act enacting this sentence [Sept. 28, 1971], the President is requested to appoint the membership of each local board so that to the maximum extent practicable it is proportionately representative of the race and national origin of those registrants within its jurisdiction, but no action by any local board shall be declared invalid on the ground that any board failed to conform to any particular quota as to race or national origin. No citizen shall be denied membership on any local board or appeal board on account of sex. After December 31, 1971, no person shall serve on any local board or appeal board who has served on any local board or appeal board for a period of more than 20 years. Notwithstanding any other provision of this paragraph, an intercounty local board consisting of at least one member from each component county or corresponding subdivision may, with the approval of the Governor or comparable executive official or officials, be established for an area not exceeding five counties or political subdivisions corresponding thereto within a State or comparable jurisdiction when the President determines, after considering the public interest involved, that the establishment of such local board area will result in a more efficient and economical operation. Any such intercounty local board shall have within its area the same power and jurisdiction as a local board has in its area. A local board may include among its members any citizen otherwise qualified under Presidential regulations, provided he is at least eighteen years of age. No member of any local board shall be a member of the Armed Forces of the United States, but each member of any local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction, and each intercounty local board shall have at least one member from each county or political subdivision corresponding thereto included within the intercounty local board area. Such local boards, or separate panels thereof each consisting of three or more members, shall, under rules and regulations prescribed by the President, have the power within the respective jurisdictions of such local boards to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title [said sections], of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be final, except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe. There shall be not less than one appeal board located within the area of each Federal judicial district in the United States and within each Territory and possession of the United States, and such additional separate panels thereof, as may be prescribed by the President. Appeal boards within the Selective Service System shall be composed of civilians who are citizens of the United States and who are not members of the armed forces. The decision of such appeal

boards shall be final in cases before them on appeal unless modified or changed by the President. The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title [said sections], and the determination of the President shall be final. No judicial review shall be made of the classification or processing of any registrant by local boards, appeal boards, or the President, except as a defense to a criminal prosecution instituted under section 12 of this title [section 462 of this Appendix], after the registrant has responded either affirmatively or negatively to an order to report for induction or for civilian work in the case of a registrant determined to be opposed to participation in war in any form: *Provided*, That such review shall go to the question of the jurisdiction herein reserved to local boards, appeal boards, and the President only when there is no basis in fact for the classification assigned to such registrant. No person who is a civilian officer, member, agent, or employee of the Office of Selective Service Records or the Selective Service System, or of any local board or appeal board or other agency of such Officer or system, shall be excepted from registration or deferred or exempted from training and service, as provided for in this title [said sections], by reason of his status as such civilian officer, member, agent, or employee.

(4) To appoint, and to fix, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, the basic pay of such officers, agents, and employees as he may deem necessary to carry out the provisions of this title [sections 451 to 471a of this Appendix], however, any officer of the armed forces or any officer or employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out the provisions of this title [said sections] (except to offices or positions on local boards or appeal boards established or created pursuant to section 10(b)(3) [subsection (b)(3) of this section]) may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer in the armed forces or as such officer or employee in any department or agency of the United States.

(5) To utilize the services of any or all departments and any and all officers or agents of the United States, and to accept the services of all officers and agents of the several States, Territories, and possessions, and subdivisions thereof, and the District of Columbia, and of private welfare organizations, in the execution of this title [sections 451 to 471a of this Appendix].

(6) To purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended [44 U.S.C. 504], and to obtain by purchase, loan, or gift such equipment and supplies for the Selective Service System, as he may deem necessary to carry out the provisions of this title [sections 451 to 471a of this Appendix], with or without advertising or formal contract.

(7) To prescribe eligibility, rules, and regulations governing the release for service in the armed forces, or for any other special service established pursuant to this title [sections 451 to 471a of this Appendix], of any person convicted of a violation of any of the provisions of this title [said sections].

(8) Subject to the availability of funds appropriated for such purpose, to procure such space as he may deem necessary to carry out the provisions of this title [sections 451 to 471a of this Appendix] and the Act of March 31, 1947 (50 U.S.C. App. 321 et seq.).

(9) Subject to the availability of funds appropriated for such purposes, to determine the location of such additional temporary installations as he may deem essential; to utilize and enlarge such existing installations; to construct, install, and equip, and to complete the construction, installation, and equipment of such buildings, structures, utilities, and appurtenances (including the necessary grading and removal, repair or remodeling of existing structures and installations), as may be necessary to carry out the provisions of this title [sections 451 to 471a of this Appendix]; and, in order to accomplish the purpose of this title [said sections], to acquire lands, and rights pertaining thereto, or other interests therein, for temporary use thereof, by donation or lease, and to prosecute construction thereon prior to the approval of the title [said sections] by the Attorney General as required by sections 3111 and 3112 of title 40.

(10) Subject to the availability of funds appropriated for such purposes, to utilize, in order to provide and furnish such services as may be deemed necessary or expedient to accomplish the purposes of this title [sections 451 to 471a of this Appendix], such personnel of the armed forces and of Reserve components thereof with their consent, and such civilian personnel, as may be necessary. For the purposes of this title [said sections], the provisions of section 14 of the Federal Employees' Pay Act of 1946 (Public Law 390, Seventy-ninth Congress) with respect to the maximum limitations as to the number of civilian employees shall not be applicable to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) Delegation of President's authority

The President is authorized to delegate any authority vested in him under this title [sections 451 to 471a of this Appendix], and to provide for the subdelegation of any such authority.

(d) Acceptance of gifts and voluntary services

In the administration of this title [sections 451 to 471a of this Appendix], gifts of supplies, equipment, and voluntary services may be accepted.

(e) Assignment of armed forces personnel

The total number of armed forces personnel assigned to the Selective Service System under

subsection (b)(2) at any time may not be less than the number of such personnel determined by the Director of Selective Service to be necessary, but not to exceed 745 persons, except that the President may assign additional armed forces personnel to the Selective Service System during a time of war or a national emergency declared by Congress or the President.

(f) Settlement of travel claims, etc.

The Director is authorized to make final settlement of individual claims, for amounts not exceeding $500, for travel and other expenses of uncompensated personnel of the Office of Selective Service Records, or the Selective Service System, incurred while in the performance of official duties, without regard to other provisions of law governing the travel of civilian employees of the Federal Government.

(g) Reports to Congress

The Director of Selective Service shall submit to the Congress annually a written report covering the operation of the Selective Service System and such report shall include, by States, information as to the number of persons registered under this Act; the number of persons inducted in to the military service under this Act; and the number of deferments granted under this Act and the basis for such deferments; and such other specific kinds of information as the Congress may from time to time request.

(h) Maintenance of System after institution of all volunteer program for meeting manpower needs

The Selective Service system[1] shall be maintained as an active standby organization, with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency (including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces), and (2) personnel adequate to reinstitute immediately the full operation of the System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency.

(June 24, 1948, ch. 625, title I, § 10, 62 Stat. 618; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; June 30, 1950, ch. 445, § 3, 64 Stat. 319; Sept. 27, 1950, ch. 1059, § 3(b), 64 Stat. 1074; June 19, 1951, ch. 144, title I, § 1(u), 65 Stat. 87; Pub. L. 90–40, § 1(8)–(10), June 30, 1967, 81 Stat. 104, 105; Pub. L. 92–129, title I, § 101(a)(24)–(29), Sept. 28, 1971, 85 Stat. 351, 352; Pub. L. 93–176, § 3, Dec. 5, 1973, 87 Stat. 693; Pub. L. 96–513, title V, § 507(d), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 97–60, title II, § 208, Oct. 14, 1981, 95 Stat. 1008; Pub. L. 98–473, title II, § 234, Oct. 12, 1984, 98 Stat. 2031; Pub. L. 100–180, div. A, title VII, § 715, Dec. 4, 1987, 101 Stat. 1113; Pub. L. 102–190, div. A, title X, § 1091, Dec. 5, 1991, 105 Stat. 1486; Pub. L. 104–201, div. A, title IV, § 414, Sept. 23, 1996, 110 Stat. 2508; Pub. L. 107–314, div. A, title X, § 1062(*o*)(2), Dec. 2, 2002, 116 Stat. 2652.)

[1] So in original. Probably should be capitalized.

REFERENCES IN TEXT

Section 14 of the Federal Employees' Pay Act of 1946 (Public Law 390, Seventy-ninth Congress), referred to in subsec. (b)(10), means section 14 of act May 24, 1946, ch. 270, 60 Stat. 219, which amended section 947 of former Title 5, Executive Departments and Government Officers and Employees, and which was repealed by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843.

This Act, referred to in subsec. (g), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

CODIFICATION

In subsec. (b)(9), ''sections 3111 and 3112 of title 40'' substituted for ''section 355, Revised Statutes, as amended'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2002—Subsec. (b)(8). Pub. L. 107–314 substituted ''the Act of March 31, 1947 (50 U.S.C. App. 321 et seq.)'' for ''Public Law 26, Eightieth Congress, approved March 31, 1947, by lease pursuant to existing statutes, except that the provisions of the Act of June 30, 1932 (47 Stat. 412), as amended by section 15 of the Act of March 3, 1933 (47 Stat. 1517), shall not apply to any lease entered into under the authority of this title''.

1996—Subsec. (b). Pub. L. 104–201, § 414(b)(1), substituted ''authorized to undertake the following:'' for ''authorized—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–201, § 414(b)(2), (4), substituted ''To'' for ''to'' at beginning and a period for a semicolon at end.

Subsec. (b)(2). Pub. L. 104–201, § 414(a)(1), (b)(2), (4), substituted ''To'' for ''to'' at beginning, inserted '', subject to subsection (e),'' after ''to employ such number of civilians, and'', and substituted a period for a semicolon at end.

Subsec. (b)(3) to (7). Pub. L. 104–201, § 414(b)(2), (4), substituted ''To'' for ''to'' at beginning and a period for a semicolon at end.

Subsec. (b)(8), (9). Pub. L. 104–201, § 414(b)(3), (4), substituted ''Subject'' for ''subject'' at beginning and a period for a semicolon at end.

Subsec. (b)(10). Pub. L. 104–201, § 414(b)(3), substituted ''Subject'' for ''subject'' at beginning.

Subsec. (e). Pub. L. 104–201, § 414(a)(2), added subsec. (e).

1991—Subsec. (b)(2). Pub. L. 102–190, § 1091(1), struck out ''without the approval of the Director'' after ''local government''.

Subsec. (g). Pub. L. 102–190, § 1091(2), substituted ''annually'' for ''semiannually''.

1987—Subsec. (h). Pub. L. 100–180 substituted ''The Selective Service system shall'' for ''If at any time calls under this section for the induction of persons for training and service in the Armed Forces are discontinued because the Armed Forces are placed on an all volunteer basis for meeting their active duty manpower needs, the Selective Service System, as it is constituted on the date of the enactment of this subsection [Sept. 28, 1971], shall, nevertheless,'' and directed the insertion of ''(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)'' after ''national emergency'', which was inserted in cl. (1) as the probable intent of Congress.

1984—Subsec. (b)(7). Pub. L. 98–473 substituted ''release'' for ''parole''.

1981—Subsec. (b)(3). Pub. L. 97–60 struck out provision that had prohibited service on local boards or appeal boards by persons who had attained the age of 65.

1980—Subsec. (b)(4). Pub. L. 96–513 substituted ''however, any officer of the armed forces'' for ''however, any

officer on the active or retired list of the armed forces, or any reserve component thereof with his consent,'' and struck out ''or reserve component thereof,'' after ''without loss of or prejudice to his status as such officer in the armed forces''.

1973—Subsec. (b)(4). Pub. L. 93–176 substituted ''the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, the basic pay'' for ''the Classification Act of 1949, the compensation'' and struck out provisos that compensation of employees of local boards and appeal boards may be fixed without regard to Classification Act of 1949, that employees of local boards having supervisory duties with respect to other employees of one or more local boards be designated as the executive secretary of the local board or boards, and that the term of employment of executive secretaries not exceed ten years except when reappointed.

1971—Subsec. (a)(3). Pub. L. 92–129, §101(a)(24), struck out provisions setting compensation of Director.

Subsec. (b)(2). Pub. L. 92–129, §101(a)(25), inserted proviso that no State director shall serve concurrently in an elected or appointed position of a State or local government without the approval of the Director.

Subsec. (b)(3). Pub. L. 92–129, §101(a)(26), inserted provisions requiring that local boards and their staffs perform their duties only within the counties or political subdivisions for which they are established with special provisions for intercounty boards and the collocation or multiple use of staffs with executive approval, provided for board membership proportionately representative of the area served, reduced the maximums applicable to board members from 75 years of age or 25 years of service on the board to 65 years of age or 20 years of service respectively, and authorized local boards to include among their members any citizens otherwise qualified under Presidential regulations provided they are at least 18 years of age.

Subsec. (e). Pub. L. 92–129, §101(a)(27), struck out subsec. (e) which authorized Chief of Finance of the United States Army to act as the fiscal, disbursing, and accounting agent of Director.

Subsec. (f). Pub. L. 92–129, §101(a)(28), substituted ''$500'' for ''$50''.

Subsec. (h). Pub. L. 92–129, §101(a)(29), added subsec. (h).

1967—Subsec. (b)(3). Pub. L. 90–40, §1(8), prohibited disqualification of members of armed forces reserve components from serving as counselors to registrants, including services as government appeal agents, merely because of such membership in the reserve, set 25 years as maximum length of service on local and appeal boards and 75 years as age after attainment of which members may not serve, prohibited discrimination as to service on boards because of sex, with new limitations on age and sex to be implemented not later than January 1, 1968, and prohibited judicial review of classification or processing of registrants except as a defense to a criminal prosecution instituted under section 462 of this Appendix, and then only after registrant has responded either affirmatively or negatively to an order to report for induction or for civilian work and to question of jurisdiction reserved to local boards, appeal boards, and President only when there is no basis in fact for classification.

Subsec. (b)(4). Pub. L. 90–40, §1(9), provided for designation of a local board employee having supervisory duties with respect to other employees of one or more local boards as ''executive secretary'', with such employee to serve in that position for a maximum of ten years except when reappointed.

Subsec. (g). Pub. L. 90–40, §1(10), substituted ''semiannually'' for ''on or before the 3rd day of January of each year,'' as time for submission of Director's written report to Congress, and inserted ''such other specific kinds of information as the Congress may from time to time request'' to enumeration of subjects to be covered by the report.

1951—Subsec. (b)(3). Act June 19, 1951, §1(u)(1), provided for one appeal board in each Federal judicial district in the United States, its territories and possessions, and such necessary panels as the President deems necessary.

Subsec. (g). Act June 19, 1951, §1(u)(2), added subsec. (g).

1950—Subsec. (b)(3). Act Sept. 27, 1950, inserted '', or separate panels thereof each consisting of three or more members'' after ''Such local boards'' in sixth sentence.

Subsec. (b)(4). Act June 30, 1950, struck out comma between ''the compensation of'' and ''such officers''.

1949—Subsec. (b)(4). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4 of Pub. L. 93–176 provided that: ''This Act [amending this section and section 5102 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section] shall take effect not later than the beginning of the first pay period which begins on or after the ninetieth day following the date of the enactment of this Act [Dec. 5, 1973].''

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Director of Selective Service, see Parts 1, 2, and 23 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

COMPENSATION INCREASES FOR EMPLOYEES OF LOCAL OR APPEAL BOARDS

Section 2 of Pub. L. 93–176 provided that: ''The rate of basic pay of each employee in a position under a local board or appeal board of the Selective Service System on and immediately prior to the effective date of this Act [designated as a date not later than the beginning of the first pay period which begins on or after the 90th day following Dec. 5, 1973] shall be adjusted, as of such effective date, under the provisions of section 5334(d) of title 5, United States Code.''

Act June 5, 1952, ch. 369, Ch. VII, §701, 66 Stat. 109, authorized increases in the rate of compensation of any employees of local or appeal boards effective as of the first day of the first pay period which began after June 30, 1951 and within ninety days from June 5, 1952, pursuant to the authority contained in section 460 of this Appendix.

COMPENSATION OF DIRECTOR OF SELECTIVE SERVICE

Compensation of Director, see section 5315 of Title 5, Government Organization and Employees.

EX. ORD. NO. 10271. DELEGATION OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 10271, July 7, 1951, 16 F.R. 6659, set out as a note under section 471 of this Appendix, delegates to the Secretary of Defense the President's authority to

order members and units of Reserve components into active Federal service.

EX. ORD. NO. 11623. DELEGATION OF AUTHORITY TO ISSUE RULES AND REGULATIONS TO DIRECTOR OF SELECTIVE SERVICE

Ex. Ord. No. 11623, Oct. 12, 1971, 36 F.R. 19963, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 13286, § 60, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 *et seq.*, hereinafter referred to as the Act), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Director of Selective Service (hereinafter referred to as the Director) is authorized to prescribe the necessary rules and regulations to carry out the provisions of the Act. Regulations heretofore issued by the President to carry out such provisions shall continue in effect until amended or revoked by the Director pursuant to the authority conferred by this Order.

SEC. 2. (a) In carrying out the provisions of this Order, the Director shall cause any rule or regulation which he proposes to issue hereunder to be published in the FEDERAL REGISTER as required by section 13(b) of the Act [section 463(b) of this Appendix]. Prior to such publication, the Director shall request the views of the Secretary of Defense, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Homeland Security (when the Coast Guard is serving under the Department of Homeland Security), the Director of the Office of Emergency Preparedness, and the Chairman of the National Selective Service Appeal Board with regard to such proposed rule or regulation, and shall allow not less than 10 days for the submission of such views before publication of the proposed rule or regulation.

(b) Any proposed rule or regulation as published by the Director shall be furnished to the officials required to be consulted pursuant to subsection (a). The Director may (not less than 30 days after publication in the FEDERAL REGISTER) issue such rule or regulation as published unless, within 10 days after being furnished with the proposed rule or regulation as published, any such official shall notify the Director that he disagrees therewith and requests that the matter be referred to the President for decision.

(c) Any rule or regulation issued by the Director pursuant to this Order shall be published in the FEDERAL REGISTER with (1) a statement reciting compliance with the prepublication requirement of section 13(b) of the Act [section 463(b) of this Appendix], and (2) either (i) approval of such rule or regulation by the President, or (ii) a certification of the Director that he has requested the views of the officials required to be consulted pursuant to subsection (a) and that none of them has timely requested that the matter be referred to the President for decision. Such rule or regulation shall be effective upon such publication in the FEDERAL REGISTER or on such later date as may be specified therein.

SEC. 3. Nothing in this Order shall be deemed to (i) authorize the exercise by the Director of the President's authority to waive the requirements of section 13(b) of the Act [section 463(b) of this Appendix], or (ii) derogate from the authority of the President himself to waive the requirements of such section 13(b), or (iii) derogate from the authority of the President himself to issue such rules or regulations as he may deem necessary to carry out the provisions of the Act.

§ 461. Emergency medical care

Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title [sections 451 to 471a of this Appendix] shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation and burial of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title [said sections], but such burial expenses shall not exceed the maximum that the Secretary of Veterans Affairs may pay under the provisions of section 2302(a) of title 38, United States Code, in any one case.

(June 24, 1948, ch. 625, title I, § 11, 62 Stat. 621; Pub. L. 92–129, title I, § 101(a)(30), Sept. 28, 1971, 85 Stat. 352; Pub. L. 102–54, § 13(t), June 13, 1991, 105 Stat. 282; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 substituted ''section 2302(a) of title 38'' for ''section 902(a) of title 38''.

Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1971—Pub. L. 92–129 substituted ''the maximum that the Administrator of Veterans' Affairs may pay under the provisions of section 902(a) of title 38, United States Code'' for ''$150''.

§ 462. Offenses and penalties

(a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title [sections 451 to 471a of this Appendix], or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said title [said sections], rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making, of any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title [said sections], or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this title [said sections], or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title [said sections], or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title [said sections], or rules, regulations, or directions made pursuant to this title [said sections], or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title [said sections] or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than $10,000, or

by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title [said sections] unless such person has been actually inducted for the training and service prescribed under this title [said sections] or unless he is subject to trial by court martial under laws in force prior to the enactment of this title [June 24, 1948].

(b) Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title [sections 451 to 471a of this Appendix], or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, knowingly destroys, knowingly mutilates, or in any manner changes any such certificate or any notation duly and validly inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this title [said sections], or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any of the provisions of this title [said sections] or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed $10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.

(c) The Department of Justice shall proceed as expeditiously as possible with a prosecution under this section, or with an appeal, upon the request of the Director of Selective Service System or shall advise the House of Representatives and the Senate in writing the reasons for its failure to do so.

(d) No person shall be prosecuted, tried, or punished for evading, neglecting, or refusing to perform the duty of registering imposed by section 3 of this title [section 453 of this Appendix] unless the indictment is found within five years next after the last day before such person attains the age of twenty-six, or within five years next after the last day before such person does perform his duty to register, whichever shall first occur.

(e) The President may require the Secretary of Health and Human Services to furnish to the Director, from records available to the Secretary, the following information with respect to individuals who are members of any group of individuals required by a proclamation of the President under section 3 [section 453 of this Appendix] to present themselves for and submit to registration under such section: name, date of birth, social security account number, and address. Information furnished to the Director by the Secretary under this subsection shall be used only for the purpose of the enforcement of this Act.

(f)(1) Except as provided in subsection (g), any person who is required under section 3 [section 453 of this Appendix] to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.].

(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]), a person who is required under section 3 [section 453 of this Appendix] to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] for failure to meet the registration requirements of section 3 [section 453 of this Appendix] and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.

(g) A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3 [section 453 of this Appendix] if—

(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

(2) the person shows by a preponderance of the evidence that the failure of the person to

register was not a knowing and willful failure to register.

(June 24, 1948, ch. 625, title I, § 12, 62 Stat. 622; Pub. L. 89–152, Aug. 30, 1965, 79 Stat. 586; Pub. L. 90–40, § 1(11), June 30, 1967, 81 Stat. 105; Pub. L. 92–129, title I, § 101(a)(31), Sept. 28, 1971, 85 Stat. 352; Pub. L. 97–86, title IX, § 916(b), Dec. 1, 1981, 95 Stat. 1129; Pub. L. 97–252, title XI, § 1113(a), Sept. 8, 1982, 96 Stat. 748; Pub. L. 98–620, title IV, § 402(54), Nov. 8, 1984, 98 Stat. 3361; Pub. L. 99–661, div. A, title XIII, § 1366, Nov. 14, 1986, 100 Stat. 4002.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Higher Education Act of 1965 is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

1986—Subsec. (f)(1). Pub. L. 99–661, § 1366(1), substituted ''Except as provided in subsection (g), any person'' for ''Any person''.

Subsec. (g). Pub. L. 99–661, § 1366(2), added subsec. (g).

1984—Subsec. (a). Pub. L. 98–620 struck out sentence at end requiring that precedence be given by courts to the trial of cases arising under sections 451 to 471a of this Appendix, and that such cases had to be advanced on the docket for immediate hearing, and that an appeal from the decision or decree of any United States district court or United States court of appeals would take precedence over all other cases pending before the court to which the case had been referred.

1982—Subsec. (f). Pub. L. 97–252 added subsec. (f).

1981—Subsec. (e). Pub. L. 97–86 added subsec. (e).

1971—Subsec. (d). Pub. L. 92–129 added subsec. (d).

1967—Subsec. (a). Pub. L. 90–40, § 1(11)(a), struck out requirement that a request of the Attorney General precede the granting of precedence to the trial of cases arising under this title and inserted provision that appeals from a decision or decree of any United States District Court or United States Court of Appeals take precedence over all other cases pending before the court to which the case has been referred.

Subsec. (c). Pub. L. 90–40, § 1(11)(b), added subsec. (c).

1965—Subsec. (b)(3). Pub. L. 89–152 prohibited a person from knowingly destroying or knowingly mutilating any registration certificate or other prescribed certificate.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 1113(b) of Pub. L. 97–252 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to loans, grants, or work assistance under title IV of the Higher Education Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] for periods of instruction beginning after June 30, 1983.''

STUDY ON COMPLIANCE OF HEALTH PROFESSIONS SCHOOLS WITH MILITARY SELECTIVE SERVICE ACT

Pub. L. 99–129, title II, § 222, Oct. 22, 1985, 99 Stat. 544, directed Secretary of Health and Human Services, in cooperation with Director of Selective Service, to conduct a study to determine if health professions schools are engaged in a pattern or practice of failure to comply with section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)) (or regulations issued under such section) or are engaged in a pattern or practice of providing loans or work assistance to persons who are required to register under section 3 of such Act [50 U.S.C. App. 453] (and any proclamation of the President and regulations prescribed under that section) and have not so registered with Secretary and to complete the study and report its results to Congress not later than one year after Oct. 22, 1985.

ADVERTISING PROHIBITION ON SPECIAL DISCHARGE REVIEW PROGRAM

Pub. L. 95–79, title VIII, § 810, July 30, 1977, 91 Stat. 335, prohibited the use of funds authorized or appropriated under this or any other Act to purchase advertising of the special discharge review program.

PROC. NO. 4313. PROGRAM FOR RETURN OF VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

Proc. No. 4313, Sept. 16, 1974, 39 F.R. 33293, 88 Stat. 2504, as amended by Proc. No. 4345, Jan. 30, 1975, 40 F.R. 4893, 89 Stat. 1236; Proc. No. 4353, Feb. 28, 1975, 40 F.R. 8931, 10433, 89 Stat. 1246, provided:

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen—convicted, charged, investigated or still sought for violations of the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] or of the Uniform Code of Military Justice [10 U.S.C. 801 et seq.]—remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgment of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. *Draft Evaders*—An individual who allegedly unlawfully failed under the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report for or submit to, or complete service under section 6(j) of such Act [section 456(j) of this Appendix] during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

(i) presents himself to a United States Attorney before March 31, 1975,

(ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and

(iii) satisfactorily completes such service.

The alternate service shall promote the national health, safety, or interest. No draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

However, this program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. *Military Deserters*—A member of the armed forces who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, inclusive, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice [10 U.S.C. 885, 886, 887] for such absence and for offenses directly related thereto if before March 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he absented himself or for members of the Coast Guard, with the Secretary of Transportation, pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department, or Secretary of Transportation for members of the Coast Guard, because of mitigating circumstances.

However, if a member of the armed forces has additional outstanding charges pending against him under the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

Each member of the armed forces who elects to seek relief through this program will receive an undesirable discharge. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department or Department of Transportation, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. *Presidential Clemency Board*—By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (*i*) those who have been convicted of draft evasion offenses as described above, (*ii*) those who have received a punitive or undesirable discharge from service in the armed forces for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice [10 U.S.C. 885, 886, 887] between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. *Alternate Service*—In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-nineth.

GERALD R. FORD.

PROC. NO. 4483. PARDON FOR VIOLATIONS OF ACT, AUGUST 4, 1964 TO MARCH 28, 1973

Proc. No. 4483, Jan. 21, 1977, 42 F.R. 4391, 91 Stat. 1719, provided:

Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Jimmy Carter, President of the United States, do hereby grant a full, complete and unconditional pardon to: (1) all persons who may have committed any offense between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] or any rule or regulation promulgated thereunder; and (2) all persons heretofore convicted, irrespective of the date of conviction, of any offense committed between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, restoring to them full political, civil and other rights.

This pardon does not apply to the following who are specifically excluded therefrom:

(1) All persons convicted of or who may have committed any offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, involving force or violence; and

(2) All persons convicted of or who may have committed any offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, in connection with duties or responsibilities arising out of employment as agents, officers or employees of the Military Selective Service system.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and first.

JIMMY CARTER.

EX. ORD. NO. 11803. CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS AND DISCHARGES

Ex. Ord. No. 11803, Sept. 16, 1974, 39 F.R. 33297, as amended by Ex. Ord. No. 11837, Jan. 30, 1975, 40 F.R. 4895; Ex. Ord. No. 11842, Feb. 28, 1975, 40 F.R. 8935; Ex. Ord. No. 11857, May 7, 1975, 40 F.R. 20261; Ex. Ord. No. 11878, Sept. 10, 1975, 40 F.R. 42731, provided:

By virtue of the authority vested in me as President of the United States by Section 2 of Article II of the Constitution of the United States, and in the interest of the internal management of the Government, it is ordered as follows:

SECTION 1. There is hereby established in the Executive Office of the President a board of 9 members, which shall be known as the Presidential Clemency Board. The members of the Board shall be appointed by the President, who shall also designate its Chairman. The President may appoint such additional members to the board as he shall from time to time determine to be necessary to carry out its functions.

SEC. 2. The Board, under such regulations as it may prescribe, shall examine the cases of persons who apply for Executive clemency prior to March 31, 1975, and who (i) have been convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. §462) [this section and section 456(j) of this Appendix], or of any rule or regulation promulgated pursuant to that

section, for acts committed between August 4, 1964 and March 28, 1973, inclusive, or (ii) have received punitive or undesirable discharges as a consequence of violations of Articles 85, 86 or 87 of the Uniform Code of Military Justice (10 U.S.C. §§ 885, 886, 887) that occurred between August 4, 1964 and March 28, 1973, inclusive, or are serving sentences of confinement for such violations. The Board will only consider the cases of Military Selective Service Act violators who were convicted of unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of their current address, (iii) to report for or submit to preinduction or induction examination, (iv) to report for or submit to induction itself, or (v) to report for or submit to, or complete service under Section 6(j) of such Act [section 456(j) of this Appendix]. However, the Board will not consider the cases of individuals who are precluded from reentering the United States under [former] 8 U.S.C. 182(a)(22) or other law.

SEC. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge. Determination of any period of alternate service shall be in accord with the Proclamation [Proc. No. 4313, set out above] announcing a program for the return of Vietnam era draft evaders and military deserters.

SEC. 4. The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense set forth in section 2 of this order, and who have no outstanding criminal charges.

SEC. 5. Each member of the Board, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Board at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS–18, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

SEC. 6. Necessary expenses of the Board may be paid from the Unanticipated Personnel Needs Fund of the President or from such other funds as may be available.

SEC. 7. Necessary administrative services and support may be provided the Board by the General Services Administration on a reimbursable basis.

SEC. 8. All department and agencies in the Executive branch are authorized and directed to cooperate with the Board in its work, and to furnish the Board all appropriate information and assistance, to the extent permitted by law.

SEC. 9. The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist.

GERALD R. FORD.

EX. ORD. NO. 11804. DELEGATION OF CERTAIN FUNCTIONS OF PRESIDENT TO DIRECTOR OF SELECTIVE SERVICE

Ex. Ord. No. 11804, Sept. 16, 1974, 39 F.R. 33299, provided:

By virtue of the authority vested in me as President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation [set out above] announcing a program for the return of Vietnam era draft evaders and military deserters.

SEC. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.

GERALD R. FORD.

EX. ORD. NO. 11878. ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES OF PRESIDENTIAL CLEMENCY BOARD

Ex. Ord. No. 11878, Sept. 10, 1975, 40 F.R. 42731, provided:

By virtue of the authority vested in me by the Constitution of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 9 of Executive Order No. 11803 of September 16, 1974, as amended [set out above] is amended to read:

"The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist."

SEC. 2. Any applications for Executive clemency, as to which the Presidential Clemency Board (established by Executive Order No. 11803) [set out above] has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

SEC. 3. The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether Executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended [set out above], Proclamation No. 4313 of September 16, 1974, as amended [set out above], Executive Order No. 11804 of September 16, 1974 [set out above], and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive orders.

SEC. 4. The Director of the Office of Management and Budget is hereby designated and empowered to take such action as he deems necessary to ensure the orderly and prompt termination of the activities of the Presidential Clemency Board and the assignment of responsibilities directed by this Order.

SEC. 5. Departments and agencies in the Executive branch shall, to the extent permitted by law, cooperate with and assist the Attorney General, the Director of the Selective Service and the Director of the Office of Management and Budget in the performance of their responsibilities under this Order.

SEC. 6. The responsibilities assigned under this Order are to be completed no later than March 31, 1976, at which time the Attorney General shall submit his final recommendations to the President.

GERALD R. FORD.

EX. ORD. NO. 11967. IMPLEMENTATION OF PARDON FOR VIOLATIONS OF ACT, AUGUST 4, 1964 TO MARCH 28, 1973

Ex. Ord. No. 11967, Jan. 21, 1977, 42 F.R. 4393, provided:

The following actions shall be taken to facilitate Presidential Proclamation of Pardon of January 21, 1977 [set out above]:

1. The Attorney General shall cause to be dismissed with prejudice to the Government all pending indictments for violations of the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] alleged to have occurred between August 4, 1964 and March 28, 1973 with the exception of the following:

(a) Those cases alleging acts of force or violence deemed to be so serious by the Attorney General as to warrant continued prosecution; and

(b) Those cases alleging acts in violation of the Military Selective Service Act by agents, employees or officers of the Selective Service System arising out of such employment.

2. The Attorney General shall terminate all investigations now pending and shall not initiate further investigations alleging violations of the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] between August 4, 1964 and March 28, 1973, with the exception of the following:

(a) Those cases involving allegations of force or violence deemed to be so serious by the Attorney General as to warrant continued investigation, or possible prosecution; and

(b) Those cases alleging acts in violation of the Military Selective Service Act by agents, employees or officers of the Selective Service System arising out of such employment.

3. Any person who is or may be precluded from reentering the United States under [former] 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] shall be permitted as any other alien to reenter the United States.

The Attorney General is directed to exercise his discretion under 8 U.S.C. 1182(d)(5) or other applicable law to permit the reentry of such persons under the same terms and conditions as any other alien.

This shall not include anyone who falls into the exceptions of paragraphs 1(a) and (b) and 2(a) and (b) above.

4. Any individual offered conditional clemency or granted a pardon or other clemency under Executive Order 11803 [set out above] or Presidential Proclamation 4313, dated September 16, 1974 [set out above], shall receive the full measure of relief afforded by this program if they are otherwise qualified under the terms of this Executive Order.

JIMMY CARTER.

§463. Nonapplicability of certain laws

(a) Nothing in sections 203, 205, or 207 of title 18 of the United States Code, or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled ''An Act to prevent pernicious political activities'', as amended, shall be deemed to apply to any person because of his appointment under authority of this title [sections 451 to 471a of this Appendix] or the regulations made pursuant thereto as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections, or as a member of the National Selective Service Appeal Board.

(b) All functions performed under this title [sections 451 to 471a of this Appendix] shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [5 U.S.C. 551 et seq. and 701 et seq.] except as to the requirements of section 3 of such Act [5 U.S.C. 552]. Notwithstanding the foregoing sentence, no regulation issued under this Act shall become effective until the expiration of thirty days following the date on which such regulation has been published in the Federal Register. After the publication of any regulation and prior to the date on which such regulation becomes effective, any person shall be given an opportunity to submit his views to the Director on such regulation, but no formal hearing shall be required on any such regulation. The requirements of this subsection may be waived by the President in the case of any regulation if he (1) determines that compliance with such requirements would materially impair the national defense, and (2) gives public notice to that effect at the time such regulation is issued.

(c) In computing the lump-sum payments made to Air Force reserve officers under the provisions of section 2 of the Act of June 16, 1936, as amended and to reserve officers of the Navy or to their beneficiaries under section 12 of the Act of August 4, 1942, as amended, no credit shall be allowed for any period of active service performed from the effective date of this title [June 24, 1948] to the date on which this title [sections 451 to 471a of this Appendix] shall cease to be effective. Each such lumpsum payment shall be prorated for a fractional part of a year of active service in the case of any reserve officer subject to the provisions of either such section, if such reserve officer performs continuous active service for one or more years (inclusive of such service performed during the period in which this title [said sections] is effective) and such active service includes a fractional part of a year immediately prior to the effective date of this title [June 24, 1948], or immediately following the date on which this title [said sections] shall cease to be effective, or both.

(June 24, 1948, ch. 625, title I, §13, 62 Stat. 623; June 19, 1951, ch. 144, title I, §1(t), 65 Stat. 87; Pub. L. 88–110, §6, Sept. 3, 1963, 77 Stat. 136; Pub. L. 92–129, title I, §101(a)(32), Sept. 28, 1971, 85 Stat. 353.)

REFERENCES IN TEXT

The second sentence of subsection (a) of section 9 of the Act of August 2, 1939, referred to in subsec. (a), was classified to section 118i(a) of former Title 5 and was repealed by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, and reenacted as section 7324(a)(2) of Title 5, Government Organization and Employees. Section 7324 of Title 5 was omitted and a new section 7324 enacted in the general amendment of subchapter III of chapter 73 of Title 5 by Pub. L. 103–94, §2(a), Oct. 6, 1993, 107 Stat. 1001. See section 7323(b)(2)(A) of Title 5.

The Administrative Procedure Act, referred to in subsec. (b), is act June 11, 1946, ch. 324, 60 Stat. 237, as amended, which was classified to sections 1001 to 1011 of former Title 5 and which was repealed by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, and reenacted as subchapter II (§551 et seq.) of chapter 5, and chapter 7 (§701 et seq.), of Title 5, Government Organization and Employees.

This Act, referred to in subsec. (b), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

Section 2 of the Act of June 16, 1936, as amended, referred to in subsec. (c), is section 2 of act June 16, 1936, ch. 587, 49 Stat. 1524, as amended Apr. 3, 1939, ch. 35, §11, 53 Stat. 559; June 3, 1941, ch. 165, §6, 55 Stat. 240; July 25, 1947, ch. 323, 61 Stat. 424; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501, which is not classified to the Code.

Section 12 of the Act of August 4, 1942, as amended, referred to in subsec. (c), is section 12 of act Aug. 4, 1942, ch. 547, 56 Stat. 738, as amended Oct. 25, 1943, ch. 275, §1, 57 Stat. 574; July 25, 1947, ch. 323, 61 Stat. 424, which is not classified to the Code.

Date on which this title shall cease to be effective, referred to in subsec. (c), is defined in section 467 of this Appendix.

AMENDMENTS

1971—Subsec. (b). Pub. L. 92–129 inserted provisions covering the publication of regulations in the Federal Register.

1963—Subsec. (a). Pub. L. 88–110 substituted ''sections 203, 205, or 207 of title 18 of the United States Code'' for ''sections 281, 283, or 284 of title 18 of the United States Code, in section 190 of the Revised Statutes (U.S.C., title 5, sec. 99)''.

1951—Subsec. (a). Act June 19, 1951, brought within its provisions members of the National Selective Service Appeal Board.

§ 464. Repealed. Pub. L. 108–189, § 2(a), Dec. 19, 2003, 117 Stat. 2865

Section, acts June 24, 1948, ch. 625, title I, § 14, 62 Stat. 623; Sept. 27, 1950, ch. 1059, § 1(11), 64 Stat. 1074, provided that the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, was applicable to all persons in the United States armed forces.

§ 465. Notice of requirements of Act; voluntary enlistments unaffected

(a) Every person shall be deemed to have notice of the requirements of this title [sections 451 to 471a of this Appendix] upon publication by the President of a proclamation or other public notice fixing a time for any registration under section 3 [section 453 of this Appendix].

(b) It shall be the duty of every registrant to keep his local board informed as to his current address and changes in status as required by such rules and regulations as may be prescribed by the President.

(c) If any provision of this title [sections 451 to 471a of this Appendix], or the application thereof to any person or circumstance, is held invalid, the remainder of the title [said sections], and the application of such provision to other persons or circumstances, shall not be affected thereby.

(d) Except as provided in section 4(c) [section 454(c) of this Appendix], nothing contained in this title [sections 451 to 471a of this Appendix] shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the Armed Forces of the United States, including the reserve components thereof, except that no person shall be accepted for enlistment after he has been issued an order to report for induction unless authorized by the Director and the Secretary of Defense and except that, whenever the Congress or the President has declared that the national interest is imperiled, voluntary enlistment or reenlistment in such forces, and their reserve components, may be suspended by the President to such extent as he may deem necessary in the interest of national defense.

(e) In order to assist the Armed Forces in recruiting individuals for voluntary service in the Armed Forces, the Director shall, upon the request of the Secretary of Defense or the Secretary of Homeland Security, furnish to the Secretary the names and addresses of individuals registered under this Act. Names and addresses furnished pursuant to the preceding sentence may be used by the Secretary of Defense or Secretary of Homeland Security only for recruiting purposes.

(June 24, 1948, ch. 625, title I, § 15, 62 Stat. 624; Pub. L. 92–129, title I, § 101(a)(33), Sept. 28, 1971, 85 Stat. 353; Pub. L. 97–86, title IX, § 916(c), Dec. 1, 1981, 95 Stat. 1129; Pub. L. 107–296, title XVII, § 1704(e)(11)(E), Nov. 25, 2002, 116 Stat. 2316.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in two places.

1981—Subsec. (e). Pub. L. 97–86 added subsec. (e).

1971—Subsec. (d). Pub. L. 92–129 inserted provision empowering the Director and the Secretary of Defense to authorize voluntary enlistments and reenlistments in the Armed Forces after a person has been issued an order to report for induction and struck out reference to section 454(g) of this Appendix.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 466. Definitions

When used in this title [sections 451 to 471a of this Appendix]—

(a) The term ''between the ages of eighteen and twenty-six'' shall refer to men who have attained the eighteenth anniversary of the day of their birth and who have not attained the twenty-sixth anniversary of the day of their birth; and other terms designating different age groups shall be construed in a similar manner.

(b) The term ''United States'', when used in a geographical sense, shall be deemed to mean the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(c) The term ''armed forces'' shall be deemed to include the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard.

(d) The term ''district court of the United States'' shall be deemed to include the courts of the United States for the Territories and possessions of the United States.

(e) The term ''local board'' shall be deemed to include an intercounty local board in the case of any registrant who is subject to the jurisdiction of an intercounty local board.

(f) The term ''Director'' shall be deemed to mean the Director of the Selective Service System.

(g)(1) The term ''duly ordained minister of religion'' means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(2) The term ''regular minister of religion'' means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term ''regular or duly ordained minister of religion'' does not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship as embodied in the creed or principles of his church, sect, or organization.

(h) The term ''organized unit'', when used with respect to a reserve component, shall be deemed to mean a unit in which the members thereof are required satisfactorily to participate in scheduled drills and training periods as prescribed by the Secretary of Defense.

(i) The term ''reserve components of the armed forces'' shall, unless the context otherwise requires, be deemed to include the federally recognized National Guard of the United States, the federally recognized Air National Guard of the United States, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Navy Reserve, the Marine Corps Reserve, and the Coast Guard Reserve, and shall include, in addition to the foregoing, the Public Health Service Reserve when serving with the armed forces.

(June 24, 1948, ch. 625, title I, §16, 62 Stat. 624; Sept. 27, 1950, ch. 1059, §1(12), (13), 64 Stat. 1074; June 19, 1951, ch. 144, title I, §1(v), 65 Stat. 87; Pub. L. 86–70, §36, June 25, 1959, 73 Stat. 150; Pub. L. 86–624, §39, July 12, 1960, 74 Stat. 422; Pub. L. 92–129, title I, §101(a)(34), Sept. 28, 1971, 85 Stat. 353; Pub. L. 109–163, div. A, title V, §515(g)(3)(B), Jan. 6, 2006, 119 Stat. 3236.)

AMENDMENTS

2006—Subsec. (i). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1971—Subsec. (g)(3). Pub. L. 92–129 inserted ''bona fide'' before ''vocation''.

1960—Subsec. (b). Pub. L. 86–624 struck out ''Hawaii,'' before ''Puerto Rico''.

1959—Subsec. (b). Pub. L. 86–70 struck out ''Alaska,'' after ''District of Columbia,''.

1951—Subsec. (b). Act June 19, 1951, brought ''Guam'' within definition of ''United States''.

1950—Subsec. (c). Act Sept. 27, 1950, §1(12), struck out ''and'' after ''Corps'' and inserted '', and the Coast Guard'' before the period.

Subsec. (i). Act Sept. 27, 1950, §1(13), struck out ''and'' after ''Naval Reserve'' and '', the Coast Guard Reserve'' after ''foregoing'' and inserted ''and the Coast Guard Reserve'' after ''Marine Corps Reserve''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of all other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Coast Guard, and Commandant of Coast Guard, excepted from transfer when Coast Guard is operating as part of Navy under sections 1 and 3 of Title 14, Coast Guard.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

§467. Repeals; appropriations; termination date

(a) Except as provided in this title [sections 451 to 471a of this Appendix] all laws or any parts of laws in conflict with the provisions of the title [said sections] are repealed to the extent of such conflict.

(b) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title [sections 451 to 471a of this Appendix]. All funds appropriated for the administrative expenses of the National Security Training Commission shall be appropriated directly to the Commission and all funds appropriated to pay the expenses of training carried out by the military departments designated by the Commission shall be appropriated directly to the Department of Defense.

(c) Notwithstanding any other provisions of this title [sections 451 to 471a of this Appendix], no person shall be inducted for training and service in the Armed Forces after July 1, 1973, except persons now or hereafter deferred under section 6 of this title [section 456 of this Appendix] after the basis for such deferment ceases to exist.

(June 24, 1948, ch. 625, title I, §17, 62 Stat. 625; June 23, 1950, ch. 351, 64 Stat. 254; June 30, 1950, ch. 445, §1, 64 Stat. 318; June 19, 1951, ch. 144, title I, §1(w), 65 Stat. 87; June 30, 1955, ch. 250, title I, §102, 69 Stat. 224; Pub. L. 86–4, §1, Mar. 23, 1959, 73 Stat. 13; Pub. L. 88–2, §1, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90–40, §1(12), June 30, 1967, 81 Stat. 105; Pub. L. 92–129, title I, §101(a)(35), Sept. 28, 1971, 85 Stat. 353.)

AMENDMENTS

1971—Subsec. (c). Pub. L. 92–129 extended termination date from July 1, 1971, to July 1, 1973.

1967—Subsec. (c). Pub. L. 90–40 extended termination date from July 1, 1967, to July 1, 1971.

1963—Subsec. (c). Pub. L. 88–2 extended termination date from July 1, 1963, to July 1, 1967.

1959—Subsec. (c). Pub. L. 86–4 extended termination date from July 1, 1959, to July 1, 1963.

1955—Subsec. (c). Act June 30, 1955, extended termination date from July 1, 1955, to July 1, 1959.

1951—Act June 19, 1951, amended section generally to provide for repeal of all conflicting laws, to appropriate certain funds directly to the Commission, and to provide for the termination date of July 1, 1955.

1950—Subsec. (b). Acts June 23, 1950 and June 30, 1950, extended period of effectiveness for fifteen days until July 9, 1950, and again from July 9, 1950, to July 9, 1951.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 101(a)(35) of Pub. L. 92–129 provided in part that: ''The amendment made by the preceding sentence [amending this section] shall take effect July 2, 1971.''

TERMINATION OF NATIONAL SECURITY TRAINING COMMISSION

National Security Training Commission expired June 30, 1957, pursuant to a Presidential letter on Mar. 25, 1957, following its own recommendation for its termination.

§ 468. Utilization of industry

(a) Placement of orders; Congressional action: notification of committees of certain proposed payment orders, resolution of disapproval, continuity of session, computation of period; "small business" defined

Whenever the President after consultation with and receiving advice from the National Security Resources Board[1] determines that it is in the interest of the national security for the Government to obtain prompt delivery of any articles or materials the procurement of which has been authorized by the Congress exclusively for the use of the armed forces of the United States, or for the use of the Atomic Energy Commission,[1] he is authorized, through the head of any Government agency, to place with any person operating a plant, mine, or other facility capable of producing such articles or materials an order for such quantity of such articles or materials as the President deems appropriate, except that no order which requires payments thereunder in excess of $25,000,000 shall be placed with any person unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed order and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such order. For purposes of the preceding sentence, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period. Any person with whom an order is placed pursuant to the provisions of this section shall be advised that such order is placed pursuant to the provisions of this section. Under any such program of national procurement, the President shall recognize the valid claim of American small business to participate in such contracts, in such manufactures, and in such distribution of materials, and small business shall be granted a fair share of the orders placed, exclusively for the use of the armed forces or for other Federal agencies now or hereafter designated in this section. For the purposes of this section, a business enterprise shall be determined to be ''small business'' if (1) its position in the trade or industry of which it is a part is not dominant, (2) the number of its employees does not exceed 500, and (3) it is independently owned and operated.

(b) Precedence of Government placed orders

It shall be the duty of any person with whom an order is placed pursuant to the provisions of subsection (a), (1) to give such order such precedence with respect to all other orders (Government or private) theretofore or thereafter placed with such person as the President may prescribe, and (2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible.

(c) Failure to give precedence; Government possession

In case any person with whom an order is placed pursuant to the provisions of subsection (a) of this section refuses or fails—

(1) to give such order such precedence with respect to all other orders (Government or private) theretofore or thereafter placed with such person as the President may have prescribed;

(2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible as determined by the President;

(3) to produce the kind or quality of articles or materials ordered; or

(4) to furnish the quantity, kind, and quality of articles or materials ordered at such price as shall be negotiated between such person and the Government agency concerned; or in the event of failure to negotiate a price, to furnish the quantity, kind, and quality of articles or materials ordered at such price as he may subsequently be determined to be entitled to receive under subsection (d);

the President is authorized to take immediate possession of any plant, mine, or other facility of such person and to operate it, through any Government agency, for the production of such articles or materials as may be required by the Government.

(d) Payment of compensation by United States

Fair and just compensation shall be paid by the United States (1) for any articles or materials furnished pursuant to an order placed under subsection (a) of this section, or (2) as rental for any plant, mine, or other facility of which possession is taken under subsection (c).

(e) Application of Federal and State laws governing employees

Nothing contained in this section shall be deemed to render inapplicable to any plant,

[1] See Transfer of Functions note below.

mine, or facility of which possession is taken pursuant to subsection (c) any State or Federal laws concerning the health, safety, security, or employment standards of employees.

(f) Penalties

Any person, or any officer of any person as defined in this section, who willfully fails or refuses to carry out any duty imposed upon him by subsection (b) of this section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than three years, or by a fine of not more than $50,000, or by both such imprisonment and fine.

(g) "Person" and "Government agency" defined

(1) As used in this section—

(A) The term ''person'' means any individual, firm, company, association, corporation, or other form of business organization.

(B) The term ''Government agency'' means any department, agency, independent establishment, or corporation in the Executive branch of the United States Government.

(2) For the purposes of this section, a plant, mine, or other facility shall be deemed capable of producing any articles or materials if it is then producing or furnishing such articles or materials or if the President after consultation with and receiving advice from the National Security Resources Board determines that it can be readily converted to the production or furnishing of such articles or materials.

(h) Rules and regulations governing steel industry; mandatory

The President is empowered, through the Secretary of Defense, to require all producers of steel in the United States to make available, to individuals, firms, associations, companies, corporations, or organized manufacturing industries having orders for steel products or steel materials required by the armed forces, such percentages of the steel production of such producers, in equal proportion deemed necessary for the expeditious execution of orders for such products or materials. Compliance with such requirement shall be obligatory on all such producers of steel and such requirement shall take precedence over all orders and contracts theretofore placed with such producers. If any such producer of steel or the responsible head or heads thereof refuses to comply with such requirement, the President, through the Secretary of Defense, is authorized to take immediate possession of the plant or plants of such producer and, through the appropriate branch, bureau, or department of the armed forces, to insure compliance with such requirement. Any such producer of steel or the responsible head or heads thereof refusing to comply with such requirement shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than three years and a fine not exceeding $50,000.

(June 24, 1948, ch. 625, title I, §18, 62 Stat. 625; Pub. L. 93–155, title VIII, §807(d), Nov. 16, 1973, 87 Stat. 616; Pub. L. 101–510, div. A, title XIII, §1303(c), Nov. 5, 1990, 104 Stat. 1669.)

AMENDMENTS

1990—Subsec. (h). Pub. L. 101–510 struck out ''(1)'' before ''The President is empowered'' and struck out par. (2) which read as follows: ''The President shall report to the Congress on the final day of each six-month period following the date of enactment of this Act the percentage figure, or if such information is not available, the approximate percentage figure, of the total steel production in the United States required to be made available during such period for the execution of orders for steel products and steel materials required by the armed forces, if such percentage figure is in excess of 10 per centum.''

1973—Subsec. (a). Pub. L. 93–155 provided for notification of Congressional Committees with respect to certain proposed payment orders, Congressional resolution of disapproval, continuity of Congressional session, and computation of period.

TRANSFER OF FUNCTIONS

Functions of Chairman of National Security Resources Board under this section, with respect to being consulted by and furnishing advice to President as required by this section, abolished by Reorg. Plan No. 3 of 1953, §5(a), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out in the Appendix to Title 5, Government Organization and Employees.

National Security Resources Board, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067, set out in the Appendix to Title 5, Government Organization and Employees. For subsequent transfers to Office of Defense Mobilization, Office of Emergency Planning, Office of Emergency Preparedness, and President, see notes set out under section 404 of this title.

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

DELEGATION OF AUTHORITY

For delegation of President's authority under this section with respect to placing of orders for prompt delivery of articles or materials, see section 102 of Ex. Ord. No. 12742, Jan. 8, 1991, 56 F.R. 1079, set out as a note under section 82 of Title 50, War and National Defense.

OBLIGATIONS ENTERED INTO BEFORE NOVEMBER 16, 1973

Amendment by Pub. L. 93–155 not affecting the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to Nov. 16, 1973, see section 807(e) of Pub. L. 93–155, set out as a note under section 2307 of Title 10, Armed Forces.

§469. Savings provision

Nothing in this title [sections 451 to 471a of this Appendix] shall be deemed to amend any provision of the National Security Act of 1947 (61 Stat. 495).

(June 24, 1948, ch. 625, title I, §19, 62 Stat. 627.)

REFERENCES IN TEXT

The National Security Act of 1947 (61 Stat. 495), referred to in text, is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50, War and National Defense, and Tables.

§470. Effective date

This title [sections 451 to 471a of this Appendix] shall become effective immediately; except that unless the President, or the Congress by concurrent resolution, declares a national emergency after the date of enactment of this Act [June 24, 1948], no person shall be inducted or or-

dered into active service without his consent under this title [said sections] within ninety days after the date of its enactment.

(June 24, 1948, ch. 625, title I, § 20, 62 Stat. 627; Sept. 27, 1950, ch. 1059, § 1(14), 64 Stat. 1074; Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.)

AMENDMENTS

1956—Act Aug. 10, 1956, repealed provisions requiring the Secretaries of the Army, Navy, and the Treasury to initiate and carry forward intensified voluntary enlistment campaigns for the Army, Air Force, Navy, Marine Corps, and the Coast Guard, which provisions are now covered by sections 3255 and 5531 of Title 10, Armed Forces, and section 350 of Title 14, Coast Guard.

1950—Act Sept. 27, 1950, struck out ''and'' after ''Air Force'' and inserted ''and the Secretary of the Treasury, for the Coast Guard'' after ''Marine Corps''.

§ 471. Authority of President to order Reserve components to active service; release from active duty; retention of unit organizations and equipment

Until July 1, 1953, and subject to the limitations imposed by section 2 of the Selective Service Act of 1948, as amended [section 452 of this Appendix], the President shall be authorized to order into the active military or naval service of the United States for a period of not to exceed twenty-four consecutive months, with or without their consent, any or all members and units of any or all Reserve components of the Armed Forces of the United States and retired personnel of the Regular Armed Forces. Unless he is sooner released under regulations prescribed by the Secretary of the military department concerned, any member of the inactive or volunteer reserve who served on active duty for a period of 12 months or more in any branch of the Armed Forces between the period December 7, 1941, and September 2, 1945, inclusive, who is now or may hereafter be ordered to active duty pursuant to this section, shall upon completion of 17 or more months of active duty since June 25, 1950, if he makes application therefor to the Secretary of the branch of service in which he is serving, be released from active duty and shall not thereafter be ordered to active duty for periods in excess of 30 days without his consent except in time of war or national emergency hereafter declared by the Congress: *Provided*, That the foregoing shall not apply to any member of the inactive or volunteer reserve ordered to active duty whose rating or specialty is found by the Secretary of the military department concerned to be critical and whose release to inactive duty prior to the period for which he was ordered to active duty would impair the efficiency of the military department concerned.

The President may retain the unit organizations and the equipment thereof, exclusive of the individual members thereof, in the active Federal service for a total period of five consecutive years, and upon being relieved by the appropriate Secretary from active Federal service, National Guard, or Air National Guard units, shall, insofar as practicable, be returned to their National Guard or Air National Guard status in their respective States, Territories, the District of Columbia, and Puerto Rico, with pertinent records, colors, histories, trophies, and other historical impedimenta.

(June 24, 1948, ch. 625, title I, § 21, as added June 30, 1950, ch. 445, § 2, 64 Stat. 318; amended June 19, 1951, ch. 144, title I, § 1(x), 65 Stat. 87; July 7, 1952, ch. 584, § 1, 66 Stat. 440.)

AMENDMENTS

1952—Act July 7, 1952, authorized the President to retain unit organizations and their equipment, exclusive of individual members, for a period of five years.

1951—Act June 19, 1951, substituted ''July 1, 1953'' for ''July 9, 1951'', ''twenty-four months'' for ''twenty-one months'', and inserted last sentence.

EX. ORD. NO. 10271. DELEGATION OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 10271, July 7, 1951, 16 F.R. 6661, as amended by Ex. Ord. No. 13286, § 80, Feb. 28, 2003, 68 F.R. 10631, provided:

There is hereby delegated to the Secretary of Defense the authority vested in the President by section 21 of the Universal Military Training and Service Act (64 Stat. 318), as amended by the 1951 Amendments to the Universal Military Training and Service Act (65 Stat. 87; Public Law 51, 82d Congress) [this section], to order into the active military or naval service of the United States for a period not to exceed twenty-four months, with or without their consent, any or all members and units of any or all Reserve components of the Armed Forces of the United States and retired personnel of the Regular Armed Forces: *Provided*, that so much of the authority of the President under the said section 21, as amended [this section], as relates to any Reserve component of the United States Coast Guard or to retired personnel of the Regular Coast Guard is hereby delegated to the Secretary of Homeland Security.

The Secretary of Defense is hereby authorized to redelegate, subject to such conditions as the Secretary may deem appropriate, to the Secretaries of the Army, Navy, and Air Force such functions under this order as affect their respective services.

§ 471a. Procedural rights

(a) It is hereby declared to be the purpose of this section to guarantee to each registrant asserting a claim before a local or appeal board, a fair hearing consistent with the informal and expeditious processing which is required by selective service cases.

(b) Pursuant to such rules and regulations as the President may prescribe—

(1) Each registrant shall be afforded the opportunity to appear in person before the local or any appeal board of the Selective Service System to testify and present evidence regarding his status.

(2) Subject to reasonable limitations on the number of witnesses and the total time allotted to each registrant, each registrant shall have the right to present witnesses on his behalf before the local board.

(3) A quorum of any local board or appeal board shall be present during the registrant's personal appearance.

(4) In the event of a decision adverse to the claim of a registrant, the local or appeal board making such decision shall, upon request, furnish to such registrant a brief written statement of the reasons for its decision.

(June 24, 1948, ch. 625, title I, § 22, as added Pub. L. 92–129, title I, § 101(a)(36), Sept. 28, 1971, 85 Stat. 353.)

§ 472. Period of increased service applicable to all personnel

Wherever in this amendatory Act the period of active service for any category of persons is in-

creased, such increased period of service shall be applicable to all persons in such category serving on active duty in the Armed Forces on the date of the enactment of this amendatory Act [June 19, 1951].

(June 19, 1951, ch. 144, title I, §4, 65 Stat. 88.)

CODIFICATION

Section was enacted as part of the 1951 Amendments to the Universal Military Training and Service Act, and not as part of the Military Selective Service Act, title I of which comprises sections 451 to 471a of this Appendix.

§473. Regulations governing liquor sales; penalties

Subject to section 2683(c) of title 10, United States Code, the Secretary of Defense is authorized to make such regulations as he may deem to be appropriate governing the sale, consumption, possession of or traffic in beer, wine, or any other intoxicating liquors to or by members of the Armed Forces or the National Security Training Corps at or near any camp, station, post, or other place primarily occupied by members of the Armed Forces or the National Security Training Corps. Any person, corporation, partnership, or association who knowingly violates the regulations which may be made hereunder shall, unless otherwise punishable under the Uniform Code of Military Justice, be deemed guilty of a misdemeanor and be punished by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both.

(June 19, 1951, ch. 144, title I, §6, 65 Stat. 88; Pub. L. 99–145, title XII, §1224(b)(2), Nov. 8, 1985, 99 Stat. 729.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in text, is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

CODIFICATION

Section was enacted as a part of the 1951 Amendments to the Universal Military Training and Service Act, and not as a part of the Military Selective Service Act, title I of which comprises sections 451 to 471a of this Appendix.

AMENDMENTS

1985—Pub. L. 99–145 substituted ''Subject to section 2683(c) of title 10, United States Code, the'' for ''The''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective 90 days after Nov. 8, 1985, see section 1224(d) of Pub. L. 99–145, set out as a note under section 2683 of Title 10, Armed Forces.

SERVICEMEMBERS CIVIL RELIEF ACT

ACT OCT. 17, 1940, CH. 888, 54 STAT. 1178

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CODIFICATION

The Servicemembers Civil Relief Act, comprising sections 501 to 515 and 516 to 596 of this Appendix, was originally enacted as act Oct. 17, 1940, ch. 888, 54 Stat. 1178, known as the Soldiers' and Sailors' Civil Relief Act of 1940, and amended by acts Oct. 6, 1942, ch. 581, 56 Stat. 769; July 3, 1944, ch. 397, 58 Stat. 722; Apr. 3, 1948, ch. 170, 62 Stat. 160; June 23, 1952, ch. 450, 66 Stat. 151; July 11, 1956, ch. 570, 70 Stat. 528; Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105; Pub. L. 86–721, Sept. 8, 1960, 74 Stat. 820; Pub. L. 87–771, Oct. 9, 1962, 76 Stat. 768; Pub. L. 89–358, Mar. 3, 1966, 80 Stat. 12; Pub. L. 92–540, Oct. 24, 1972, 86 Stat. 1074; Pub. L. 102–12, Mar. 18, 1991, 105 Stat. 34; Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 186; Pub. L. 107–107, Dec. 28, 2001, 115 Stat. 1012; Pub. L. 107–330, Dec. 6, 2002, 116 Stat. 2820. Sections of the act Oct. 17, 1940, are shown herein, however, as having been added by Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2835, without reference to the intervening amendments listed above because of the extensive revision of act Oct. 17, 1940, by Pub. L. 108–189.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1918

Former provisions on this subject were contained in act Mar. 8, 1918, ch. 20, 40 Stat. 440, known as the Soldiers' and Sailors' Civil Relief Act of 1918, section 101 et seq. of this Appendix.

§ 501. Short title

This Act [sections 501 to 596 of this Appendix] may be cited as the ''Servicemembers Civil Relief Act''.

(Oct. 17, 1940, ch. 888, § 1(a), as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2835.)

PRIOR PROVISIONS

A prior section 501, act Oct. 17, 1940, ch. 888, § 1, 54 Stat. 1178, provided that this Act could be cited as the Soldiers' and Sailors' Relief Act of 1940, prior to the general amendment of this Act by Pub. L. 108–189.

EFFECTIVE DATE

Pub. L. 108–189, § 3, Dec. 19, 2003, 117 Stat. 2866, provided that: ''The amendment made by section 1 [enacting sections 501 to 515 and 516 to 596 of this Appendix] shall apply to any case that is not final before the date of the enactment of this Act [Dec. 19, 2003].''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–12, § 1, Mar. 18, 1991, 105 Stat. 34, provided that: ''This Act [enacting sections 518, 592, and 593 of this Appendix, amending sections 511 to 513, 515, 516, 525, 526, 530 to 532, 534, 535, 540 to 545, 547, 564 to 567, 570, 574, 580, 581, 584, and 591 of this Appendix and sections 2021 and 2024 of Title 38, Veterans' Benefits, repealing section 548 of this Appendix, and enacting provisions set out as notes under sections 521 and 530 of this Appendix and sections 2021 and 2024 of Title 38] may be cited as the 'Soldiers' and Sailors' Civil Relief Act Amendments of 1991'.''

SHORT TITLE OF 1942 AMENDMENT

Act Oct. 6, 1942, ch. 581, § 1, 56 Stat. 769, provided: ''That this Act [enacting sections 514 to 517, 526, 533 to 536, 574, and 590 of this Appendix and amending sections 513, 525, 530 to 532, 540 to 548, 560, 569, and 572 of this Appendix] may be cited as the 'Soldiers' and Sailors' Civil Relief Act Amendments of 1942'.''

§ 502. Purpose

The purposes of this Act [sections 501 to 515 and 516 to 596 of this Appendix] are—

(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

(Oct. 17, 1940, ch. 888, § 2, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2836.)

TITLE I—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior section 510, act Oct. 17, 1940, ch. 888, art. I, § 100, 54 Stat. 1179, stated purpose of this Act, prior to the general amendment of this Act by Pub. L. 108–189.

§ 511. Definitions

For the purposes of this Act [sections 501 to 515 and 516 to 596 of this Appendix]:

(1) Servicemember

The term ''servicemember'' means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.

(2) Military service

The term ''military service'' means—

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

(i) active duty, as defined in section 101(d)(1) of title 10, United States Code, and

(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(3) Period of military service

The term ''period of military service'' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(4) Dependent

The term ''dependent'', with respect to a servicemember, means—

(A) the servicemember's spouse;

(B) the servicemember's child (as defined in section 101(4) of title 38, United States Code); or

(C) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act.

(5) Court

The term ''court'' means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

(6) State

The term ''State'' includes—

(A) a commonwealth, territory, or possession of the United States; and

(B) the District of Columbia.

(7) Secretary concerned

The term ''Secretary concerned''—

(A) with respect to a member of the armed forces, has the meaning given that term in section 101(a)(9) of title 10, United States Code;

(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

(8) Motor vehicle

The term ''motor vehicle'' has the meaning given that term in section 30102(a)(6) of title 49, United States Code.

(9) Judgment

The term ''judgment'' means any judgment, decree, order, or ruling, final or temporary.

(Oct. 17, 1940, ch. 888, title I, § 101, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2836; amended Pub. L. 108–454, title VII, § 701, Dec. 10, 2004, 118 Stat. 3624.)

PRIOR PROVISIONS

A prior section 511, acts Oct. 17, 1940, ch. 888, art. I, § 101, 54 Stat. 1179; Pub. L. 92–540, title V, § 504(1), Oct. 24, 1972, 86 Stat. 1098; Pub. L. 102–12, § 9(1), Mar. 18, 1991, 105 Stat. 38; Pub. L. 107–330, title III, § 305, Dec. 6, 2002, 116 Stat. 2826, related to definitions, prior to the general amendment of this Act by Pub. L. 108–189.

AMENDMENTS

2004—Par. (9). Pub. L. 108–454 added par. (9).

§ 512. Jurisdiction and applicability of Act

(a) Jurisdiction

This Act [sections 501 to 515 and 516 to 596 of this Appendix] applies to—

(1) the United States;

(2) each of the States, including the political subdivisions thereof; and

(3) all territory subject to the jurisdiction of the United States.

(b) Applicability to proceedings

This Act [sections 501 to 515 and 516 to 596 of this Appendix] applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

(c) Court in which application may be made

When under this Act [sections 501 to 515 and 516 to 596 of this Appendix] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

(Oct. 17, 1940, ch. 888, title I, § 102, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2837.)

PRIOR PROVISIONS

A prior section 512, acts Oct. 17, 1940, ch. 888, art. I, § 102, 54 Stat. 1179; Pub. L. 102–12, § 9(2), Mar. 18, 1991, 105 Stat. 39, related to territorial application, jurisdiction of courts, and form of procedure, prior to the general amendment of this Act by Pub. L. 108–189.

§ 513. Protection of persons secondarily liable

(a) Extension of protection when actions stayed, postponed, or suspended

Whenever pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix] a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

(b) Vacation or set-aside of judgments

When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix], the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

(c) Bail bond not to be enforced during period of military service

A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

(d) Waiver of rights

(1) Waivers not precluded

This Act [sections 501 to 515 and 516 to 596 of this Appendix] does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protec-

tions provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

(2) Waiver invalidated upon entrance to military service

If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106 [section 516 of this Appendix].

(Oct. 17, 1940, ch. 888, title I, § 103, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2838.)

PRIOR PROVISIONS

A prior section 513, acts Oct. 17, 1940, ch. 888, art. I, § 103, 54 Stat. 1179; Oct. 6, 1942, ch. 581, §§ 2, 3, 56 Stat. 769; Pub. L. 102–12, § 9(3), Mar. 18, 1991, 105 Stat. 39, related to protection of persons secondarily liable, prior to the general amendment of this Act by Pub. L. 108–189.

§ 514. Extension of protections to citizens serving with allied forces

A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act [sections 501 to 515 and 516 to 596 of this Appendix] if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

(Oct. 17, 1940, ch. 888, title I, § 104, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2839.)

PRIOR PROVISIONS

A prior section 514, act Oct. 17, 1940, ch. 888, art. I, § 104, as added Oct. 6, 1942, ch. 581, § 4, 56 Stat. 770, related to extension of benefits to citizens serving with forces of war allies, prior to the general amendment of this Act by Pub. L. 108–189.

§ 515. Notification of benefits

The Secretary concerned shall ensure that notice of the benefits accorded by this Act [sections 501 to 515 and 516 to 596 of this Appendix] is provided in writing to persons in military service and to persons entering military service.

(Oct. 17, 1940, ch. 888, title I, § 105, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2839.)

PRIOR PROVISIONS

A prior section 515, act Oct. 17, 1940, ch. 888, art. I, § 105, as added Oct. 6, 1942, ch. 581, § 4, 56 Stat. 770; amended Pub. L. 102–12, § 9(4), Mar. 18, 1991, 105 Stat. 39, related to notice of benefits to persons in and persons entering military service, prior to the general amendment of this Act by Pub. L. 108–189.

§ 515a. Information for members of the Armed Forces and their dependents on rights and protections of the Servicemembers Civil Relief Act

(a) Outreach to members

The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(b) Time of provision

The information required to be provided under subsection (a) to a member shall be provided at the following times:

(1) During the initial orientation training of the member.

(2) In the case of a member of a reserve component, during the initial orientation training of the member and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(3) At such other times as the Secretary concerned considers appropriate.

(c) Outreach to dependents

The Secretary concerned may provide to the adult dependents of members under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act.

(d) Definitions

In this section, the terms ''dependent'' and ''Secretary concerned'' have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

(Pub. L. 109–163, div. A, title VI, § 690, Jan. 6, 2006, 119 Stat. 3337.)

REFERENCES IN TEXT

The Servicemembers Civil Relief Act, referred to in subsecs. (a) and (c), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of this Appendix. For complete classification of this Act to the Code, see section 501 of this Appendix and Tables.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Servicemembers Civil Relief Act which comprises sections 501 to 515 and 516 to 596 of this Appendix.

§ 516. Extension of rights and protections to reserves ordered to report for military service and to persons ordered to report for induction

(a) Reserves ordered to report for military service

A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III [sections 511 to 515, 516 to 519, 521 to 527, and 531 to 538 of this Appendix] during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service

(or, if the order is revoked before the member so reports, or the date on which the order is revoked).

(b) Persons ordered to report for induction

A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III [sections 511 to 515, 516 to 519, 521 to 527, and 531 to 538 of this Appendix] during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

(Oct. 17, 1940, ch. 888, title I, §106, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2839.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, which is classified principally to section 451 et seq. of this Appendix. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

PRIOR PROVISIONS

A prior section 516, act Oct. 17, 1940, ch. 888, art. I, §106, as added Oct. 6, 1942, ch. 581, §4, 56 Stat. 770; amended Pub. L. 102–12, §9(5), Mar. 18, 1991, 105 Stat. 39, related to extension of benefits to persons ordered to report for induction or military service, prior to the general amendment of this Act by Pub. L. 108–189.

§517. Waiver of rights pursuant to written agreement

(a) In general

A servicemember may waive any of the rights and protections provided by this Act [sections 501 to 515 and 516 to 596 of this Appendix]. Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

(b) Actions requiring waivers in writing

The requirement in subsection (a) for a written waiver applies to the following:

(1) The modification, termination, or cancellation of—

(A) a contract, lease, or bailment; or

(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that—

(A) is security for any obligation; or

(B) was purchased or received under a contract, lease, or bailment.

(c) Prominent display of certain contract rights waivers

Any waiver in writing of a right or protection provided by this Act [sections 501 to 515 and 516 to 596 of this Appendix] that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.

(d) Coverage of periods after orders received

For the purposes of this section—

(1) a person to whom section 106 [section 516 of this Appendix] applies shall be considered to be a servicemember; and

(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 [section 516 of this Appendix] shall be considered to be a period of military service.

(Oct. 17, 1940, ch. 888, title I, §107, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2839; amended Pub. L. 108–454, title VII, §702, Dec. 10, 2004, 118 Stat. 3624.)

PRIOR PROVISIONS

A prior section 517, act Oct. 17, 1940, ch. 888, art. I, §107, as added Oct. 6, 1942, ch. 581, §4, 56 Stat. 770, related to effect on rights and remedies pursuant to written agreements entered after commencement of military service, prior to the general amendment of this Act by Pub. L. 108–189.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, §702(1), inserted after first sentence: "Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies."

Subsecs. (c), (d). Pub. L. 108–454, §702(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

§518. Exercise of rights under Act not to affect certain future financial transactions

Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix] in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

(2) With respect to a credit transaction between a creditor and the servicemember—

(A) a denial or revocation of credit by the creditor;

(B) a change by the creditor in the terms of an existing credit arrangement; or

(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

(4) A refusal by an insurer to insure the servicemember.

(5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

(6) A change in the terms offered or conditions required for the issuance of insurance.

(Oct. 17, 1940, ch. 888, title I, § 108, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2840.)

PRIOR PROVISIONS

A prior section 518, act Oct. 17, 1940, ch. 888, art. I, § 108, as added Pub. L. 102–12, § 7, Mar. 18, 1991, 105 Stat. 38, related to the effect of certain future financial transactions on the exercise of rights, prior to the general amendment of this Act by Pub. L. 108–189.

§ 519. Legal representatives

(a) Representative

A legal representative of a servicemember for purposes of this Act [sections 501 to 515 and 516 to 596 of this Appendix] is either of the following:

(1) An attorney acting on the behalf of a servicemember.

(2) An individual possessing a power of attorney.

(b) Application

Whenever the term ''servicemember'' is used in this Act [sections 501 to 515 and 516 to 596 of this Appendix], such term shall be treated as including a reference to a legal representative of the servicemember.

(Oct. 17, 1940, ch. 888, title I, § 109, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2840.)

TITLE II—GENERAL RELIEF

PRIOR PROVISIONS

A prior section 520, acts Oct. 17, 1940, ch. 888, art. II, § 200, 54 Stat. 1180; Pub. L. 86–721, §§ 1, 2, Sept. 8, 1960, 74 Stat. 820, related to default judgments, affidavits, bonds, and attorneys for persons in service, prior to the general amendment of this Act by Pub. L. 108–189. See section 521 of this Appendix.

§ 521. Protection of servicemembers against default judgments

(a) Applicability of section

This section applies to any civil action or proceeding in which the defendant does not make an appearance.

(b) Affidavit requirement

(1) Plaintiff to file affidavit

In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

(2) Appointment of attorney to represent defendant in military service

If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

(3) Defendant's military status not ascertained by affidavit

If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act [sections 501 to 515 and 516 to 596 of this Appendix].

(4) Satisfaction of requirement for affidavit

The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

(c) Penalty for making or using false affidavit

A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(d) Stay of proceedings

In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that—

(1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or

(2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

(e) Inapplicability of section 202 procedures

A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202 [section 522 of this Appendix].

(f) Section 202 protection

If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202 [section 522 of this Appendix].

(g) Vacation or setting aside of default judgments

(1) Authority for court to vacate or set aside judgment

If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

(B) the servicemember has a meritorious or legal defense to the action or some part of it.

(2) Time for filing application

An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

(h) Protection of bona fide purchaser

If a court vacates, sets aside, or reverses a default judgment against a servicemember and the vacating, setting aside, or reversing is because of a provision of this Act [sections 501 to 515 and 516 to 596 of this Appendix], that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.

(Oct. 17, 1940, ch. 888, title II, § 201, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2840.)

PRIOR PROVISIONS

A prior section 521, act Oct. 17, 1940, ch. 888, art. II, § 201, 54 Stat. 1181, related to stay of proceedings where military service affects conduct thereof, prior to the general amendment of this Act by Pub. L. 108–189. See section 522 of this Appendix.

§ 522. Stay of proceedings when servicemember has notice

(a) Applicability of section

This section applies to any civil action or proceeding in which the plaintiff or defendant at the time of filing an application under this section—

(1) is in military service or is within 90 days after termination of or release from military service; and

(2) has received notice of the action or proceeding.

(b) Stay of proceedings

(1) Authority for stay

At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

(2) Conditions for stay

An application for a stay under paragraph (1) shall include the following:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

(c) Application not a waiver of defenses

An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

(d) Additional stay

(1) Application

A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

(2) Appointment of counsel when additional stay refused

If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

(e) Coordination with section 201

A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201 [section 521 of this Appendix].

(f) Inapplicability to section 301

The protections of this section do not apply to section 301 [section 531 of this Appendix].

(Oct. 17, 1940, ch. 888, title II, § 202, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2842; amended Pub. L. 108–454, title VII, § 703, Dec. 10, 2004, 118 Stat. 3624.)

PRIOR PROVISIONS

A prior section 522, act Oct. 17, 1940, ch. 888, art. II, § 202, 54 Stat. 1181, related to fines and penalties on contracts, prior to the general amendment of this Act by Pub. L. 108–189. See section 523 of this Appendix.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454 inserted ''plaintiff or'' before ''defendant'' in introductory provisions.

STAY OF JUDICIAL PROCEEDINGS

Pub. L. 102–12, § 6, Mar. 18, 1991, 105 Stat. 37, provided that:

''(a) STAY OF ACTION OR PROCEEDING.—In any judicial action or proceeding (other than a criminal proceeding) in which a member of the Armed Forces described in subsection (b) is involved (either as plaintiff or defendant), the court shall, upon application by such member (or some other person on the member's behalf) at any stage before final judgment is entered, stay the action or proceeding until a date after June 30, 1991.

''(b) MEMBERS COVERED.—A member of the Armed Forces is covered by subsection (a) if at the time of application for the stay of a judicial action or proceeding the member—

''(1) is on active duty; and

''(2) is serving outside the State in which the court having jurisdiction over the action or proceeding is located.

''(c) DEFINITION.—For purposes of this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.''

§ 523. Fines and penalties under contracts

(a) Prohibition of penalties

When an action for compliance with the terms of a contract is stayed pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix], a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

(b) Reduction or waiver of fines or penalties

If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

(1) the servicemember was in military service at the time the fine or penalty was incurred; and

(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

(Oct. 17, 1940, ch. 888, title II, § 203, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2843.)

PRIOR PROVISIONS

A prior section 523, act Oct. 17, 1940, ch. 888, art. II, § 203, 54 Stat. 1181, related to stay or vacation of execution of judgments and attachments, prior to the general amendment of this Act by Pub. L. 108–189. See section 524 of this Appendix.

§ 524. Stay or vacation of execution of judgments, attachments, and garnishments

(a) Court action upon material affect determination

If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

(1) stay the execution of any judgment or order entered against the servicemember; and

(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

(b) Applicability

This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 90 days after such service terminates.

(Oct. 17, 1940, ch. 888, title II, § 204, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2843.)

PRIOR PROVISIONS

A prior section 524, act Oct. 17, 1940, ch. 888, art. II, § 204, 54 Stat. 1181, related to duration and term of stays and codefendants not in service, prior to the general amendment of this Act by Pub. L. 108–189. See section 525 of this Appendix.

§ 525. Duration and term of stays; codefendants not in service

(a) Period of stay

A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act [sections 501 to 515 and 516 to 596 of this Appendix] by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

(b) Codefendants

If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act [sections 501 to 515 and 516 to 596 of this Appendix], the plaintiff may proceed against those other defendants with the approval of the court.

(c) Inapplicability of section

This section does not apply to sections 202 and 701 [sections 522 and 591 of this Appendix].

(Oct. 17, 1940, ch. 888, title II, § 205, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2844.)

PRIOR PROVISIONS

A prior section 525, acts Oct. 17, 1940, ch. 888, art. II, § 205, 54 Stat. 1181; Oct. 6, 1942, ch. 581, § 5, 56 Stat. 770; Pub. L. 102–12, § 9(6), Mar. 18, 1991, 105 Stat. 39, related to statutes of limitations as affected by period of service, prior to the general amendment of this Act by Pub. L. 108–189. See section 526 of this Appendix.

§ 526. Statute of limitations

(a) Tolling of statutes of limitation during military service

The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

(b) Redemption of real property

A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

(c) Inapplicability to internal revenue laws

This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

(Oct. 17, 1940, ch. 888, title II, § 206, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2844.)

REFERENCES IN TEXT

The internal revenue laws of the United States, referred to in subsec. (c), are classified generally to Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 526, act Oct. 17, 1940, ch. 888, art. II, § 206, as added Oct. 6, 1942, ch. 581, § 6, 56 Stat. 771; amended Pub. L. 102–12, § 9(7), Mar. 18, 1991, 105 Stat. 39, related to maximum rate of interest, prior to the general amendment of this Act by Pub. L. 108–189. See section 527 of this Appendix.

§ 527. Maximum rate of interest on debts incurred before military service

(a) Interest rate limitation

(1) Limitation to 6 percent

An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

(2) Forgiveness of interest in excess of 6 percent

Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

(3) Prevention of acceleration of principal

The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

(b) Implementation of limitation

(1) Written notice to creditor

In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

(2) Limitation effective as of date of order to active duty

Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

(c) Creditor protection

A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

(d) Interest

As used in this section, the term ''interest'' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

(Oct. 17, 1940, ch. 888, title II, § 207, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2844.)

PRIOR PROVISIONS

A prior section 527, act Oct. 17, 1940, ch. 888, art. II, § 207, as added Oct. 21, 1942, ch. 619, title V, § 507(b)(2)(B), 56 Stat. 964, related to limitations prescribed by internal revenue laws as affected by period of service, prior to the general amendment of this Act by Pub. L. 108–189. See section 526 of this Appendix.

TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

PRIOR PROVISIONS

A prior section 530, acts Oct. 17, 1940, ch. 888, art. III, § 300, 54 Stat. 1181; Oct. 6, 1942, ch. 581, § 8, 56 Stat. 771; Pub. L. 89–358, § 10, Mar. 3, 1966, 80 Stat. 28; Pub. L. 102–12, §§ 2(a), (b), 9(8), Mar. 18, 1991, 105 Stat. 34, 39, related to eviction or distress during military service, prior to the general amendment of this Act by Pub. L. 108–189. See section 531 of this Appendix.

§ 531. Evictions and distress

(a) Court-ordered eviction

(1) In general

Except by court order, a landlord (or another person with paramount title) may not—

(A) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises—

(i) that are occupied or intended to be occupied primarily as a residence; and

(ii) for which the monthly rent does not exceed $2,400, as adjusted under paragraph (2) for years after 2003; or

(B) subject such premises to a distress during the period of military service.

(2) Housing price inflation adjustment

(A) For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustment for the calendar year involved.

(B) For purposes of this paragraph—

(i) The housing price inflation adjustment for any calendar year is the percentage change (if any) by which—

(I) the CPI housing component for November of the preceding calendar year, exceeds

(II) the CPI housing component for November of 1984.

(ii) The term ''CPI housing component'' means the index published by the Bureau of Labor Statistics of the Department of Labor known as the Consumer Price Index, All Urban Consumers, Rent of Primary Residence, U.S. City Average.

(3) Publication of housing price inflation adjustment

The Secretary of Defense shall cause to be published in the Federal Register each year the amount in effect under paragraph (1)(A)(ii) for that year following the housing price inflation adjustment for that year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

(b) Stay of execution

(1) Court authority

Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service—

(A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or

(B) adjust the obligation under the lease to preserve the interests of all parties.

(2) Relief to landlord

If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

(c) Penalties

(1) Misdemeanor

Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies and rights

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

(d) Rent allotment from pay of servicemember

To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

(e) Limitation of applicability

Section 202 [section 522 of this Appendix] is not applicable to this section.

(Oct. 17, 1940, ch. 888, title III, § 301, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2845.)

PRIOR PROVISIONS

A prior section 531, acts Oct. 17, 1940, ch. 888, art. III, § 301, 54 Stat. 1182; Oct. 6, 1942, ch. 581, § 9(a), (c), (d), 56 Stat. 771; Pub. L. 102–12, § 9(9), Mar. 18, 1991, 105 Stat. 40, related to installment contracts for purchase of property, prior to the general amendment of this Act by Pub. L. 108–189. See section 532 of this Appendix.

§ 532. Protection under installment contracts for purchase or lease

(a) Protection upon breach of contract

(1) Protection after entering military service

After a servicemember enters military service, a contract by the servicemember for—

(A) the purchase of real or personal property (including a motor vehicle); or

(B) the lease or bailment of such property,

may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

(2) Applicability

This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

(b) Penalties

(1) Misdemeanor

A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act [section 517 of this Appendix], or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies and rights

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(c) Authority of court

In a hearing based on this section, the court—

(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or

(3) may make other disposition as is equitable to preserve the interests of all parties.

(Oct. 17, 1940, ch. 888, title III, § 302, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2846.)

PRIOR PROVISIONS

A prior section 532, acts Oct. 17, 1940, ch. 888, art. III, § 302, 54 Stat. 1182; Oct. 6, 1942, ch. 581, §§ 9(b), (c), 10, 56 Stat. 771, 772; June 23, 1952, ch. 450, 66 Stat. 151; Pub. L. 102–12, § 9(9), (10), Mar. 18, 1991, 105 Stat. 40, related to mortgages and trust deeds, prior to the general amendment of this Act by Pub. L. 108–189. See section 533 of this Appendix.

§ 533. Mortgages and trust deeds

(a) Mortgage as security

This section applies only to an obligation on real or personal property owned by a servicemember that—

(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

(2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

(b) Stay of proceedings and adjustment of obligation

In an action filed during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

(1) stay the proceedings for a period of time as justice and equity require, or

(2) adjust the obligation to preserve the interests of all parties.

(c) Sale or foreclosure

A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

(1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or

(2) if made pursuant to an agreement as provided in section 107 [section 517 of this Appendix].

(d) Penalties

(1) Misdemeanor

A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

(Oct. 17, 1940, ch. 888, title III, § 303, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2847.)

PRIOR PROVISIONS

A prior section 533, act Oct. 17, 1940, ch. 888, art. III, § 303, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 772, related to settlement of cases involving stayed proceedings to foreclose mortgage on, resume possession of, or terminate contract for purchase of, personal property, prior to the general amendment of this Act by Pub. L. 108–189. See section 534 of this Appendix.

Another prior section 533, act Oct. 17, 1940, ch. 888, art. III, § 303, 54 Stat. 1183, related to stay of action to resume possession of motor vehicle, tractor, or their accessories, encumbered by purchase money mortgage, conditional sales contract, etc., prior to repeal by act Oct. 6, 1942, ch. 581, § 11, 56 Stat. 772.

§ 534. Settlement of stayed cases relating to personal property

(a) Appraisal of property

When a stay is granted pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix] in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(b) Equity payment

Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

(Oct. 17, 1940, ch. 888, title III, § 304, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2848.)

PRIOR PROVISIONS

A prior section 534, act Oct. 17, 1940, ch. 888, art. III, § 304, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 772; amended Pub. L. 102–12, § 9(9), Mar. 18, 1991, 105 Stat. 40, related to termination of leases by lessees, prior to the general amendment of this Act by Pub. L. 108–189. See section 535 of this Appendix.

§ 535. Termination of residential or motor vehicle leases

(a) Termination by lessee

(1) In general

The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

(A) the lessee's entry into military service; or

(B) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

(2) Joint leases

A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

(b) Covered leases

This section applies to the following leases:

(1) Leases of premises

A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days.

(2) Leases of motor vehicles

A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents for personal or business transportation if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters military service under a call or order specifying a period of 180 days or less and who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders—

(i) for a change of permanent station—

(I) from a location in the continental United States to a location outside the continental United States; or

(II) from a location in a State outside the continental United States to any location outside that State; or

(ii) to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 180 days.

(c) Manner of termination

(1) In general

Termination of a lease under subsection (a) is made—

(A) by delivery by the lessee of written notice of such termination, and a copy of the servicemember's military orders, to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee); and

(B) in the case of a lease of a motor vehicle, by return of the motor vehicle by the lessee to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

(2) Delivery of notice

Delivery of notice under paragraph (1)(A) may be accomplished—

(A) by hand delivery;

(B) by private business carrier; or

(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee), and depositing the written notice in the United States mails.

(d) Effective date of lease termination

(1) Lease of premises

In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

(2) Lease of motor vehicles

In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.

(e) Arrearages and other obligations and liabilities

Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(f) Rent paid in advance

Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent) within 30 days of the effective date of the termination of the lease.

(g) Relief to lessor

Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(h) Penalties

(1) Misdemeanor

Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(i) Definitions

(1) Military orders

The term ''military orders'', with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the service-

member's current or future military duty status.

(2) ConUS

The term ''continental United States'' means the 48 contiguous States and the District of Columbia.

(Oct. 17, 1940, ch. 888, title III, § 305, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2848; amended Pub. L. 108–454, title VII, § 704, Dec. 10, 2004, 118 Stat. 3624.)

PRIOR PROVISIONS

A prior section 535, act Oct. 17, 1940, ch. 888, art. III, § 305, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 773; amended Pub. L. 102–12, § 9(9), Mar. 18, 1991, 105 Stat. 40, related to protection of assignor of life insurance policy, enforcement of storage liens, and penalties, prior to the general amendment of this Act by Pub. L. 108–189. See sections 536 and 537 of this Appendix.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, § 704(a), amended subsec. (a) generally, designating existing provisions as par. (1), inserting par. heading, and adding par. (2).

Subsec. (b)(1)(B). Pub. L. 108–454, § 704(c), inserted '', or as an individual in support of a military operation,'' after ''deploy with a military unit''.

Subsec. (b)(2)(B). Pub. L. 108–454, § 704(b)(1), substituted ''military orders—'' for ''military orders for a permanent change of station outside of the continental United States or to deploy'', added cl.(i), and inserted ''(ii) to deploy'' before ''with a military unit''.

Subsec. (b)(2)(B)(ii). Pub. L. 108–454, § 704(c), inserted '', or as an individual in support of a military operation,'' after ''deploy with a military unit''.

Subsec. (i). Pub. L. 108–454, § 704(b)(2), added subsec. (i).

§ 536. Protection of life insurance policy

(a) Assignment of policy protected

If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

(b) Exception

The prohibition in subsection (a) shall not apply—

(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

(2) when the premiums on the policy are due and unpaid; or

(3) upon the death of the insured.

(c) Order refused because of material affect

A court which receives an application for an order required under subsection (a) may refuse to grant such order if the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

(d) Treatment of guaranteed premiums

For purposes of this subsection, premiums guaranteed under the provisions of title IV of this Act [sections 541 to 549 of this Appendix] shall not be considered due and unpaid.

(e) Penalties

(1) Misdemeanor

A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

(Oct. 17, 1940, ch. 888, title III, § 306, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2850.)

PRIOR PROVISIONS

A prior section 536, act Oct. 17, 1940, ch. 888, art. III, § 306, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 773, related to extension of benefits to dependents, prior to the general amendment of this Act by Pub. L. 108–189. See section 538 of this Appendix.

§ 537. Enforcement of storage liens

(a) Liens

(1) Limitation on foreclosure or enforcement

A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

(2) Lien defined

For the purposes of paragraph (1), the term ''lien'' includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

(b) Stay of proceedings

In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

(1) stay the proceeding for a period of time as justice and equity require; or

(2) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303 [section 533 of this Appendix].

(c) Penalties

(1) Misdemeanor

A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise

available under law to the person claiming relief under this section, including any consequential or punitive damages.

(Oct. 17, 1940, ch. 888, title III, § 307, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2851.)

§ 538. Extension of protections to dependents

Upon application to a court, a dependent of a servicemember is entitled to the protections of this title [sections 531 to 538 of this Appendix] if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

(Oct. 17, 1940, ch. 888, title III, § 308, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2851.)

TITLE IV—LIFE INSURANCE

PRIOR PROVISIONS

A prior section 540, acts Oct. 17, 1940, ch. 888, art. IV, § 400, 54 Stat. 1183; Oct. 6, 1942, ch. 581, § 13, 56 Stat. 773; July 11, 1956, ch. 570, § 1, 70 Stat. 528; Pub. L. 102–12, § 9(11), Mar. 18, 1991, 105 Stat. 40, related to definitions, prior to the general amendment of this Act by Pub. L. 108–189. See section 541 of this Appendix.

§ 541. Definitions

For the purposes of this title [sections 541 to 549 of this Appendix]:

(1) Policy

The term ''policy'' means any individual contract for whole, endowment, universal, or term life insurance (other than group term life insurance coverage), including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

(A) provides that the insurer may not—

(i) decrease the amount of coverage or require the payment of an additional amount as premiums if the insured engages in military service (except increases in premiums in individual term insurance based upon age); or

(ii) limit or restrict coverage for any activity required by military service; and

(B) is in force not less than 180 days before the date of the insured's entry into military service and at the time of application under this title.

(2) Premium

The term ''premium'' means the amount specified in an insurance policy to be paid to keep the policy in force.

(3) Insured

The term ''insured'' means a servicemember whose life is insured under a policy.

(4) Insurer

The term ''insurer'' includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

(Oct. 17, 1940, ch. 888, title IV, § 401, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2851.)

PRIOR PROVISIONS

A prior section 541, acts Oct. 17, 1940, ch. 888, art. IV, § 401, 54 Stat. 1183; Oct. 6, 1942, ch. 581, § 13, 56 Stat. 774; Pub. L. 102–12, § 9(12), Mar. 18, 1991, 105 Stat. 40, related to persons entitled to benefits of former article IV of this Act, applications, and amount of insurance protected, prior to the general amendment of this Act by Pub. L. 108–189. See section 542 of this Appendix.

§ 542. Insurance rights and protections

(a) Rights and protections

The rights and protections under this title [sections 541 to 549 of this Appendix] apply to the insured when—

(1) the insured,

(2) the insured's legal representative, or

(3) the insured's beneficiary in the case of an insured who is outside a State,

applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured's policy is not entitled to protection under this title.

(b) Notification and application

The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title [sections 541 to 549 of this Appendix]. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

(c) Limitation on amount

The total amount of life insurance coverage protection provided by this title [sections 541 to 549 of this Appendix] for a servicemember may not exceed $250,000, or an amount equal to the Servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

(Oct. 17, 1940, ch. 888, title IV, § 402, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2852.)

PRIOR PROVISIONS

A prior section 542, acts Oct. 17, 1940, ch. 888, art. IV, § 402, 54 Stat. 1183; Oct. 6, 1942, ch. 581, § 13, 56 Stat. 774; Pub. L. 102–12, § 9(13), Mar. 18, 1991, 105 Stat. 40, related to form of application, reports to Secretary of Veterans Affairs by insurer, and policy deemed modified upon application for protection, prior to the general amendment of this Act by Pub. L. 108–189. See section 543 of this Appendix.

§ 543. Application for insurance protection

(a) Application procedure

An application for protection under this title [sections 541 to 549 of this Appendix] shall—

(1) be in writing and signed by the insured, the insured's legal representative, or the insured's beneficiary, as the case may be;

(2) identify the policy and the insurer; and

(3) include an acknowledgement that the insured's rights under the policy are subject to and modified by the provisions of this title.

(b) Additional requirements

The Secretary of Veterans Affairs may require additional information from the applicant, the insured and the insurer to determine if the policy is entitled to protection under this title [sections 541 to 549 of this Appendix].

(c) Notice to the Secretary by the insurer

Upon receipt of the application of the insured, the insurer shall furnish a report concerning the

policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

(d) Policy modification

Upon application for protection under this title [sections 541 to 549 of this Appendix], the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title full force and effect.

(Oct. 17, 1940, ch. 888, title IV, §403, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2852.)

PRIOR PROVISIONS

A prior section 543, acts Oct. 17, 1940, ch. 888, art. IV, §403, 54 Stat. 1184; Oct. 6, 1942, ch. 581, §13, 56 Stat. 775; Pub. L. 102–12, §9(14), Mar. 18, 1991, 105 Stat. 40, related to determination of policies entitled to protection, notice to parties, and lapse of policies for nonpayment of premiums, prior to the general amendment of this Act by Pub. L. 108–189. See section 544 of this Appendix.

§544. Policies entitled to protection and lapse of policies

(a) Determination

The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title [sections 541 to 549 of this Appendix] and shall notify the insured and the insurer of that determination.

(b) Lapse protection

A policy that the Secretary determines is entitled to protection under this title [sections 541 to 549 of this Appendix] shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date on which the application for protection is received by the Secretary.

(c) Time application

The protection provided by this title [sections 541 to 549 of this Appendix] applies during the insured's period of military service and for a period of two years thereafter.

(Oct. 17, 1940, ch. 888, title IV, §404, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2853.)

PRIOR PROVISIONS

A prior section 544, acts Oct. 17, 1940, ch. 888, art. IV, §404, 54 Stat. 1184; Oct. 6, 1942, ch. 581, §13, 56 Stat. 775; Pub. L. 102–12, §9(15), Mar. 18, 1991, 105 Stat. 40, related to rights and privileges of insured during period of protection, prior to the general amendment of this Act by Pub. L. 108–189. See section 545 of this Appendix.

§545. Policy restrictions

(a) Dividends

While a policy is protected under this title [sections 541 to 549 of this Appendix], a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

(b) Specific restrictions

While a policy is protected under this title [sections 541 to 549 of this Appendix], cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

(Oct. 17, 1940, ch. 888, title IV, §405, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2853.)

PRIOR PROVISIONS

A prior section 545, acts Oct. 17, 1940, ch. 888, art. IV, §405, 54 Stat. 1184; Oct. 6, 1942, ch. 581, §13, 56 Stat. 775; Pub. L. 102–12, §9(16), Mar. 18, 1991, 105 Stat. 40, related to deduction of unpaid premiums upon settlement of policies maturing during protection, prior to the general amendment of this Act by Pub. L. 108–189. See section 546 of this Appendix.

§546. Deduction of unpaid premiums

(a) Settlement of proceeds

If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title [sections 541 to 549 of this Appendix], the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

(b) Interest rate

If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

(c) Reporting requirement

The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

(Oct. 17, 1940, ch. 888, title IV, §406, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2853.)

PRIOR PROVISIONS

A prior section 546, acts Oct. 17, 1940, ch. 888, art. IV, §406, 54 Stat. 1184; Oct. 6, 1942, ch. 581, §13, 56 Stat. 775; Apr. 3, 1948, ch. 170, §6, 62 Stat. 160, related to guaranty of premiums and interest by United States, settlement of amounts due upon expiration of protection, subrogation of United States, and crediting debt repayments, prior to the general amendment of this Act by Pub. L. 108–189. See section 547 of this Appendix.

§547. Premiums and interest guaranteed by United States

(a) Guarantee of premiums and interest by the United States

(1) Guarantee

Payment of premiums, and interest on premiums at the rate specified in section 406 [section 546 of this Appendix], which become due on a policy under the protection of this title [sections 541 to 549 of this Appendix] is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

(2) Policy termination

If, at the expiration of insurance protection under this title, the cash surrender value of a

policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

(b) Recovery from insured of amounts paid by the United States

(1) Debt payable to the United States

The amount paid by the United States to an insurer under this title [sections 541 to 549 of this Appendix] shall be a debt payable to the United States by the insured on whose policy payment was made.

(2) Collection

Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

(3) Debt not dischargeable in bankruptcy

Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

(c) Crediting of amounts recovered

Any amounts received by the United States as repayment of debts incurred by an insured under this title [sections 541 to 549 of this Appendix] shall be credited to the appropriation for the payment of claims under this title.

(Oct. 17, 1940, ch. 888, title IV, § 407, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2853.)

PRIOR PROVISIONS

A prior section 547, acts Oct. 17, 1940, ch. 888, art. IV, § 407, 54 Stat. 1185; Oct. 6, 1942, ch. 581, § 13, 56 Stat. 775; Pub. L. 85–857, § 14(76), Sept. 2, 1958, 72 Stat. 1272; Pub. L. 102–12, § 9(17), Mar. 18, 1991, 105 Stat. 40, related to regulations and finality of determinations, prior to the general amendment of this Act by Pub. L. 108–189. See sections 548 and 549 of this Appendix.

§ 548. Regulations

The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title [sections 541 to 549 of this Appendix].

(Oct. 17, 1940, ch. 888, title IV, § 408, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2854.)

PRIOR PROVISIONS

A prior section 548, acts Oct. 17, 1940, ch. 888, art. IV, § 408, 54 Stat. 1185; Oct. 6, 1942, ch. 581, § 13, 56 Stat. 776, related to law governing applications for protection prior to Oct. 6, 1942, prior to repeal by Pub. L. 102–12, § 9(18), Mar. 18, 1991, 105 Stat. 40.

§ 549. Review of findings of fact and conclusions of law

The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title [sections 541 to 549 of this Appendix] are subject to review on appeal to the Board of Veterans' Appeals pursuant to chapter 71 of title 38, United States Code, and to judicial review only as provided in chapter 72 of such title.

(Oct. 17, 1940, ch. 888, title IV, § 409, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2854.)

PRIOR PROVISIONS

Prior sections 549 to 554 of this Appendix were omitted in the general amendment of article IV of this Act by act Oct. 6, 1942, ch. 581, § 13, 56 Stat. 773.

Section 549, act Oct. 17, 1940, ch. 888, art. IV, § 409, 54 Stat. 1185, related to deduction of unpaid premiums from proceeds of policies.

Section 550, act Oct. 17, 1940, ch. 888, art. IV, § 410, 54 Stat. 1185, related to lapsing of policy for failure to pay past due premiums upon termination of service.

Section 551, act Oct. 17, 1940, ch. 888, art. IV, § 411, 54 Stat. 1185, related to accounts stated between insurers and United States.

Section 552, act Oct. 17, 1940, ch. 888, art. IV, § 412, 54 Stat. 1185, related to payment of balances due insurers by Secretary of the Treasury.

Section 553, act Oct. 17, 1940, ch. 888, art. IV, § 413, 54 Stat. 1186, related to policies excepted from application of article.

Section 554, act Oct. 17, 1940, ch. 888, art. IV, § 414, 54 Stat. 1186, related to insurers within application of article.

TITLE V—TAXES AND PUBLIC LANDS

PRIOR PROVISIONS

A prior section 560, acts Oct. 17, 1940, ch. 888, art. V, § 500, 54 Stat. 1186; Oct. 6, 1942, ch. 581, § 14, 56 Stat. 776, related to taxes respecting personalty, money, credits, or realty, sale of property to enforce collection, redemption of property sold, penalty for nonpayment, and notice of rights to beneficiaries of section, prior to the general amendment of this Act by Pub. L. 108–189. See section 561 of this Appendix.

§ 561. Taxes respecting personal property, money, credits, and real property

(a) Application

This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's—

(1) personal property (including motor vehicles); or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) Sale of property

(1) Limitation on sale of property to enforce tax assessment

Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) Stay of court proceedings

A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) Redemption

When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have

the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) Interest on tax or assessment

Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) Joint ownership application

This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

(Oct. 17, 1940, ch. 888, title V, § 501, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2854.)

PRIOR PROVISIONS

A prior section 561, act Oct. 17, 1940, ch. 888, art. V, § 501, 54 Stat. 1187, related to rights in public lands and grazing lands, prior to the general amendment of this Act by Pub. L. 108–189. See section 562 of this Appendix.

§ 562. Rights in public lands

(a) Rights not forfeited

The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

(b) Temporary suspension of permits or licenses

If a permittee or licensee under the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

(c) Regulations

Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

(Oct. 17, 1940, ch. 888, title V, § 502, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2855.)

REFERENCES IN TEXT

The mining and mineral leasing laws of the United States, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

Act of June 28, 1934, referred to in subsec. (b), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, popularly known as the Taylor Grazing Act, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 315 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 562, act Oct. 17, 1940, ch. 888, art. V, § 502, 54 Stat. 1187, related to homestead entries and settlement claims, prior to the general amendment of this Act by Pub. L. 108–189.

§ 563. Desert-land entries

(a) Desert-land rights not forfeited

A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation—

(1) for failure to expend any required amount per acre per year in improvements upon the claim;

(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

(b) Service-related disability

If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

(c) Filing requirement

In order to obtain the protection of this section, the entryman or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

(Oct. 17, 1940, ch. 888, title V, § 503, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2856.)

REFERENCES IN TEXT

The desert-land laws, referred to in subsec. (a), are classified generally to chapter 9 (§ 321 et seq.) of Title 43, Public Lands.

PRIOR PROVISIONS

A prior section 563, act Oct. 17, 1940, ch. 888, art. V, § 503, 54 Stat. 1187, related to death or incapacity during or resulting from service as affecting rights and perfection of rights, prior to the general amendment of this Act by Pub. L. 108–189. See section 566 of this Appendix.

§ 564. Mining claims

(a) Requirements suspended

The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) spec-

ified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

(b) Requirements

The provisions in section 2324 of the Revised Statutes that shall not apply under subsection (a) are those which require that on each mining claim located after May 10, 1872, and until a patent has been issued for such claim, not less than $100 worth of labor shall be performed or improvements made during each year.

(c) Period of protection from forfeiture

A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

(d) Filing requirement

In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

(Oct. 17, 1940, ch. 888, title V, § 504, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2856.)

PRIOR PROVISIONS

A prior section 564, acts Oct. 17, 1940, ch. 888, art. V, § 504, 54 Stat. 1187; Pub. L. 102–12, § 9(19), Mar. 18, 1991, 105 Stat. 40, related to desert-land entries and the suspension of requirements, prior to the general amendment of this Act by Pub. L. 108–189. See section 563 of this Appendix.

§ 565. Mineral permits and leases

(a) Suspension during military service

A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter. The term of the permit or lease shall not run during the period of suspension, nor shall any rental or royalties be charged against the permit or lease during the period of suspension.

(b) Notification

In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

(c) Contract modification

This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

(Oct. 17, 1940, ch. 888, title V, § 505, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2857.)

REFERENCES IN TEXT

The Federal mineral leasing laws, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

PRIOR PROVISIONS

A prior section 565, act Oct. 17, 1940, ch. 888, art. V, § 505, 54 Stat. 1188; Pub. L. 102–12, § 9(20), Mar. 18, 1991, 105 Stat. 41, related to mining claims and the suspension of requirements, prior to the general amendment of this Act by Pub. L. 108–189. See section 564 of this Appendix.

§ 566. Perfection or defense of rights

(a) Right to take action not affected

This title [sections 561 to 571 of this Appendix] shall not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection, defense, or further assertion of rights initiated or acquired before entering military service.

(b) Affidavits and proofs

(1) In general

A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

(2) Legal status of affidavits

Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State[1] Code.

(Oct. 17, 1940, ch. 888, title V, § 506, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2857.)

PRIOR PROVISIONS

A prior section 566, acts Oct. 17, 1940, ch. 888, art. V, § 506, 54 Stat. 1188; Pub. L. 102–12, § 9(21), Mar. 18, 1991, 105 Stat. 41, related to mineral permits and leases and the suspension of operations and term of permits and leases, prior to the general amendment of this Act by Pub. L. 108–189. See section 565 of this Appendix.

§ 567. Distribution of information concerning benefits of title

(a) Distribution of information by Secretary concerned

The Secretary concerned shall issue to servicemembers information explaining the provisions of this title [sections 561 to 571 of this Appendix].

(b) Application forms

The Secretary concerned shall provide application forms to servicemembers requesting relief under this title [sections 561 to 571 of this Appendix].

(c) Information from Secretary of the Interior

The Secretary of the Interior shall furnish to the Secretary concerned information explaining

[1] So in original. Probably should be "States".

the provisions of this title [sections 561 to 571 of this Appendix] (other than sections 501, 510, and 511) [sections 561, 570, and 571 of this Appendix] and related application forms.

(Oct. 17, 1940, ch. 888, title V, § 507, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2857.)

PRIOR PROVISIONS

A prior section 567, acts Oct. 17, 1940, ch. 888, art. V, § 507, 54 Stat. 1188; Pub. L. 102–12, § 9(22), Mar. 18, 1991, 105 Stat. 41, related to right to take action for perfection and defense of rights as unaffected, and affidavits and proofs, prior to the general amendment of this Act by Pub. L. 108–189. See section 566 of this Appendix.

§ 568. Land rights of servicemembers

(a) No age limitations

Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

(b) Residency requirement

Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

(c) Entry applications

Applications for entry may be verified before a person authorized to administer oaths under section 1044a of title 10, United States Code, or under the laws of the State where the land is situated.

(Oct. 17, 1940, ch. 888, title V, § 508, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2857.)

REFERENCES IN TEXT

The mining and mineral leasing laws, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

PRIOR PROVISIONS

A prior section 568, act Oct. 17, 1940, ch. 888, art. V, § 508, 54 Stat. 1189, related to irrigation rights and suspension of residence requirements, prior to the general amendment of this Act by Pub. L. 108–189.

§ 569. Regulations

The Secretary of the Interior may issue regulations necessary to carry out this title [sections 561 to 571 of this Appendix] (other than sections 501, 510, and 511) [sections 561, 570, and 571 of this Appendix].

(Oct. 17, 1940, ch. 888, title V, § 509, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2858.)

PRIOR PROVISIONS

A prior section 569, acts Oct. 17, 1940, ch. 888, art. V, § 509, 54 Stat. 1189; Oct. 6, 1942, ch. 581, § 15, 56 Stat. 776, related to distribution of information concerning benefits of tax and public lands provisions and forms, prior to the general amendment of this Act by Pub. L. 108–189. See section 567 of this Appendix.

§ 570. Income taxes

(a) Deferral of tax

Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

(b) Accrual of interest or penalty

No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

(c) Statute of limitations

The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

(d) Application limitation

This section shall not apply to the tax imposed on employees by section 3101 of the Internal Revenue Code of 1986 [26 U.S.C. 3101].

(Oct. 17, 1940, ch. 888, title V, § 510, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2858.)

PRIOR PROVISIONS

A prior section 570, acts Oct. 17, 1940, ch. 888, art. V, § 510, 54 Stat. 1189; Pub. L. 102–12, § 9(23), Mar. 18, 1991, 105 Stat. 41, related to homestead entrymen permitted to leave entries to perform farm labor, prior to the general amendment of this Act by Pub. L. 108–189.

§ 571. Residence for tax purposes

(a) Residence or domicile

A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) Military service compensation

Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) Personal property

(1) Relief from personal property taxes

The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) Exception for property within member's domicile or residence

This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

(3) Exception for property used in trade or business

This section does not prevent taxation by a tax jurisdiction with respect to personal prop-

erty used in or arising from a trade or business, if it has jurisdiction.

(4) Relationship to law of State of domicile

Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) Increase of tax liability

A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) Federal Indian reservations

An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(f) Definitions

For purposes of this section:

(1) Personal property

The term ''personal property'' means intangible and tangible property (including motor vehicles).

(2) Taxation

The term ''taxation'' includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) Tax jurisdiction

The term ''tax jurisdiction'' means a State or a political subdivision of a State.

(Oct. 17, 1940, ch. 888, title V, § 511, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2858.)

PRIOR PROVISIONS

Prior sections 571 to 574 were omitted in the general amendment of this Act by Pub. L. 108–189.

Section 571, act Oct. 17, 1940, ch. 888, art. V, § 511, 54 Stat. 1189, related to land rights of persons under 21. See section 568 of this Appendix.

Section 572, acts Oct. 17, 1940, ch. 888, art. V, § 512, 54 Stat. 1190; Oct. 6, 1942, ch. 581, § 16, 56 Stat. 776, related to extension of benefits to persons serving with war allies of the United States. See section 514 of this Appendix.

Section 573, act Oct. 17, 1940, ch. 888, art. V, § 513, 54 Stat. 1190, related to deferral of income tax collection and the statute of limitations. See section 570 of this Appendix.

Section 574, act Oct. 17, 1940, ch. 888, art. V, § 514, as added Oct. 6, 1942, ch. 581, § 17, 56 Stat. 777; amended July 3, 1944, ch. 397, § 1, 58 Stat. 722; Pub. L. 87–771, Oct. 9, 1962, 76 Stat. 768; Pub. L. 102–12, § 9(24), Mar. 18, 1991, 105 Stat. 41, related to residence for tax purposes. See section 571 of this Appendix.

TITLE VI—ADMINISTRATIVE REMEDIES

PRIOR PROVISIONS

A prior section 580, acts Oct. 17, 1940, ch. 888, art. VI, § 600, 54 Stat. 1190; Pub. L. 102–12, § 9(25), Mar. 18, 1991, 105 Stat. 41, related to transfers to take advantage of this Act, prior to the general amendment of this Act by Pub. L. 108–189. See section 581 of this Appendix.

§ 581. Inappropriate use of Act

If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act [sections 501 to 515 and 516 to 596 of this Appendix], the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

(Oct. 17, 1940, ch. 888, title VI, § 601, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2859.)

PRIOR PROVISIONS

A prior section 581, acts Oct. 17, 1940, ch. 888, art. VI, § 601, 54 Stat. 1190; Jan. 20, 1942, ch. 10, §§ 1, 2, 56 Stat. 10; Pub. L. 102–12, § 9(26), Mar. 18, 1991, 105 Stat. 41, related to certificates of service and persons reported missing, prior to the general amendment of this Act by Pub. L. 108–189. See section 582 of this Appendix.

§ 582. Certificates of service; persons reported missing

(a) Prima facie evidence

In any proceeding under this Act [sections 501 to 515 and 516 to 596 of this Appendix], a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

(1) That a person named is, is not, has been, or has not been in military service.

(2) The time and the place the person entered military service.

(3) The person's residence at the time the person entered military service.

(4) The rank, branch, and unit of military service of the person upon entry.

(5) The inclusive dates of the person's military service.

(6) The monthly pay received by the person at the date of the certificate's issuance.

(7) The time and place of the person's termination of or release from military service, or the person's death during military service.

(b) Certificates

The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

(c) Treatment of servicemembers in missing status

A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act [sections 501 to 515 and 516 to 596 of this Appendix] that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

(Oct. 17, 1940, ch. 888, title VI, § 602, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2859.)

PRIOR PROVISIONS

A prior section 582, act Oct. 17, 1940, ch. 888, art. VI, § 602, 54 Stat. 1191, related to revocation of interlocutory orders, prior to the general amendment of this Act by Pub. L. 108–189. See section 583 of this Appendix.

§ 583. Interlocutory orders

An interlocutory order issued by a court under this Act [sections 501 to 515 and 516 to 596 of this

Appendix] may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

(Oct. 17, 1940, ch. 888, title VI, § 603, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2860.)

PRIOR PROVISIONS

Prior sections 583 to 585 were omitted in the general amendment of this Act by Pub. L. 108–189.

Section 583, act Oct. 17, 1940, ch. 888, art. VI, § 603, 54 Stat. 1191, related to separability.

Section 584, acts Oct. 17, 1940, ch. 888, art. VI, § 604, 54 Stat. 1191; Pub. L. 102–12, § 9(27), Mar. 18, 1991, 105 Stat. 41, related to termination date.

Section 585, act Oct. 17, 1940, ch. 888, art. VI, § 605, 54 Stat. 1191, related to the inapplicability of the Soldiers' and Sailors' Relief Act of 1918 (section 101 et seq. of this Appendix), to military service performed after Oct. 17, 1940.

TITLE VII—FURTHER RELIEF

PRIOR PROVISIONS

A prior section 590, act Oct. 17, 1940, ch. 888, art. VII, § 700, as added Oct. 6, 1942, ch. 581, § 18, 56 Stat. 777, related to stay of enforcement of obligations, liabilities, and taxes, prior to the general amendment of this Act by Pub. L. 108–189. See section 591 of this Appendix.

§ 591. Anticipatory relief

(a) Application for relief

A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

(1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or

(2) from a tax or assessment falling due before or during the servicemember's military service.

(b) Tax liability or assessment

In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

(1) Stay of enforcement of real estate contracts

(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

(i) during the servicemember's period of military service; and

(ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

(B) Any stay under this paragraph shall be—

(i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and

(ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

(2) Stay of enforcement of other contracts

(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

(i) during the servicemember's military service; and

(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

(B) Any stay under this paragraph shall be—

(i) for a period of time equal to the period of the servicemember's military service or any part of such period; and

(ii) subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

(c) Affect[1] of stay on fine or penalty

When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

(Oct. 17, 1940, ch. 888, title VII, § 701, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2860.)

PRIOR PROVISIONS

A prior section 591, act Oct. 17, 1940, ch. 888, art. VII, § 701, as added Pub. L. 92–540, title V, § 504(2), Oct. 24, 1972, 86 Stat. 1098; amended Pub. L. 102–12, § 3, Mar. 18, 1991, 105 Stat. 34, related to power of attorney, prior to the general amendment of this Act by Pub. L. 108–189. See section 592 of this Appendix.

§ 592. Power of attorney

(a) Automatic extension

A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37, United States Code) if the power of attorney—

(1) was duly executed by the servicemember—

(A) while in military service; or

(B) before entry into military service but after the servicemember—

(i) received a call or order to report for military service; or

(ii) was notified by an official of the Department of Defense that the person could

[1] So in original. Probably should be "Effect".

receive a call or order to report for military service;

(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

(3) expires by its terms after the servicemember entered a missing status.

(b) Limitation on power of attorney extension

A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

(Oct. 17, 1940, ch. 888, title VII, § 702, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2861.)

PRIOR PROVISIONS

A prior section 592, act Oct. 17, 1940, ch. 888, art. VII, § 702, as added Pub. L. 102–12, § 4, Mar. 18, 1991, 105 Stat. 34; amended Pub. L. 104–106, div. A, title XV, § 1501(e)(3), Feb. 10, 1996, 110 Stat. 501, related to professional liability protection for certain persons ordered to active duty in armed forces, prior to the general amendment of this Act by Pub. L. 108–189. See section 593 of this Appendix.

§ 593. Professional liability protection

(a) Applicability

This section applies to a servicemember who—

(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

(2) immediately before receiving the order to active duty—

(A) was engaged in the furnishing of health-care or legal services or other services determined by the Secretary of Defense to be professional services; and

(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the servicemember during the period of the servicemember's active duty unless the premiums are paid for such coverage for such period.

(b) Suspension of coverage

(1) Suspension

Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with this subsection upon receipt of a written request from the servicemember by the insurance carrier.

(2) Premiums for suspended contracts

A professional liability insurance carrier—

(A) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

(3) Nonliability of carrier during suspension

A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a servicemember that occurs during a period of suspension of that servicemember's professional liability insurance under this subsection.

(4) Certain claims considered to arise before suspension

For the purposes of paragraph (3), a claim based upon the failure of a professional to make adequate provision for a patient, client, or other person to receive professional services or other assistance during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of the suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

(c) Reinstatement of coverage

(1) Reinstatement required

Professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that servicemember transmits to the insurance carrier a written request for reinstatement.

(2) Time and premium for reinstatement

The request of a servicemember for reinstatement shall be effective only if the servicemember transmits the request to the insurance carrier within 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium of such insurance. Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

(3) Period of reinstated coverage

The period for which professional liability insurance coverage shall be reinstated for a servicemember under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

(d) Increase in premium

(1) Limitation on premium increases

An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any servicemember for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the suspension.

(2) Exception

Paragraph (1) does not prevent an increase in premium to the extent of any general in-

crease in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

(e) Continuation of coverage of unaffected persons

This section does not—

(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

(f) Stay of civil or administrative actions

(1) Stay of actions

A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

(A) the action was commenced during the period of the suspension;

(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

(2) Date of commencement of action

Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

(g) Effect of suspension upon limitations period

In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

(h) Death during period of suspension

If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

(i) Definitions

For purposes of this section:

(1) Active duty

The term ''active duty'' has the meaning given that term in section 101(d)(1) of title 10, United States Code.

(2) Profession

The term ''profession'' includes occupation.

(3) Professional

The term ''professional'' includes occupational.

(Oct. 17, 1940, ch. 888, title VII, §703, as added Pub. L. 108–189, §1, Dec. 19, 2003, 117 Stat. 2862.)

PRIOR PROVISIONS

A prior section 593, act Oct. 17, 1940, ch. 888, art. VII, §703, as added Pub. L. 102–12, §5(b), Mar. 18, 1991, 105 Stat. 37, related to reinstatement of health coverage upon release from service, prior to the general amendment of this Act by Pub. L. 108–189. See section 594 of this Appendix.

§594. Health insurance reinstatement

(a) Reinstatement of health insurance

A servicemember who, by reason of military service as defined in section 703(a)(1) [section 593(a)(1) of this Appendix], is entitled to the rights and protections of this Act [sections 501 to 515 and 516 to 596 of this Appendix] shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

(1) was in effect on the day before such service commenced; and

(2) was terminated effective on a date during the period of such service.

(b) No exclusion or waiting period

The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

(1) the condition arose before or during the period of such service;

(2) an exclusion or a waiting period would not have been imposed for the condition during the period of coverage; and

(3) in a case in which the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

(c) Exceptions

Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

(d) Time for applying for reinstatement

An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

(e) Limitation on premium increases

(1) Premium protection

The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage before the termination.

(2) Increases of general applicability not precluded

Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by the carrier of the health care insurance for the same health insurance coverage for persons similarly covered by such insurance during the period between the termination and the reinstatement.

(Oct. 17, 1940, ch. 888, title VII, § 704, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2864; amended Pub. L. 109–233, title III, § 302, June 15, 2006, 120 Stat. 406.)

PRIOR PROVISIONS

A prior section 594, act Oct. 17, 1940, ch. 888, art. VII, § 704, as added Pub. L. 107–107, div. A, title XVI, § 1603, Dec. 28, 2001, 115 Stat. 1276, related to guarantee of residency for military personnel, prior to the general amendment of this Act by Pub. L. 108–189. See section 595 of this Appendix.

AMENDMENTS

2006—Subsec. (b)(3). Pub. L. 109–233, § 302(b), substituted ''in a case in which the'' for ''if the''.

Subsec. (e). Pub. L. 109–233, § 302(a), added subsec. (e).

§ 595. Guarantee of residency for military personnel

For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

(2) be deemed to have acquired a residence or domicile in any other State; or

(3) be deemed to have become a resident in or a resident of any other State.

(Oct. 17, 1940, ch. 888, title VII, § 705, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2865.)

§ 596. Business or trade obligations

(a) Availability of non-business assets to satisfy obligations

If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember's military service.

(b) Relief to obligors

Upon application to a court by the holder of an obligation or liability covered by this section, relief granted by this section to a servicemember may be modified as justice and equity require.

(Oct. 17, 1940, ch. 888, title VII, § 706, as added Pub. L. 108–189, § 1, Dec. 19, 2003, 117 Stat. 2865.)

FIRST WAR POWERS ACT, 1941

ACT DEC. 18, 1941, CH. 593, 55 STAT. 838

TITLE I—COORDINATION OF EXECUTIVE BUREAUS IN THE INTEREST OF THE MORE EFFICIENT CONCENTRATION OF THE GOVERNMENT

§§ 601 to 605. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651

Section 601, act Dec. 18, 1941, ch. 593, title I, § 1, 55 Stat. 838, related to coordination of executive bureaus and offices by the President for national defense.

Section 602, act Dec. 18, 1941, ch. 593, title I, § 2, 55 Stat. 838, related to consolidation of offices.

Section 603, act Dec. 18, 1941, ch. 593, title I, § 3, 55 Stat. 838, related to expenditure of appropriations.

Section 604, act Dec. 18, 1941, ch. 593, title I, § 4, 55 Stat. 839, related to elimination of certain bureaus.

Section 605, act Dec. 18, 1941, ch. 593, title I, § 5, 55 Stat. 839, related to suspension of conflicting laws.

TITLE II—CONTRACTS

§ 611. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651

Section, acts Dec. 18, 1941, ch. 593, title II, § 201, 55 Stat. 839; Jan. 12, 1951, ch. 1230, § 1, 64 Stat. 1257, related to exemption of war contracts from certain restrictions.

TITLE III—TRADING WITH THE ENEMY

§ 616. Omitted

CODIFICATION

Section, act Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839, amended section 5 of the Trading with the Enemy Act, which is classified to section 5 of this Appendix and section 95a of Title 12, Banks and Banking.

§ 617. Repealed. Pub. L. 89–554, 8(a), Sept. 6, 1966, 80 Stat. 651

Section, act Dec. 18, 1941, ch. 593, title III, § 302, 55 Stat. 840, confirmed certain acts, etc., made under the Trading with the Enemy Act.

§ 618. Repealed. July 5, 1947, ch. 327, § 1, 61 Stat. 449

Section, act Dec. 18, 1941, ch. 593, title III, § 303, 55 Stat. 840, related to censorship of communications during World War II and penalties and forfeitures for violations thereof.

§§ 619, 620. Transferred

CODIFICATION

Section 619, act Dec. 18, 1941, ch. 593, title III, § 304, as added Mar. 8, 1946, ch. 83, § 1, 60 Stat. 50, amended the Trading with the Enemy Act by adding a section 32, and was transferred to section 32 of this Appendix.

Section 620, act Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925, amended the Trading with the Enemy Act by adding sections 33 to 37, and was transferred to sections 33 to 37 of this Appendix.

TITLE IV—TIME LIMIT AND SHORT TITLE

§§ 621, 622. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651

Section 621, act Dec. 18, 1941, ch. 593, title IV, § 401, 55 Stat. 841, provided that sections 601 to 605 and 611 of this Appendix would terminate six months after the termination of the war or such earlier time as the Congress or President may designate.

Section 622, act Dec. 18, 1941, ch. 593, title IV, § 402, 55 Stat. 841, provided that act Dec. 18, 1941, may be cited as the ''First War Powers Act, 1941''.

SECOND WAR POWERS ACT, 1942

ACT MAR. 27, 1942, CH. 199, 56 STAT. 176

TITLE I—EMERGENCY POWERS OF THE INTERSTATE COMMERCE COMMISSION OVER MOTOR AND WATER CARRIERS

§§ 631 to 631b. Repealed. Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1468

Section 631, act Mar. 27, 1942, ch. 199, title I, § 101, 56 Stat. 177, amended section 304 of former Title 49, Transportation.

Section 631a, act Mar. 27, 1942, ch. 199, title I, § 102, 56 Stat. 177, amended section 310a of former Title 49.

Section 631b, act Mar. 27, 1942, ch. 199, title I, § 103, 56 Stat. 177, amended section 911 of former Title 49.

TITLE II—ACQUISITION AND DISPOSITION OF PROPERTY

§§ 632, 632a. Omitted

CODIFICATION

Sections 632 and 632a were omitted as terminated pursuant to section 645 of this Appendix.

Section 632, act Mar. 27, 1942, ch. 199, title II, § 201, 56 Stat. 177, added section 2 to act July 2, 1917, ch. 35, section 171a of Title 50, War and National Defense, authorizing the acquisition and disposition of property for military, naval, or other war purposes.

Section 632a, act Mar. 27, 1942, ch. 199, title II, § 202, as added Dec. 28, 1945, ch. 590, § 1(a), 59 Stat. 658, provided that the authority granted by section 2 of act July 2, 1917, should not be exercised after Dec. 28, 1945.

The following Executive Orders related to the exercise of authority under section 632: No. 9129, eff. Apr. 13, 1942, 7 F.R. 2810; No. 9150, eff. Apr. 28, 1942, 7 F.R. 3217; No. 9186, eff. June 5, 1942, 7 F.R. 4317; No. 9194, eff. July 7, 1942, 7 F.R. 5257; No. 9211, eff. Aug. 1, 1942, 7 F.R. 6030; No. 9217, eff. Aug. 7, 1942, 7 F.R. 6177; No. 9218, eff. Aug. 11, 1942, 7 F.R. 6381; No. 9249, eff. Oct. 1, 1942, 7 F.R. 7874; No. 9280, eff. Dec. 5, 1942, 7 F.R. 10179; No. 9321, eff. Mar. 25, 1943, 8 F.R. 3749; and President's letter of July 31, 1943, 8 F.R. 10702.

TITLE III—PRIORITIES POWERS

§ 633. Omitted

CODIFICATION

Section, acts Mar. 27, 1942, ch. 199, title III, § 301, 56 Stat. 177; Dec. 20, 1944, ch. 614, 58 Stat. 827; Aug. 7, 1946, ch. 770, § 1(26), (31), 60 Stat. 868, which amended section 1152 of this Appendix, was omitted as terminated pursuant to the provisions of section 645 of this Appendix.

TITLE IV—PURCHASE BY FEDERAL RESERVE BANKS OF GOVERNMENT OBLIGATIONS

§ 634. Omitted

CODIFICATION

Section, act Mar. 27, 1942, ch. 199, title IV, § 401, 56 Stat. 180, which amended section 355(b) of Title 12, Banks and Banking, was omitted as terminated pursuant to the provisions of section 645 of this Appendix.

TITLE V—WAIVER OF NAVIGATION AND INSPECTION LAWS

§ 635. Omitted

CODIFICATION

Section, act Mar. 27, 1942, ch. 199, title V, § 501, 56 Stat. 180, which authorized waiver of navigation and inspection laws, was omitted as terminated pursuant to the provisions of section 645 of this Appendix.

VESSELS OF WAR SHIPPING ADMINISTRATION AND THOSE TRAVELLING BETWEEN PUERTO RICO AND UNITED STATES

Treasury Decisions No. 50756, Oct. 30, 1942, 7 F.R. 9005 and No. 50811, Feb. 5, 1943, 8 F.R. 1757, related respectively to those vessels.

TITLE VI—POWER TO REQUISITION

§§ 636, 636a. Omitted

CODIFICATION

Section 636, act Mar. 27, 1942, ch. 199, title VI, § 601, 56 Stat. 181, amended section 721 of this Appendix, which was omitted from the Code.

Section 636a, act Mar. 27, 1942, ch. 199, title VI, § 602, 56 Stat. 181, amended section 721 of this Appendix, which was omitted from the Code.

TITLE VII—POLITICAL ACTIVITY

§ 637. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651

Section, act Mar. 27, 1942, ch. 199, title VII, § 701, 56 Stat. 181, amended section 118i of former Title 5, Executive Departments and Government Officers and Employees.

TITLE VIII—PROTECTION OF WAR INDUSTRIES AND PROTECTION OF RESOURCES SUBJECT TO HAZARDS OF FOREST FIRES

§ 638. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651

Section, act Mar. 27, 1942, ch. 199, title VIII, § 801, 56 Stat. 181, related to utilization of Civilian Conservation Corps.

TITLE IX—FREE POSTAGE FOR SOLDIERS, SAILORS, AND MARINES

§ 639. Repealed. Dec. 28, 1945, ch. 590, § 1(b), 59 Stat. 658

Section, act Mar. 27, 1942, ch. 199, title IX, § 901, 56 Stat. 181, related to free postage for members of the armed forces.

§ 639a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act Oct. 6, 1945, ch. 393, § 10, 59 Stat. 542, related to first class mail matter for members of the armed forces and termination date.

TITLE X—NATURALIZATION OF PERSONS SERVING IN THE ARMED FORCES OF THE UNITED STATES DURING THE PRESENT WAR

§ 640. Repealed. June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280

Section, acts Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 182; Dec. 28, 1945, ch. 590, § 1(c), 59 Stat. 658, were amendments to the Nationality Act of 1940 which were formerly classified to sections 1001 to 1006 of Title 8, Aliens and Nationality (relating to naturalization of persons serving in the armed forces of the United States during World War II). See section 1440 of Title 8.

TITLE XI—ACCEPTANCE OF CONDITIONAL GIFTS TO FURTHER THE WAR PROGRAM

§§ 641 to 641f. Repealed. June 29, 1946, ch. 526, § 1, 60 Stat. 345

Section 641, act Mar. 27, 1942, ch. 199, title XI, § 1101, 56 Stat. 183, related to acceptance by Secretary of the Treasury of gifts for war purposes.

Section 641a, act Mar. 27, 1942, ch. 199, title XI, § 1102, 56 Stat. 183, related to conversion of gift property into money.

Section 641b, act Mar. 27, 1942, ch. 199, title XI, § 1103, 56 Stat. 183, related to deposit of moneys in War Contributions Fund.

Section 641c, act Mar. 27, 1942, ch. 199, title XI, § 1104, 56 Stat. 183, related to allocation of deposits to pertinent appropriations.

Section 641d, act Mar. 27, 1942, ch. 199, title XI, § 1105, 56 Stat. 184, related to reports to Congress.

Section 641e, act Mar. 27, 1942, ch. 199, title XI, § 1106, 56 Stat. 184, related to penalties for wrongful solicitation or use of gifts. Section was also repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862. See section 663 of Title 18, Crimes and Criminal Procedure.

Section 641f, act Mar. 27, 1942, ch. 199, title XI, § 1107, as added by act Dec. 28, 1945, ch. 590, § 1(d), 59 Stat. 658, limited scope of authority granted by these sections to the personnel of the armed forces stationed abroad.

TITLE XII—COINAGE OF 5-CENT PIECES

§§ 642 to 642e. Omitted

CODIFICATION

Section 642, acts Mar. 27, 1942, ch. 199, title XII, § 1201, 56 Stat. 184; Dec. 28, 1945, ch. 590, § 1(e), 59 Stat. 658, which related to temporary coinage of silver and copper 5-cent pieces, expired Dec. 31, 1945, by its own terms.

Section 642a, act Mar. 27, 1942, ch. 199, title XII, § 1202, 56 Stat. 184, related to allocation of silver bullion to Director of Mint for coinage of 5 cent pieces pursuant to section 642 of this Appendix.

Section 642b, act Mar. 27, 1942, ch. 199, title XII, § 1203, 56 Stat. 184, set standard for silver-copper ingots used for coinage pursuant to section 642 of this Appendix and set the weight deviation of such coinage.

Section 642c, act Mar. 27, 1942, ch. 199, title XII, § 1204, 56 Stat. 184, provided that for purposes of section 341 of former Title 31, Money and Finance, the coinage authorized by section 642 of this Appendix was to be deemed to be copper.

Section 642d, acts Mar. 27, 1942, ch. 199, title XII, § 1205, 56 Stat. 184; Dec. 28, 1945, ch. 590, § 1(e), 59 Stat. 658, related to redemption, melting, and use of 5-cent pieces for subsidiary silver coinage.

Section 642e, act Mar. 27, 1942, ch. 199, title XII, § 1206, 56 Stat. 185, related to effective date of sections 642 to 642e of this Appendix.

TITLE XIII—INSPECTION AND AUDIT OF WAR CONTRACTORS

§§ 643 to 643c. Omitted

CODIFICATION

Sections 643 to 643c of this Appendix were omitted as terminated six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, which emergency terminated two years from Sept. 14, 1976, pursuant to section 1601 of Title 50, War and National Defense.

Section 643, act Mar. 27, 1942, ch. 199, title XIII, § 1301, 56 Stat. 185, related to inspection of plants and audits of books and records of defense contractors, definition of defense contract, and designation of the governmental agency or officer to administer these functions.

Section 643a, acts Mar. 27, 1942, ch. 199, title XIII, § 1302, 56 Stat. 185; Oct. 15, 1970, Pub. L. 91–452, title II, § 248, 84 Stat. 931, related to oaths and affirmations, attendance and testimony of witnesses, production of records and other evidence, and unlawful disclosure of information obtained.

Section 643b, act Mar. 27, 1942, ch. 199, title XIII, § 1303, 56 Stat. 186, related to refusal to give evidence, etc., assistance of courts to obtain such evidence, and penalties for such refusal.

Section 643c, act Mar. 27, 1942, ch. 199, title XIII, § 1304, 56 Stat. 186, defined ''person'' for purposes of sections 643 to 643c of this Appendix.

CONTINUATION OF PROVISIONS UNTIL TERMINATION OF NATIONAL EMERGENCY

Act June 30, 1953, ch. 169, 67 Stat. 120, provided that sections 643 to 643c of this Appendix as extended by subsection 1(a)(2) of the Emergency Powers Continuation Act (Public Law 450, Eighty-second Congress), as amended, remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 (Proc. 2914, 3 C.F.R. 71, set out as a note preceding section 1 of this Appendix), notwithstanding any limitation by reference to war of the time during which the powers and authorizations therein granted may be exercised, or until such earlier date as may be provided by the Congress by concurrent resolution or by the President.

Provisions of this section were previously extended to July 1, 1953 by act July 3, 1952, ch. 570, § 1(a)(2), 66 Stat. 331, as amended by act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18.

Act Apr. 4, 1953, ch. 21, § 2, 67 Stat. 23, repealed act July 3, 1952, ch. 570, § 1(a)(18), 66 Stat. 331, which continued the effectiveness of this section until Apr. 1, 1953. Section 6 of act July 3, 1952, repealed act Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by act May 28, 1952, ch. 339, 66 Stat. 96; act June 14, 1952, ch. 437, 66 Stat. 137; act June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of act July 3, 1952.

EXECUTIVE ORDER NO. 9127

Ex. Ord. No. 9127, eff. Apr. 10, 1942, 7 F.R. 2753, provided for the inspection of plants and audit of books of defense contractors.

TITLE XIV—UTILIZATION OF VITAL WAR INFORMATION

§§ 644 to 644b. Omitted

CODIFICATION

Sections 644 to 644b were omitted as terminated pursuant to section 645 of this Appendix.

Section 644, act Mar. 27, 1942, ch. 199, title XIV, § 1401, 56 Stat. 186, related to special investigations and reports and to penalties for refusal to answer questions or for supplying false information.

Section 644a, act Mar. 27, 1942, ch. 199, title XIV, § 1402, 56 Stat. 186, related to availability of reports to other government agencies.

Section 644b, act Mar. 27, 1942, ch. 199, title XIV, § 1403, 56 Stat. 186, defined person as used in this title.

TITLE XV—TIME LIMIT AND SHORT TITLE

§§ 645 to 645b. Omitted

CODIFICATION

Sections 645 to 645b of this Appendix, which were part of the Second War Powers Act, 1942, were omitted in view of the repeal or omission of the remaining provisions of the Second War Powers Act, 1942.

Section 645, acts Mar. 27, 1942, ch. 199, title XV, § 1501, 56 Stat. 187; Dec. 20, 1944, ch. 614, 58 Stat. 827; Dec. 28, 1945, ch. 590, § 1(f), 59 Stat. 658; June 29, 1946, ch. 526, § 1, 60 Stat. 345; Mar. 31, 1947, ch. 29, § 3, 61 Stat. 34; June 30, 1947, ch. 184, § 1, 61 Stat. 214; July 15, 1947, ch. 248, § 3, 61 Stat. 322; Feb. 28, 1948, ch. 85, 62 Stat. 58; June 4, 1948, ch. 419, § 1, 62 Stat. 342; June 30, 1949, ch. 289, 63 Stat. 404, provided for termination of portions of the Second War Powers Act, 1942, former sections 631 to 642e, 643 to 643c, 644 to 644b, and 645 to 645b of this Appendix, on certain specified dates.

Section 645a, act Mar. 27, 1942, ch. 199, title XV, § 1502, 56 Stat. 187, provided that act Mar. 27, 1942, ch. 199, 56 Stat. 176, be cited as the ''Second War Powers Act, 1942''.

Section 645b, act Mar. 27, 1942, ch. 199, title XV, § 1503, as added June 29, 1946, ch. 526, § 2, 60 Stat. 346, provided that nothing in the Second War Powers Act, 1942, or any other Federal Act, except the Emergency Price Control Act of 1942, sections 901 to 946 of this Appendix, the Stabilization Act of 1942, sections 961 to 971 of this Appendix, or the District of Columbia Emergency Rent Act be construed to authorize the establishment of price and rent controls.

FIRST DECONTROL ACT OF 1947

Act Mar. 31, 1947, ch. 29, 61 Stat. 34, known as the ''First Decontrol Act of 1947'', provided that it was vital to a free economy and full production in the United States that all emergency controls and war powers under the Second War Powers Act, sections 631 to 642e, 643 to 643c, 644 to 644b, and 645 to 645b of this Appendix, be removed except in certain limited instances, and amended section 645 of this Appendix for the purpose of liquidating existing emergency controls and war powers and for the purpose of affording Congressional committees an opportunity to consider specific legislation granting restricted authority in limited instances.

SECOND DECONTROL ACT OF 1947

Act July 15, 1947, ch. 248, 61 Stat. 321, as amended Feb. 28, 1948, ch. 85, 62 Stat. 58; June 4, 1948, ch. 419, § 1, 62 Stat. 342, known as the ''Second Decontrol Act of 1947'', provided that it was the general policy of the United States to eliminate emergency wartime controls of materials except to the minimum extent necessary, and amended sections 645 and 701 of this Appendix to effectuate this policy.

APPROPRIATIONS

Act June 30, 1947, ch. 184, § 2, 61 Stat. 214, authorized appropriations, out of any money in the Treasury not otherwise appropriated, as may be necessary to carry out the provisions of act June 30, 1947, amending sections 645 and 701 of this Appendix.

EXPORTATION RESTRICTIONS ON CERTAIN ARTICLES

ACT JULY 2, 1940, CH. 508, 54 STAT. 714

§ 701. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, acts July 2, 1940, ch. 508, § 6, 54 Stat. 714; June 30, 1942, ch. 461, 56 Stat. 463; July 1, 1944, ch. 360, 58 Stat. 671; June 30, 1945, ch. 205, 59 Stat. 270; May 23, 1946, ch. 269, 60 Stat. 215; June 30, 1947, ch. 184, § 1, 61 Stat. 214; July 15, 1947, ch. 248, § 4, 61 Stat. 323; Dec. 30, 1947, ch. 526, § 3(a), 61 Stat. 946, authorized President, until Feb. 28, 1949, to prohibit or curtail exportation of any articles, technical data, materials, or supplies, except under those rules and regulations as he should prescribe. See section 2401 et seq. of this Appendix.

§ 702. Omitted

CODIFICATION

Section, act May 28, 1941, ch. 134, 55 Stat. 206, extended application of section 701 of this Appendix to territories and possessions of the United States.

REQUISITION OF MILITARY EQUIPMENT, MATERIALS AND SUPPLIES

ACT OCT. 10, 1940, CH. 836, 54 STAT. 1090

§§ 711 to 713. Omitted

CODIFICATION

Sections 711 to 713 were omitted as terminated pursuant to section 713 of this Appendix.

Section 711, acts Oct. 10, 1940, ch. 836, § 1, 54 Stat. 1090; July 2, 1942, ch. 471, § 1, 56 Stat. 467, authorized President to requisition certain military and naval materials, the exportation of which had been prohibited or curtailed by law. Authority to requisition under Defense Production Act of 1950 was contained in section 2081 of this Appendix.

Section 712, act Oct. 10, 1940, ch. 836, § 2, 54 Stat. 1091, provided for compensation for materials requisitioned under sections 711 to 713 of this Appendix. Compensation for property requisitioned under Defense Production Act of 1950 was provided for in section 2081 of this Appendix.

Section 713, acts Oct. 10, 1940, ch. 836, § 3, 54 Stat. 1091; July 2, 1942, ch. 471, § 2, 56 Stat. 468; June 28, 1944, ch. 308, 58 Stat. 625; June 30, 1945, ch. 207, 59 Stat. 270, provided that authority granted in sections 711 to 713 of this Appendix should remain in force only until June 30, 1946.

EXECUTIVE ORDER NO. 8567

Ex. Ord. No. 8567, Oct. 15, 1940, 5 F.R. 4121, provided for administration of sections 711 to 713 of this Appendix.

ACT OCT. 16, 1941, CH. 445, 55 STAT. 742

§§ 721 to 724. Omitted

CODIFICATION

Section 721, acts Oct. 16, 1941, ch. 445, § 1, 55 Stat. 742; Mar. 27, 1942, ch. 199, title VI, §§ 601, 602, 56 Stat. 181; June 30, 1943, ch. 181, § 1, 57 Stat. 271; June 28, 1944, ch. 307, § 1, 58 Stat. 624; June 30, 1945, ch. 208, § 1, 59 Stat. 271, authorized President, not later than June 30, 1946, to requisition certain military materials needed for defense and provided for payment of just compensation which might be recovered by suits against United States. Authority to requisition under Defense Production Act of 1950 was contained in section 2081 of this Appendix.

Section 722, acts Oct. 16, 1941, ch. 445, § 2, 55 Stat. 742; June 30, 1943, ch. 181, § 2, 57 Stat. 271; June 28, 1944, ch. 307, § 2, 58 Stat. 624; June 30, 1945, ch. 208, § 2, 59 Stat. 271, provided for return of property acquired under sections 721 to 724 to the owner not later than Dec. 31, 1946, if owner desired it and paid fair value thereof.

Section 723, act Oct. 16, 1941, ch. 445, § 3, 55 Stat. 743, related to reports to Congress.

Section 724, act Oct. 16, 1941, ch. 445, § 4, 55 Stat. 743, related to administration of sections 721 to 724 of this Appendix.

TERRITORIAL USE OF ARMY AND EXTENSION OF SERVICE PERIOD

ACT DEC. 13, 1941, CH. 571, 55 STAT. 799

§ 731. Omitted

CODIFICATION

Section, act Dec. 13, 1941, ch. 571, § 1, 55 Stat. 799, suspended restrictions on territorial use of Army in sections 301 to 318 and 401 to 405 of this Appendix.

§ 732. Transferred

CODIFICATION

Section, act Dec. 13, 1941, ch. 571, § 2, 55 Stat. 800, which extended service periods during any war, was transferred to section 16a of former Title 10, Army and Air Force. Section 16a of former Title 10 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 3492 and 8492 of Title 10, Armed Forces. Said sections 3492 and 8492 of Title 10 were repealed by Pub. L. 90–235, § 1(a)(2), Jan. 2, 1968, 81 Stat. 753. See section 671a of Title 10.

§ 733. Repealed. June 28, 1950, ch. 383, title IV, § 401(a), 64 Stat. 271

Section, act Dec. 13, 1941, ch. 571, § 3, 55 Stat. 800, amended section 2 of former Title 10, Army and Air Force.

CIVILIAN PROTECTION FROM WAR HAZARDS

ACT JAN. 27, 1942, CH. 20, 56 STAT. 19

§§ 741, 742. Omitted

CODIFICATION

Sections 741 and 742 were omitted pursuant to Ex. Ord. No. 9562, June 5, 1945, 10 F.R. 6639, which terminated the Office of Civilian Defense and abolished the functions of the Office and its Director. See section 5195 et seq. of Title 42, The Public Health and Welfare.

Section 741, act Jan. 27, 1942, ch. 20, § 1, 56 Stat. 19, related to provision by the Director of Civilian Defense of protection from bombing attacks and other war hazards.

Section 742, act Jan. 27, 1942, ch. 20, § 2, 56 Stat. 19, related to unlawful use of insignia prescribed by the Director of Civilian Defense and interference by the Director of Civilian Defense or his agents with local districts or officials.

DECORATIONS, ETC., FOR MERCHANT MARINE

JOINT RES. APR. 11, 1942, CH. 241, 56 STAT. 217

§§ 751, 752. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section 751, act Apr. 11, 1942, ch. 241, 56 Stat. 217, related to medals for outstanding conduct or service by persons serving in the merchant marines on or after Sept. 3, 1939.

Section 752, act Apr. 11, 1942, ch. 241, 56 Stat. 217, related to use of rosettes or other devices, number of medals to be issued, awards for repeated distinguished service, and posthumous award of medals.

ACT MAY 10, 1943, CH. 96, 57 STAT. 81

§§ 753 to 753f. Repealed. July 24, 1956, ch. 671, § 5(a)(1), 70 Stat. 606, eff. July 1, 1954

Section 753, act May 10, 1943, ch. 96, § 1, 57 Stat. 81, related to seamen's service and war zone insignias and the persons eligible therefor.

Section 753a, act May 10, 1943, ch. 96, § 2, 57 Stat. 81, related to seamen's honor bar and to persons eligible therefor.

Section 753b, act May 10, 1943, ch. 96, § 3, 57 Stat. 82, related to a medal for seamen wounded, physically injured, or suffering from dangerous exposure from acts of enemy.

Section 753c, act May 10, 1943, ch. 96, § 4, 57 Stat. 82, related to conditions for eligibility of awards, limitation and termination of awards, and posthumous awards.

Section 753d, act May 10, 1943, ch. 96, § 5, 57 Stat. 82, related to seamen's service flag and lapel button and persons entitled to display it.

Section 753e, act May 10, 1943, ch. 96, § 6, 57 Stat. 82, related to rules and regulations and expenditures of funds.

Section 753f, act May 10, 1943, ch. 96, § 7, as added July 31, 1945, ch. 337, 59 Stat. 511; amended Aug. 7, 1946, ch. 786, 60 Stat. 884, prescribed regulations governing manufacture, sale, possession, or display of awards and decorations, and penalties for violations.

REPLACEMENT OF AWARDS, MEDALS, AND DECORATIONS

Section 5(b) of act July 24, 1956, which authorized the Secretary of Commerce, notwithstanding the repeal of sections 753 to 753f, 754 to 754b, and 1471 to 1475 of this Appendix, under such rules and regulations as he may from time to time prescribe, to make replacements at cost or permit replacements at reasonable prices by persons authorized by him of the awards, medals, decorations, or other articles issued under such sections, if lost, destroyed, or rendered unfit for use, without fault or neglect on the part of the owner, was repealed by Pub. L. 100–324, § 9, May 30, 1988, 102 Stat. 577.

ACT AUG. 8, 1946, CH. 918, 60 STAT. 960

§§ 754 to 754b. Repealed. July 24, 1956, ch. 671, § 5(a)(2), 70 Stat. 606, eff. July 1, 1954

Section 754, act Aug. 8, 1946, ch. 918, § 1, 60 Stat. 960, provided for award of service medals and honorable discharge buttons (including posthumous award) to officers and crew in merchant marine who served honorably in a war zone for thirty days between Dec. 7, 1941, and Sept. 3, 1945, and who were entitled to a certificate of substantially continuous service between May 1, 1940 and July 25, 1947, pursuant to regulations prescribed by Maritime Commission.

Section 754a, act Aug. 8, 1946, ch. 918, § 2, 60 Stat. 960, authorized funds required to make awards of service medals and honorable discharge buttons pursuant to sections 754 to 754b of this Appendix.

Section 754b, act Aug. 8, 1946, ch. 918, § 3, 60 Stat. 960, related to regulations governing manufacture, sale, or use of decorations, and the penalties for violation.

USE OF PUBLIC LANDS FOR WAR PURPOSES

ACT JUNE 5, 1942, CH. 346, 56 STAT. 323

§§ 756 to 759. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section 756, act June 5, 1942, ch. 346, § 1, 56 Stat. 323, provided for lease or sale of vacant public lands withdrawn or reserved under certain Executive Orders or within a grazing district for use in connection with manufacture of arms, etc.

Section 757, act June 5, 1942, ch. 346, § 2, 56 Stat. 323, provided that lessee's interest in public lands leased under sections 756 to 759 should be taxable by States and political subdivisions thereof.

Section 758, act June 5, 1942, ch. 346, § 3, 56 Stat. 323, provided for rules and regulations.

Section 759, act June 5, 1942, ch. 346, § 4, 56 Stat. 323, provided a termination date for sections 756 to 759 of this Appendix.

MISCELLANEOUS PROVISIONS AFFECTING MILITARY ESTABLISHMENT

ACT JUNE 5, 1942, CH. 340, 56 STAT. 314

§§ 761, 762. Omitted

CODIFICATION

Sections 761 and 762 were omitted as terminated pursuant to section 776 of this Appendix.

Section 761, act June 5, 1942, ch. 340, § 1, 56 Stat. 314, authorized Secretary of War to provide for entertainment and instruction of enlisted personnel and employment of interns in the Medical Department at not to exceed $720 per annum. See Continuation of Section 761 note set out below.

Section 762, act June 5, 1942, ch. 340, § 2, 56 Stat. 314, suspended all provisions of law existing on June 5, 1942, limiting the strength of any branch of the Army, the number of aviation cadets in the Army Air Corps, the number of assistant superintendents of the Army Nurse Corps, the number and grade of reserve officers who might be ordered to extended active duty, and the number of officers of the Army who might be required to participate in aerial flights. Such strength limitations were superseded by section 452 of this Appendix and sections 3201, 3205, 3213, 3222, 3223, 3225 [see 522, 12002, and 12008] of Title 10, Armed Forces. Appointments as assistant superintendents of the Army Nurse Corps have ceased to exist under section 166*l* of former Title 10, Army and Air Force, and limitations as to number of reserve officers on active duty and number of officers participating in aerial flights, sections 369a and 292 of former Title 10, were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

CONTINUATION OF SECTION 761 UNTIL AUGUST 1, 1953

Act June 30, 1953, ch. 172, 67 Stat. 132, and act Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, amended act July 3, 1952, ch. 570, 66 Stat. 332, which provided that section 761 of this Appendix should continue in force in no event beyond Aug. 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING SECTION 761

Act Apr. 4, 1953, ch. 21, § 2, 67 Stat. 23, repealed act July 3, 1952, ch. 570, § 1(a)(18), which continued the effectiveness of section 761 of this Appendix until Apr. 1, 1953. Section 6 of act July 3, 1952, repealed act Apr. 14, 1952, ch. 204, 66 Stat. 54; amended May 28, 1952, ch. 339, 66 Stat. 96; June 14, 1952, ch. 437, 66 Stat. 137; June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of act July 3, 1952.

§ 763. Repealed. Sept. 23, 1950, ch. 1010, § 3(a), 64 Stat. 986

Section, act June 5, 1942, ch. 340, § 3, 56 Stat. 314, related to appointment and transfer of civilian employers for foreign service and transportation of employees, dependents, and effects.

§ 764. Omitted

CODIFICATION

Section 764, act June 5, 1942, ch. 340, § 4(a)–(d), 56 Stat. 315, relating to travel allowances for dependents and effects of military personnel, were repealed by act Oct. 12, 1949, ch. 681, title V, § 531(c)(11), 63 Stat. 840, eff. Jan. 1, 1950. See section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

Section 764, act June 5, 1942, ch. 340, § 4(e), as added Feb. 12, 1946, ch. 6, § 4, 60 Stat. 5; amended Oct. 12, 1949, ch. 681, title V, § 525(a), 63 Stat. 836, provided for monetary payments in lieu of transportation authorized by section 763(b), (c) of this Appendix.

§ 765. Repealed. Sept. 23, 1950, ch. 1010, § 3(a), 64 Stat. 986

Section, acts June 5, 1942, ch. 340, § 5, 56 Stat. 316; Oct. 12, 1949, ch. 681, title V, § 525(b), 63 Stat. 836, related to availability of funds for transportation of baggage, etc. See section 5701 et seq. of Title 5, Government Organization and Employees.

§§ 766 to 776. Omitted

CODIFICATION

Sections 766 to 776 were omitted as terminated pursuant to section 776 of this Appendix.

Section 766, act June 5, 1942, ch. 340, § 6, 56 Stat. 316, made available for lease of vessels Army transportation funds.

Section 767, act June 5, 1942, ch. 340, § 7, 56 Stat. 316, made funds available for acquisition of land, rights pertaining thereto, leasehold and other interests, temporary uses, and approval of title. Such provisions continued until Aug. 1, 1953, as provided in Continuation of Section 767 note set out below.

Section 768, act June 5, 1942, ch. 340, § 8, 56 Stat. 316, limited fixed fee to 6 per centum on cost-plus contracts for military posts.

Section 769, act June 5, 1942, ch. 340, § 9, 56 Stat. 316, extended act Mar. 5, 1940, ch. 44, 54 Stat. 45, relating to aircraft procurement, which was repealed by act July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section 770, act June 5, 1942, ch. 340, § 10, 56 Stat. 316, made available the funds of Engineer Service, Army, for expenses of operation of railroad.

Section 771, act June 5, 1942, ch. 340, § 11, 56 Stat. 316, made funds available for acquisition of leasehold and other interests in land, temporary uses, and approval of title. Such provisions continued until Aug. 1, 1953, as provided in Continuation of Section 771 note set out below.

Section 772, act June 5, 1942, ch. 340, § 12, 56 Stat. 316, related to employment of necessary personnel for production of plans for Army projects and their compensation.

Section 773, act June 5, 1942, ch. 340, § 13, 56 Stat. 317, extended provisions of section 1171(a), (b) of this Appendix to moneys appropriated for Department of the Army for national defenses during World War II and was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 672.

Section 774, act June 5, 1942, ch. 340, § 14, 56 Stat. 317, related to suspension of limitations on number of aircraft.

Section 775, act June 5, 1942, ch. 340, § 15, 56 Stat. 317, provided that sections 761 to 776 of this Appendix were not to limit or effect any power or authority granted or conferred by the First War Powers Act, 1941 [sections 601 to 605, 611, and 616 to 622 of this Appendix] or the Second War Powers Act, 1942 [sections 631 to 642e, 643 to 643c, 644 to 644b, and 645 to 645b of this Appendix].

Section 776, act June 5, 1942, ch. 340, § 16, 56 Stat. 317, provided that provisions of sections 761 to 776 of this Appendix should remain in force during the continuance of World War II and for six months after its termination. For termination of state of war, see notes set out preceding section 1 of this Appendix.

CONTINUATION OF SECTIONS 767, 771 UNTIL AUGUST 1, 1953

Section 1(a)(5) of act July 3, 1952, ch. 570, 66 Stat. 331, as amended Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18; June 30, 1953, ch. 172, 67 Stat. 132, provided that sections 767 and 771 of this Appendix should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of this Appendix, or such earlier date or dates as may be provided for by Congress, but in no event beyond Aug. 1, 1953, as extended from Apr. 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING SECTIONS 767, 771

Act Apr. 4, 1953, ch. 21, § 2, 67 Stat. 23, repealed act July 3, 1952, ch. 570, § 1(a)(18), 66 Stat. 331, which continued the effectiveness of this section until Apr. 1, 1953. Section 6 of act July 3, 1952, repealed act Apr. 14,

1952, ch. 204, 66 Stat. 54; amended May 28, 1952, ch. 339, 66 Stat. 96; June 14, 1952, ch. 437, 66 Stat. 137; June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

ACT JUNE 28, 1944, CH. 306, 58 STAT. 624

§ 777. Transferred

CODIFICATION

Section, act June 28, 1944, ch. 306, 58 Stat. 624, which related to naval plantations outside the continental United States and to availability of appropriations for management and operation, was originally a temporary war measure and was made permanent legislation and transferred to section 1213 of former Title 10, Army and Air Force, and to section 555a of former Title 34, Navy. Section 1213 of former Title 10 and section 555a of former Title 34 were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641 and reenacted as section 2421 of Title 10, Armed Forces.

ACT FEB. 21, 1946, CH. 34, § 3, 60 STAT. 27

§ 778. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act Feb. 21, 1946, ch. 34, § 3, 60 Stat. 27, authorized Secretary of the Navy to convene boards of officers to recommend retirement of Regular Navy and Marine Corps Officers in certain ranks and by section 12 of that act provided that those provisions terminate on June 30 of fiscal year following that in which World War II is declared ended.

PHOTOGRAPHING, MAPPING OR OTHER REPRESENTATION OF MILITARY OR DEFENSE PROPERTIES

ACT JUNE 25, 1942, CH. 447, 56 STAT. 390

§§ 781 to 785. Omitted

CODIFICATION

Sections 781 to 785 of this Appendix were omitted as terminated six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, which emergency terminated two years from Sept. 14, 1976, pursuant to section 1601 of Title 50, War and National Defense.

Section 781, act June 25, 1942, ch. 447, § 1, 56 Stat. 390, provided that photographing, sketching, mapping, etc., of military or naval reservations, properties, equipment, etc., is unlawful.

Section 782, act June 25, 1942, ch. 447, § 2, 56 Stat. 391, provided authority to grant permission to photograph, sketch, map, etc., if national defense interests were not adversely affected.

Section 783, act June 25, 1942, ch. 447, § 3, 56 Stat. 391, provided penalties for violations of sections 781 to 785 of this Appendix.

Section 784, act June 25, 1942, ch. 447, § 4, 56 Stat. 391; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352, provided that sections 781 to 785 of this Appendix apply in all places within territory or jurisdiction of United States.

Section 785, acts June 25, 1942, ch. 447, § 5, 56 Stat. 391; June 4, 1953, ch. 97, 67 Stat. 41, provided that sections 781 to 785 of this Appendix be effective only until six months after termination of national emergency proclaimed by President on Dec. 16, 1950.

EXEMPTION OF CERTAIN ARTICLES FROM IMPORT DUTIES AND TAXES

JOINT RES. JUNE 27, 1942, CH. 455, 56 STAT. 461

§§ 791 to 795. Omitted

CODIFICATION

Sections 791 to 795 were omitted as terminated pursuant to section 795 of this Appendix.

Section 791, Joint Res. June 27, 1942, ch. 455, § 1, 56 Stat. 461, provided for importation of articles for members of armed forces of United Nations, other than those of the United States, free of duties, internal-revenue taxes, and customs charges.

Section 792, Joint Res. June 27, 1942, ch. 455, § 2, 56 Stat. 462, contained similar exemptions for articles for enemy prisoners of war and enemy civilian internees and detainees.

Section 793, Joint Res. June 27, 1942, ch. 455, § 3, 56 Stat. 462, contained similar exemptions for articles made by members of United Nations armed forces detained as prisoners of war or made by nationals of United States interned or detained by enemy.

Section 794, Joint Res. June 27, 1942, ch. 455, § 4, 56 Stat. 462, authorized regulations by Secretary of the Treasury governing exemptions under sections 791 to 795 of this Appendix.

Section 795, Joint Res. June 27, 1942, ch. 455, § 5, 56 Stat. 462; Aug. 8, 1947, ch. 515, § 2, 61 Stat. 917, provided that sections 791 to 795 of this Appendix should be effective as to articles entered for consumption or withdrawn from warehouse for consumption on or after June 27, 1942, and before July 1, 1948.

ACT JUNE 27, 1942, CH. 453, 56 STAT. 461

§ 801. Omitted

CODIFICATION

Section, acts June 27, 1942, ch. 453, § 1, 56 Stat. 461; June 30, 1955, ch. 258, § 1(a), 69 Stat. 242, provided for free importation of personal and household effects brought into United States under Government orders. Provisions were superseded and incorporated in Tariff Schedules of the United States, as item 915.20 of the temporary legislation in the Appendix to the Tariff Schedules, and upon repeal of such item 915.00 as item 817.00 of the permanent legislation in Schedule 8, Special Classification Provisions. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

§ 802. Repealed. June 30, 1955, ch. 258, § 1(a), 69 Stat. 242

Section, acts June 27, 1942, ch. 453, § 2, 56 Stat. 461; Apr. 4, 1953, ch. 21, § 1, 67 Stat. 22, prescribed effective date of section 801 of this Appendix.

TEMPORARY APPOINTMENTS, PROMOTIONS, ETC., OF NAVY, MARINE CORPS, AND COAST GUARD OFFICERS

ACT JUNE 30, 1942, CH. 462, 56 STAT. 463

§§ 806 to 810. Omitted

CODIFICATION

Sections 806 to 810 were omitted as terminated pursuant to section 814 of this Appendix.

Section 806, act June 30, 1942, ch. 462, § 1, 56 Stat. 463, suspended the provisions of existing law relating to periodic computations for the purpose of determining the authorized number of commissioned officers in the various grades of the line of the Regular Navy and of the Marine Corps, the permanent promotion or advancement of all officers of the Navy and Marine Corps,

and the involuntary retirement or honorable discharge of such officers by reason of failure of selection or upon completion of designated periods of service. Under section 813 of this Appendix, this section also applied to officer personnel of the Coast Guard. This section was repealed insofar as it related to the Navy and Marine Corps by act Aug. 7, 1947, ch. 512, title IV, § 426(a), 61 Stat. 880. It was superseded with respect to the Coast Guard by section 42 of Title 14, Coast Guard.

Section 807, act June 30, 1942, ch. 462, § 2, 56 Stat. 464, related to the number of rear admirals entitled to pay and allowances of rear admirals of the upper half. It was repealed insofar as it related to the Navy and Marine Corps by act Aug. 7, 1947, ch. 512, title IV, § 426(a), 61 Stat. 880, and superseded with respect to the Coast Guard by section 462 of former Title 14, Coast Guard, which is covered by section 202 of Title 37, Pay and Allowances of the Uniformed Services.

Section 808, act June 30, 1942, ch. 462, § 3, 56 Stat. 464, provided for modification of age limits for original appointments to commissioned rank in staff corps.

Section 809, act June 30, 1942, ch. 462, § 4, 56 Stat. 464, which was an amendment of provisions concerning appointment of certain reserve officers to regular Navy or Marine Corps, was a permanent provision under section 814 of this Appendix, and was set out as sections 737a and 853c–2a of former Title 34, Navy, which were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See sections 2104, 2106, and 6914 of Title 10, Armed Forces.

Section 810, act June 30, 1942, ch. 462, § 5, 56 Stat. 465, related to temporarily promoted officers, pay and allowances, and date of acceptance of appointment. It was repealed insofar as it related to the Navy and Marine Corps by act Aug. 7, 1947, ch. 512, title IV, § 426(a), 61 Stat. 880, and reenacted as section 350k of former Title 34, Navy, by act May 22, 1950, ch. 193, § 3, 64 Stat. 187. Although section 810 applied to the Coast Guard under section 813 of this Appendix, it was superseded in this respect by section 350k of Title 34, which applied to the Coast Guard under section 350j of former Title 34. Sections 350j and 350k of former Title 34 were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and replaced by sections 5597 and 5787 of Title 10, Armed Forces, section 351 of Title 14, Coast Guard, and section 212(f) of Title 42, The Public Health and Welfare.

§ 811. Repealed. Feb. 21, 1946, ch. 34, § 11(b), 60 Stat. 29

Section, act June 30, 1942, ch. 462, § 6, 56 Stat. 465, related to retired grade and pay of officers retired for age while serving under temporary promotion. See section 6151 of Title 10, Armed Forces.

§§ 812 to 814. Omitted

CODIFICATION

Sections 812 to 814 were omitted as terminated pursuant to section 814 of this Appendix.

Section 812, act June 30, 1942, ch. 462, § 7, 56 Stat. 465, amended sections 350 and 350i of former Title 34, Navy. It was repealed insofar as it related to the Navy and Marine Corps by act Aug. 7, 1947, ch. 512, title IV, § 426(a), 61 Stat. 880. It was superseded with respect to the Coast Guard by act June 3, 1948, ch. 395, 62 Stat. 302.

Section 813, act June 30, 1942, ch. 462, § 8, 56 Stat. 465, provided: "The provisions of this Act [sections 806 to 814 of this Appendix] except as may be necessary to adapt the said provisions to the Coast Guard, shall apply to officer personnel of the Coast Guard in like manner and to the same extent and with the same relative conditions in all respects as are provided for the officer personnel of the Navy and Marine Corps." It appears that section 808 of this Appendix does not apply to the Coast Guard since it has no staff officers and that section 809 does not apply because it amends provisions relating only to the Navy and Marine Corps. As pointed out in notes under sections 806, 807, 810, and 812, they have been superseded with respect to the Coast Guard.

Section 814, act June 30, 1942, ch. 462, § 9, 56 Stat. 465, prohibited any reduction of pay by virtue of sections 806 to 814 of this Appendix, and provided for termination of sections 806 to 814 of this Appendix on June 30 of fiscal year following that in which World War II ended. See Termination of State of War notes preceding section 1, of this Appendix. See note for former section 809 of this Appendix for its disposition, such section having been excepted from the termination provisions.

JURISDICTION OF PRIZES AND PRIZE PROCEEDINGS

ACT AUG. 18, 1942, CH. 553, 56 STAT. 746

§§ 821 to 828. Transferred

CODIFICATION

Section 821, act Aug. 18, 1942, ch. 553, § 1, 56 Stat. 746, which related to jurisdiction of prizes and proceedings for their condemnation, was transferred to section 1159 of former Title 34, Navy. Section 1159 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 7651 and 7652(a) and (b) of Title 10, Armed Forces.

Section 822, act Aug. 18, 1942, ch. 553, § 2, 56 Stat. 746, which related to venue of proceedings, was transferred to section 1160 of former Title 34, Navy. Section 1160 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as section 7653 of Title 10, Armed Forces.

Section 823, act Aug. 18, 1942, ch. 553, § 3, 56 Stat. 746, which related to consent of cobelligerent to exercise of jurisdiction or taking of prize involving territorial waters of cobelligerent, was transferred to section 1161 of former Title 34, Navy. Section 1161 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as section 7652(c) of Title 10, Armed Forces.

Section 824, act Aug. 18, 1942, ch. 553, § 4, 56 Stat. 746, which related to the power of the War Shipping Administration to appropriate property, was transferred to section 1162 of former Title 34, Navy. Section 1162 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as section 7663(a) of Title 10, Armed Forces.

Section 825, act Aug. 18, 1942, ch. 553, § 5, 56 Stat. 746, which related to appointment, qualifications, and powers and duties of special prize commissioners, was transferred to section 1163 of former Title 34, Navy. Section 1163 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 7655 and 7676 of Title 10, Armed Forces.

Section 826, act Aug. 18, 1942, ch. 553, § 6, 56 Stat. 746, which related to rules governing jurisdiction and construction with other laws relating to prizes, was transferred to section 1164 of former Title 34, Navy. Section 1164 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section 827, act Aug. 18, 1942, ch. 553, § 7, 56 Stat. 746, which related to reciprocal privileges and jurisdiction of cobelligerents, was transferred to section 1165 of former Title 34, Navy. Section 1165 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as section 7681 of Title 10, Armed Forces.

Section 828, act Aug. 18, 1942, ch. 553, § 8, 56 Stat. 746, which related to effect on jurisdiction under other laws, was transferred to section 1166 of former Title 34, Navy. Section 1166 of former Title 34 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

CERTAIN ALLOWANCE ASSISTANCE FOR CIVILIAN AND MILITARY PERSONNEL

ACTS OCT. 14, 1942, CH. 603, 56 STAT. 786; NOV. 28, 1943, CH. 330, 57 STAT. 593

§§ 831 to 833f. Repealed. Oct. 12, 1949, ch. 681, title V, § 531(c)(13), (16), 63 Stat. 840, eff. Jan. 1, 1950

Section 831, acts Oct. 14, 1942, ch. 603, §1, 56 Stat. 786; Feb. 21, 1946, ch. 6, §2(a), 60 Stat. 5; July 1, 1947, ch. 190, §1, 61 Stat. 236, related to transportation of dependents and household effects of Navy, Marine Corps, and Coast Guard personnel incident to secret orders. See section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

Section 832, act Oct. 14, 1942, ch. 603, §3, 56 Stat. 786, made sections 831 to 833 applicable to personnel of the Coast and Geodetic Survey.

Section 833, act Oct. 14, 1942, ch. 603, §2, 56 Stat. 786, provided for effective date and termination of sections 831 to 833 of this Appendix.

Section 833a, acts Nov. 28, 1943, ch. 330, §1, 57 Stat. 593; July 1, 1947, ch. 190, §2(a), (b), 61 Stat. 236 related to transportation of dependents and household effects of Navy, Marine Corps, and Coast Guard personnel in case of evacuation of dependents or transfer of personnel to sea duty or places where dependents could not join them. See section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

Section 833b, acts Nov. 28, 1943, ch. 330, §2, 57 Stat. 593; July 1, 1947, ch. 190, §2(c), 61 Stat. 237, related to certificates in connection with transportation under sections 833a to 833f of this Appendix.

Section 833c, act Nov. 28, 1943, ch. 330, §3, 57 Stat. 594, provided for allowance of credit in disbursing officers' accounts for prior payments which would have been authorized under section 833a of this Appendix.

Section 833d, act Nov. 28, 1943, ch. 330, §4, 57 Stat. 594, related to mode of transportation of household effects of naval and civilian personnel of the Naval Establishment without regard to comparative costs. With respect to naval personnel, see section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

Section 833e, act Nov. 28, 1943, ch. 330, §5, as added Feb. 12, 1946, ch. 6, §3(a), 60 Stat. 5, provided for monetary payments in lieu of transportation authorized by sections 833a to 833f of this Appendix.

Section 833f, act Nov. 28, 1943, ch. 330, §6, 57 Stat. 594, renumbered Feb. 12, 1946, ch. 6, §3(a), 60 Stat. 5, provided for effective date and termination of sections 833a to 833f of this Appendix.

ACT OCT. 26, 1942, CH. 624, 56 STAT. 987

§ 836. Omitted

CODIFICATION

Section, act Oct. 26, 1942, ch. 624, 56 Stat. 987, which related to certificates in connection with pay and allowance accounts of civilian and military personnel of the Departments of the Army and Navy, was omitted as terminated. See Continuation of Provisions note below.

CONTINUATION OF PROVISIONS UNTIL AUGUST 1, 1953

Section 1(a)(9) of act July 3, 1952, ch. 570, 66 Stat. 331, as amended Mar. 31, 1953, ch. 13, §1, 67 Stat. 18; act June 30, 1953, ch. 172, 67 Stat. 132, provided that this section continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of this Appendix, or such earlier date or dates as may be provided for by Congress, but in no event beyond Aug. 1, 1953, as extended from Apr. 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Act Apr. 4, 1953, ch. 21, §2, 67 Stat. 23, repealed act July 3, 1952, ch. 570, §1(a)(18), 66 Stat. 331, which continued the effectiveness of this section until Apr. 1, 1953. Section 6 of act July 3, 1952, repealed act Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by act May 28, 1952, ch. 339, 66 Stat. 96; act June 14, 1952, ch. 437, 66 Stat. 137; act June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of act July 3, 1952.

ACT JULY 16, 1953, CH. 197, §1, 67 STAT. 172

§ 837. Omitted

CODIFICATION

Section, act July 16, 1953, ch. 197, §1, 67 Stat. 172, which related to certificates in connection with pay and allowance accounts of civilian and military personnel of the Armed Forces, expired on Apr. 1, 1954, pursuant to section 2 of that act.

ACT DEC. 1, 1942, CH. 651, 56 STAT. 1024

§§ 841, 842. Repealed. May 28, 1948, ch. 352, § 3, 62 Stat. 277

Section 841, acts Dec. 1, 1942, ch. 651, §1, 56 Stat. 1024; Apr. 9, 1946, ch. 121, §1(a), 60 Stat. 86, related to transportation for personnel of the War and Navy Departments, Maritime Commission, and private plants engaged at war production. See section 2632 of Title 10, Armed Forces.

Section 842, acts Dec. 1, 1942, ch. 651, §2, 56 Stat. 1025; Apr. 9, 1946, ch. 121, §1(b), 60 Stat. 86, related to reports to be filed with Congress.

FREE ENTRY OF GIFTS FROM MEMBERS OF ARMED FORCES

ACT DEC. 5, 1942, CH. 680, 56 STAT. 1041

§§ 846, 847. Omitted

CODIFICATION

Section 846, acts Dec. 5, 1942, ch. 680, §1, 56 Stat. 1041; Aug. 8, 1947, ch. 515, §3(a), 61 Stat. 917; May 14, 1957, Pub. L. 85–30, §1 71 Stat. 29, which authorized free entry for gifts from members of the armed forces on duty abroad, expired on July 1, 1961, pursuant to section 847 of this Appendix.

Section 847, acts Dec. 5, 1942, ch. 680, §2, 56 Stat. 1041; Aug. 8, 1947, ch. 515, §33(c), 61 Stat. 917; Aug. 17, 1949, ch. 454, 63 Stat. 612; Feb. 21, 1951, ch. 1, 65 Stat. 3; Apr. 4, 1954, ch. 20, 67 Stat. 22; July 28, 1955, ch. 425, 69 Stat. 394; May 14, 1957, Pub. L. 85–30, §2, 71 Stat. 29; July 17, 1959, Pub. L. 86–99, 73 Stat. 223, provided that section 846 of this title shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after Dec. 5, 1942, and before July 1, 1961.

FREE POSTAGE FOR ARMED FORCES PERSONNEL

ACT JULY 12, 1950, CH. 460, 64 STAT. 336

§§ 891, 892. Omitted

CODIFICATION

Section 891, acts July 12, 1950, ch. 460, §1, 64 Stat. 336; Mar. 23, 1953, ch. 9, §1, 67 Stat. 7, which authorized free postage to Armed Forces personnel in specified areas, expired on June 30, 1955, pursuant to section 892 of this Appendix.

Section 892, acts July 12, 1950, ch. 460, §2, 64 Stat. 336; June 26, 1951, ch. 152, 65 Stat. 90; Mar. 23, 1953, ch. 9, §2, 67 Stat. 7, provided that the free mailing privileges authorized by section 891 of this Appendix shall be effective from July 12, 1950 to June 30, 1955.

EMERGENCY PRICE CONTROL ACT OF 1942

ACT JAN. 30, 1942, CH. 26, 56 STAT. 23

TERMINATION DATE

Sections 901 to 906, 921, 922, 923 to 926, and 941 to 946 of this Appendix terminated June 30, 1947 under the provisions of act July 25, 1946, ch. 671, §1, 60 Stat. 664.

TITLE I—GENERAL PROVISIONS AND AUTHORITY

§§ 901 to 906. Omitted

CODIFICATION

Sections 901 to 906 were omitted as terminated.

Section 901, acts Jan. 30, 1942, ch. 26, title I, §1, 56 Stat. 23; Oct. 2, 1942, ch. 578, §7(a), 56 Stat. 767; June 30, 1944, ch. 325, title I, §101, 58 Stat. 632; June 30, 1945, ch. 214, §1, 59 Stat. 306; July 25, 1946, ch. 671, §1, 60 Stat. 664, related to purposes, time limit, and applicability of section 901 et seq. of this Appendix.

Section 901a, act Jan. 30, 1942, ch. 26, title I, §1a, as added July 25, 1946, ch. 671, §3, 60 Stat. 664, related to purposes and policies of decontrol during transition period. Subsec. (h) of section 1a of act Jan. 30, 1942, ch. 26, title I, as added July 25, 1946, ch. 671, §3, 60 Stat. 669, formerly classified to subsec. (h) of section 901a of this Appendix, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 653.

Section 902, acts Jan. 30, 1942, ch. 26, title I, §2, 56 Stat. 24; July 16, 1943, ch. 241, §5(a), 57 Stat. 566; June 30, 1944, ch. 325, title I, §102, 58 Stat. 632; June 30, 1945, ch. 214, §§3, 4, 59 Stat. 306; July 25, 1946, ch. 671, §§4, 5, 7–10, 60 Stat. 670, 671, 673, related to regulation of prices, rents, and market and renting practices. Act Jan. 30, 1942, ch. 26, title I, §2, 56 Stat. 24, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651.

Section 903, acts Jan. 30, 1942, ch. 26, title I, §3, 56 Stat. 27; June 30, 1944, ch. 325, title I, §103, 58 Stat. 636; June 30, 1945, ch. 214, §5(a), 59 Stat. 307, related to maximum prices of agricultural commodities.

Section 904, act Jan. 30, 1942, ch. 26, title I, §4, 56 Stat. 28, prohibited violation of rules and regulations relating to prices, rents, and market and renting practices and disclosure or use of information otherwise than in course of official duty. Act Jan. 30, 1942, ch. 26, title I, §4(c), 56 Stat. 28, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651.

Section 905, act Jan. 30, 1942, ch. 26, title I, §5, 56 Stat. 28, authorized Administrator to confer with groups having to do with commodities and to enter into voluntary agreements relating to purposes of section 901 et seq. of this Appendix.

Section 906, act Jan. 30, 1942, ch. 26, title I, §6, as added July 5, 1946, ch. 671, §11, 60 Stat. 675, provided for the establishment and adjustment of maximum prices.

TITLE II—ADMINISTRATION AND ENFORCEMENT

§§ 921 to 926. Omitted

CODIFICATION

Section 921, acts Jan. 30, 1942, ch. 26, title II, §201, 56 Stat. 29; June 30, 1944, ch. 325, title I, §104, 58 Stat. 637, which related to the administration of section 901 et seq. of this Appendix, with provisions for Office of Price Administration under Price Administrator, regional offices, issuance of regulations and orders and transfer of functions, was omitted as terminated. Act Jan. 30, 1942, ch. 26, title II, §201, 56 Stat. 29, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651.

Section 922, acts Jan. 30, 1942, ch. 26, title II, §202, 56 Stat. 30; June 30, 1944, ch. 325, title I, §105, 58 Stat. 637, which authorized Administrator to conduct investigations, require records and reports, and initiate contempt proceedings for violation of subpenas, and established right to specifically claim privilege against self-incrimination, was omitted as terminated. Act Jan. 30, 1942, ch. 26, title II, §202, 56 Stat. 30, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651.

Section 922a, was from appropriation acts June 28, 1944, ch. 304, title I, §101, 58 Stat. 601; July 5, 1945, ch. 271, title I, §101, 59 Stat. 415; July 23, 1946, ch. 591, title I, §101, 60 Stat. 610, which authorized Office of Price Administration employees, when designated, to administer oaths, etc., in connection with Office functions, and was not repeated in subsequent appropriation acts.

Section 922a was enacted as part of the Second Deficiency Appropriation Act, 1944, and not as part of act Jan. 30, 1942, ch. 26, 56 Stat. 23, known as the Emergency Price Control Act of 1942, which enacted sections 901 to 906, 921, 922, 923 to 926, and 941 to 946 of this Appendix.

Section 923, acts Jan. 30, 1942, ch. 26, title II, §203, 56 Stat. 31; June 30, 1944, ch. 325, title I, §106, 58 Stat. 638; July 30, 1947, ch. 361, title I, §101, 61 Stat. 619, which related to protest proceedings, was omitted as terminated. Section 101 of act July 30, 1947 provided in part for the dismissal of protest under section 923 of this Appendix on the ground of laches.

Section 924, acts Jan. 30, 1942, ch. 26, title II, §204, 56 Stat. 31; June 30, 1944, ch. 325, title I, §107, 58 Stat. 639; June 30, 1945, ch. 214, §6, 59 Stat. 308; July 30, 1947, ch. 361, title I, §101, 61 Stat. 619; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107, authorized review of orders of the Office of Price Administrator under the Emergency Price Control Act of 1942, and created the Emergency Court of Appeals for this purpose. The Emergency Price Control Act of 1942 terminated on June 30, 1947, under the provisions of act July 25, 1946, ch. 671, §1, 60 Stat. 664. The Housing and Rent Act of 1948, act Mar. 30, 1948, ch. 161, 62 Stat. 93, classified to section 1881 of this Appendix, continued the Court for the purpose of reviewing recommendations of local advisory boards for the decontrol or adjustment of maximum rents. Later, the Defense Production Act of 1950, act Sept. 8, 1950, ch. 932, 64 Stat. 798, classified to sections 2061 to 2166 of this Appendix, continued the Court to review regulations and orders relating to price control. The Housing and Rent Act of 1948 and the Defense Production Act of 1950 both terminated, however, the Court remained in existence "to complete the adjudication of rights and liabilities incurred prior to their termination dates." (Transcript of Proceedings of the Final Session of the Court, 299 F.2d 1.) The final decision of the Court, Rosenzweig v. General Services Administration, 1961, 299 F.2d 22, was decided on Dec. 6, 1961. A petition for rehearing was denied on Jan. 2, 1962, and a petition for writ of certiorari to the Supreme Court of the United States was denied on Mar. 19, 1962, 82 S. Ct. 830.

The order of Chief Judge Albert B. Maris, set forth in 299 F.2d 20, provided:

"The business of this Court having been completed, it is ordered that at the expiration of 30 days from this date, if a petition for certiorari has not been filed in the Supreme Court in Case No. 676 [Rosenzweig v. General Services Administration], just decided, the acting clerk shall deliver the records and papers of the Court in his office to the General Services Administration for permanent custody as records of the Government, and shall thereupon inform the Chief Justice of the United States that the work of the Court has been completed and that the designations of the judges of the Court may therefore appropriately be terminated.

"If a petition for certiorari is filed in Case No. 676 this order shall take effect and be carried out at the expiration of 30 days after the final disposition of Case No. 676."

In accordance with the terms of this order, the petition for certiorari having been filed, and denied Mar. 19, 1962, the Court terminated on Apr. 18, 1962.

Section 925, acts Jan. 30, 1942, ch. 26, title II, §205, 56 Stat. 33; June 30, 1944, ch. 325, title I, §108, 58 Stat. 640; July 25, 1946, ch. 671, §§12, 13, 60 Stat. 676, 677; July 30, 1947, ch. 361, title I, §101, 61 Stat. 619, which related to enforcement and recovery of damages and penalties, was omitted as terminated.

Section 926, act Jan. 30, 1942, ch. 26, title II, § 206, 56 Stat. 35, which provided for standards, limitations, publication in Federal Register, protest and review of price schedules issued prior to the Administrator's taking of office, was omitted as terminated.

TITLE III—MISCELLANEOUS

§§ 941 to 946. Omitted

CODIFICATION

Sections 941 to 946 were omitted as terminated.

Section 941, act Jan. 30, 1942, ch. 26, title III, § 301, 56 Stat. 36, related to transmission of quarterly reports to Congress.

Section 942, acts Jan. 30, 1942, ch. 26, title III, § 302, 56 Stat. 36; June 30, 1945, ch. 214, § 5(b), 59 Stat. 308, contained definitions of terms used in the Emergency Price Control Act of 1942, section 901 et seq. of this Appendix.

Section 943, act Jan. 30, 1942, ch. 26, title III, § 303, 56 Stat. 37, contained separability provisions.

Section 944, act Jan. 30, 1942, ch. 26, title III, § 304, 56 Stat. 37, authorized appropriations.

Section 945, act Jan. 30, 1942, ch. 26, title III, § 305, 56 Stat. 37, related to application of existing law.

Section 946, act Jan. 30, 1942, ch. 26, title III, § 306, 56 Stat. 37, provided as short title for section 901 et seq. of this Appendix, ''Emergency Price Control Act of 1942''.

STABILIZATION ACT OF 1942

ACT OCT. 2, 1942, CH. 578, 56 STAT. 765

§§ 961 to 971. Omitted

CODIFICATION

Sections 961 to 971 were omitted as terminated pursuant to section 966 of this Appendix.

Section 961, act Oct. 2, 1942, ch. 578, § 1, 56 Stat. 765, related to stabilization by President of prices, wages and salaries affecting cost of living and to public utility rate increases.

Section 962, act Oct. 2, 1942, ch. 578, § 2, 56 Stat. 765, provided for promulgation of regulations, delegation of authority and suspension of certain provisions of Emergency Price Control Act of 1942, section 901 et seq. of this Appendix.

Section 963, acts Oct. 2, 1942, ch. 578, § 3, 56 Stat. 766; June 30, 1944, ch. 325, title II, § 201, 58 Stat. 642; June 30, 1945, ch. 214, § 7, 59 Stat. 309; June 25, 1946, ch. 671, § 14, 60 Stat. 677, related to maximum prices for agricultural commodities and products.

Section 963a, act Oct. 2, 1942, ch. 578, § 3A, as added June 30, 1945, ch. 214, § 8, 59 Stat. 309, related to slaughter of animals, certification of plants, conditions, partial plant certification, inspection, status of meat for transportation purposes and revocation and termination of certification.

Section 964, acts Oct. 2, 1942, ch. 578, § 4, 56 Stat. 766; Apr. 11, 1943, ch. 52, § 4(a), 57 Stat. 63; June 30, 1944, ch. 325, title II, § 202, 58 Stat. 642, related to wages and salaries and limitations on control.

Section 964a, act Apr. 11, 1943, ch. 52, § 4(b), 57 Stat. 63, which related to rescission of stabilization of wages order, was not enacted as part of act Oct. 2, 1942, ch. 578, 56 Stat. 765, known as the Stabilization Act of 1942, which enacted sections 961 to 964 and 965 to 971 of this Appendix. Act Apr. 11, 1943, ch. 52, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1076.

Section 965, act Oct. 2, 1942, ch. 578, § 5, 56 Stat. 767, related to wages and salaries, prohibition of violation of regulations, employer's reduction of salaries over $5,000 and regulation of payment of double time.

Section 966, acts Oct. 2, 1942, ch. 578, § 6, 56 Stat. 767; June 30, 1944, ch. 325, title II, § 203, 58 Stat. 643; June 30, 1945, ch. 214, § 2, 59 Stat. 306; June 25, 1946, ch. 671, § 2, 60 Stat. 664, provided for the expiration of sections 961 to 964, 965 to 967, 970, and 971 of this Appendix on June 30, 1947, or on such earlier date as the Congress by concurrent resolution or the President by proclamation might prescribe.

Section 967, act Oct. 2, 1942, ch. 578, § 7, 56 Stat. 767, amended Emergency Price Control Act of 1942, § 1(b), section 901(b) of this Appendix, and made that act, section 901 et seq. of this Appendix, applicable to, and provided for its construction with, section 961 et seq. of this Appendix.

Section 968, acts Oct. 2, 1942, ch. 578, § 8, 56 Stat. 767; June 30, 1944, ch. 325, title II, § 204, 58 Stat. 643; Oct. 3, 1944, ch. 479, § 37(a), 58 Stat. 784, which related to crop loans, expired by its own terms on Dec. 31, 1948.

Section 969, act Oct. 2, 1942, ch. 578, § 9, 56 Stat. 768, which amended provision in section 713a–8 of Title 15, Commerce and Trade, relating to encouragement of production of non-basic agricultural commodities, expired by its own terms on Dec. 31, 1948.

Section 970, act Oct. 2, 1942, ch. 578, § 10, 56 Stat. 768, defined wages and salaries.

Section 971, act Oct. 2, 1942, ch. 578, § 11, 56 Stat. 768, provided penalties for violations.

EXTENSION OF SUGAR CONTROLS

ACT MAR. 31, 1947, CH. 30, 61 STAT. 35

§§ 981 to 985. Omitted

CODIFICATION

Sections 981 to 985 were omitted as expired pursuant to section 981 of this Appendix.

Section 981, act Mar. 31, 1947, ch. 30, § 1, 61 Stat. 35, extended certain laws with respect to sugar until Oct. 31, 1947, and the authority to continue inventory controls over other than household users until Mar. 31, 1948, and provided for certain powers and duties of the Secretary of Agriculture and specified limitations in connection with the control of said commodity.

Section 982, act Mar. 31, 1947, ch. 30, § 2, 61 Stat. 36, authorized the Secretary of Agriculture to remove controls prior to the termination of sections 981 to 985 of this Appendix when sugar supplies were sufficient to warrant such action.

Section 983, act Mar. 31, 1947, ch. 30, § 3, 61 Stat. 36, provided for the transfer of functions, powers and duties relating to sugar, which were vested in the President, any executive department and the Price Administrator by certain acts, to the Secretary of Agriculture, the continuance of rules and regulations promulgated by said persons and the transfer of appropriations.

Section 984, act Mar. 31, 1947, ch. 30, § 4, 61 Stat. 37, related to unlawful actions and penalties therefor. Act Mar. 31, 1947, ch. 30, § 4, 61 Stat. 37, was repealed by Pub. L. 89–544, § 8(a), Sept. 6, 1966, 80 Stat. 654.

Section 985, act Mar. 31, 1947, ch. 30, § 5, 61 Stat. 37, defined the terms person and sugar.

MISSING PERSONS ACT

ACT MAR. 7, 1942, CH. 166, 56 STAT. 143

§§ 1001 to 1012. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651–654, 656, 657, 659, 662

Section 1001, acts Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143; July 1, 1944, ch. 371, § 1, 58 Stat. 679; May 16, 1947, ch. 70, § 1, 61 Stat. 96; Aug. 29, 1957, Pub. L. 85–217, § 1(a), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, § 1(1), (2), 78 Stat. 437, defined terms used in sections 1001 to 1018 of this Appendix. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5561 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 551 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1002, acts Mar. 7, 1942, ch. 166, § 2, 56 Stat. 144; July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17,

§ 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(b), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, § 1(3), 78 Stat. 437, related to continuance of pay and allowances for missing interned or captive persons, and limited fees of agents or attorneys. For that portion of this section applicable to civilian officers and employees and their dependents, see sections 5561 and 5562 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see sections 551 and 552 of Title 37, Pay and Allowances of the Uniformed Services.

Act June 23, 1942, ch. 444, § 1, 56 Stat. 389, which authorized use of funds for payments to persons subject to section 1002 of this Appendix, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

Section 1003, acts Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1, 56 Stat. 1092; July 1, 1944, ch. 371, § 3, 58 Stat. 680, provided for continuance or establishment by department head of allotments for dependents and insurance. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5563 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 553 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1004, acts Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1, 56 Stat. 1093; July 1, 1944, ch. 371, § 4, 58 Stat. 680, provided for continuance, suspension, or resumption of pay and allowances by department head, and limited duration of allotments. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5563 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 553 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1005, acts Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1, 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88–428, § 1(4), 78 Stat. 437, related to departmental review, continuance of missing status or finding of death after year's absence, and date of termination of pay and allowances. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5565 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 555 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1006, acts Mar. 7, 1942, ch. 166, § 6, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1, 56 Stat. 1093; Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88–428, § 1(5), 78 Stat. 437, related to payment of allotments in case of captured or interned persons until death or return to jurisdiction. For that portion of this section applicable to civilian officers and employees and their dependents, see sections 5562 and 5563 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services, see sections 552 and 553 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1007, acts Mar. 7, 1942, ch. 166, § 7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88–428, § 1(6), 78 Stat. 437, related to authority of department head to create new allotments and to continue or change amounts of old allotments. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5563 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 553 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1008, act Mar. 7, 1942, ch. 166, § 8, 56 Stat. 145, provided penalty for fraudulent receipt of payments.

Section 1009, acts Mar. 7, 1942, ch. 166, § 9, 56 Stat. 145; July 1, 1944, ch. 371, § 5, 58 Stat. 680; Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492, related to determinations by department heads or designees, and to conclusiveness relative to status of personnel, payments, or death. For that portion of this section applicable to civilian officers and employees and their dependents, see sections 5565 to 5567 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see sections 555 to 557 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1010, acts Mar. 7, 1942, ch. 166, § 10, 56 Stat. 145; July 1, 1944, ch. 371, § 6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88–428, § 1(7), 78 Stat. 437, provided for fact of dependency, and authority to determine. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5566 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 556 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1011, act Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146, related to settlement of accounts. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5567 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 557 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1012, acts Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146; Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5; Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(d), 71 Stat. 492; Aug. 14, 1964, Pub. L. 88–428, § 1(8), 78 Stat. 437; Oct. 19, 1965, Pub. L. 89–271, 79 Stat. 992, provided for moving dependents and effects of persons dead, injured, missing, or captured, for sale of motor vehicles and other bulky items, and claims for proceeds. For portions of this section applicable to civilian officers and employees and their dependents, see section 5564 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see section 554 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1012a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 656

Section, act Aug. 29, 1951, ch. 356, § 2, 65 Stat. 208, allowed presentation, for consideration, reconsideration, or reimbursement during a period of 3 years following Aug. 29, 1951, of previously unpresented, rejected or disallowed claims for travel by dependents and for transportation of household and personal effects arising between Sept. 8, 1939, and Aug. 29, 1951, under section 1012 of this Appendix, ratified payments for travel by dependents and transportation of household and personal effects made by disbursing officers pursuant to section 1012 of this Appendix, on or after Mar. 7, 1942, and prior to Aug. 29, 1951, previously not allowed by virtue of inability to establish death or injury as a result of military or naval operations, and ratified payments made on and after June 25, 1950, and prior to Aug. 29, 1951, for transportation, packing, and unpacking of privately owned motor vehicles transported under the conditions set forth in section 1012 of this Appendix.

Section was not enacted as part of act Mar. 7, 1942, ch. 166, 56 Stat. 143, known as the Missing Persons Act, which enacted sections 1001 to 1012 and 1013 to 1017 of this Appendix.

§§ 1013 to 1017. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651, 654, 657, 658, 659, 662

Section 1013, acts Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146; Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88–428, § 1(9), 78 Stat. 437, provided for income tax deferment for certain persons in Government service not in position to pay taxes because of service. For that portion of this section applicable to civilian officers and employees and their dependents, see section 5568 of Title 5, Government Organization and Employ-

ees, and for that portion applicable to members of the uniformed services and their dependents, see section 558 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1014, acts Mar. 7, 1942, ch. 166, § 14, 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21, related to application of the Missing Persons Act to persons besieged by a hostile force. For that portion of this section applicable to civilian officers and employees and their dependents, see sections 5561 to 5564 and 5566 of Title 5, Government Organization and Employees, and for that portion applicable to members of the uniformed services and their dependents, see sections 551 to 554 and 556 of Title 37, Pay and Allowances of the Uniformed Services.

Section 1015, acts Mar. 7, 1942, ch. 166, § 15, 56 Stat. 147; Dec. 24, 1942, ch. 828, § 1, 56 Stat. 1092; Apr. 4, 1953, ch. 17, § 1(f), 67 Stat. 21; Jan. 30, 1954, ch. 3, 68 Stat. 7; June 30, 1955, ch. 254, 69 Stat. 238; July 20, 1956, ch. 658, 70 Stat. 595; Aug. 7, 1957, Pub. L. 85–121, 71 Stat. 341; Aug. 29, 1957, Pub. L. 85–217, § 1(e), 71 Stat. 493, prescribed the effective date.

Section 1016, act Mar. 7, 1942, ch. 166, § 16, 56 Stat. 147, amended the Civil Service Retirement Act.

Section 1017, act Mar. 7, 1942, ch. 166, § 17, 56 Stat. 148, authorized a lock for Saint Marys Falls Canal, Mich.

§ 1018. Repealed. June 16, 1942, ch. 413, § 19, 56 Stat. 369, eff. June 1, 1942

Section, act Mar. 7, 1942, ch. 166, § 18, 56 Stat. 148, related to base pay increases for military and naval personnel serving at sea or outside United States. See section 305 of Title 37, Pay and Allowances of the Uniformed Services.

SMALL BUSINESS MOBILIZATION ACT

ACT JUNE 11, 1942, CH. 404, 56 STAT. 351

§§ 1101 to 1109. Omitted

CODIFICATION

Section 1101, act June 11, 1942, ch. 404, § 1, 56 Stat. 351, which related to mobilization of productive capacity by Chairman of War Production Board, was omitted in view of the termination of the Board on Nov. 3, 1945. Act June 11, 1942, ch. 404, § 1, 56 Stat. 351, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

Section 1102, act June 11, 1942, ch. 404, § 2, 56 Stat. 352, which related to powers of Chairman of War Production Board, was omitted in view of the termination of the Board on Nov. 3, 1945.

Section 1103, act June 11, 1942, ch. 404, § 3, 56 Stat. 352, which related to certification of contractors by Chairman, was omitted in view of the termination of the Board on Nov. 3, 1945.

Section 1104, acts June 11, 1942, ch. 404, § 4, 56 Stat. 353; Dec. 8, 1944, ch. 549, 58 Stat. 799; Apr. 27, 1945, ch. 98, §§ 1, 2(a), 59 Stat. 95, which created the Smaller War Plants Corporation and enumerated its powers and duties, expired on Dec. 31, 1946, by its own terms. Act June 11, 1942, ch. 404, § 4, 56 Stat. 353, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

Section 1105, act June 11, 1942, ch. 404, § 5, 56 Stat. 355, which related to reports of Chairman of War Production Board, was omitted in view of the termination of the Board on Nov. 3, 1945.

Section 1106, act June 11, 1942, ch. 404, § 6, 56 Stat. 355, which related to Defense Plant Corporation, expired upon dissolution of Corporation by Joint Res. June 30, 1945, ch. 215, § 1, 59 Stat. 310, eff. July 1, 1945.

Section 1107, acts June 11, 1942, ch. 404, § 7, 56 Stat. 355; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, which related to participation, by the Army and Navy Departments and the United States Maritime Commission, in loans, guaranties, and commitments in accordance with Ex. Ord. No. 9112, eff. Mar. 26, 1942, 7 F.R. 2367, and to participation in or guarantee of, by those Departments and Commission, any loans made pursuant to act June 11, 1942, ch. 404, 56 Stat. 351, formerly classified to sections 1101 to 1111 of this Appendix, with a view to increasing the production of war materials, etc., was omitted as obsolete. Ex. Ord. No. 9112 was superseded by Ex. Ord. No. 10161, eff. Sept. 9, 1950, 15 F.R. 6105, and set out under section 2071 of this Appendix, and all of act June 11, 1942, to which section 1107 could have related, has expired.

Section 1108, act June 11, 1942, ch. 404, § 8, 56 Stat. 355, amended R.S. § 5200, which is classified to section 84 of Title 12, Banks and Banking.

Section 1109, act June 11, 1942, ch. 404, § 9, 56 Stat. 355, amended section 5d of the Reconstruction Finance Corporation Act, which was classified to section 606b of Title 15, Commerce and Trade, and was omitted from the Code.

§ 1110. Transferred

CODIFICATION

Section, act June 11, 1942, ch. 404, § 10, 56 Stat. 356, which related to insured banks as depositaries of public money, duties and security of these banks, prohibition of discrimination between banks, and to repeal of inconsistent laws, was transferred to section 265 of Title 12, Banks and Banking.

§ 1111. Omitted

CODIFICATION

Section, act June 11, 1942, ch. 404, § 11, 56 Stat. 357, which related to construction with other laws and Executive Orders of the authority of the Chairman of the War Production Board and of the Reconstruction Finance Corporation, was omitted in view of the termination of the War Production Board and the abolition of the Reconstruction Finance Corporation.

§ 1112. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section, act June 11, 1942, ch. 404, § 12, 56 Stat. 357, related to suspension of the anti-trust laws.

OUTSTANDING CERTIFICATES

Act July 25, 1947, ch. 327, § 1, 61 Stat. 449, which repealed this section, provided that outstanding certificates issued under this section should continue in effect for a period of six months from July 25, 1947, unless sooner revoked.

WAR AND DEFENSE CONTRACT ACTS

ACT JUNE 28, 1940

ACT JUNE 28, 1940, CH. 440, 54 STAT. 676

§§ 1151, 1152. Omitted

CODIFICATION

Section 1151, act June 28, 1940, ch. 440, title I, § 1, 54 Stat. 676, which related to advance and partial payments on defense contracts and liens on payments, terminated on June 30, 1942 pursuant to the provisions of section 1162 of this Appendix. A provision of this section concerning reports to Congress was repealed by act Aug. 7, 1946, ch. 770, § 1(25), 60 Stat. 868. Advance payments on government contracts are covered by section 255 of Title 41, Public Contracts and sections 1431 to 1435 of Title 50, War and National Defense.

Section 1152, acts June 28, 1940, ch. 440, title I, § 2, 54 Stat. 676; Sept. 9, 1940, ch. 717, title II, § 201, 54 Stat. 875; May 31, 1941, ch. 157, 55 Stat. 236; Mar. 27, 1942, ch. 199, title III, § 301, 56 Stat. 177; Dec. 20, 1944, ch. 614, 58 Stat. 827; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352; Aug. 7, 1946, ch. 770, § 1(26), (31), 60 Stat. 868, was omitted as terminated. Subsec. (a) of this section, which related to the powers, duties, and discretion of the President to contract for the acquisition, construc-

tion, and repair of naval vessels, aircraft, and equipment, was omitted pursuant to the provisions of section 645 of this Appendix. See Continuation of Import Controls note set out below. Subsec. (b) of this section, which required contracts for naval vessels under section 496 of former Title 34, Navy, to contain limitations on excess profits, terminated on June 30, 1942, pursuant to the provisions of section 1162 of this Appendix.

Pub. L. 91–452, title II, § 249, Oct. 15, 1970, 84 Stat. 931, purported to amend subsec. (a)(4) of section 1152, by striking out provisions which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination, subsequent to termination of subsec. (a)(4).

CONTINUATION OF IMPORT CONTROLS OVER FATS AND OILS AND RICE AND RICE PRODUCTS UNTIL AUGUST 1, 1951

Act June 30, 1950, ch. 426, 64 Stat. 308, as amended June 30, 1951, ch. 198, § 3, 65 Stat. 111, continued Title III of the Second War Powers Act, 1942, as amended [this section] until Aug. 1, 1951, for the purpose of authorizing and exercising, administering, and enforcing of import controls with respect to fats and oils (including oil-bearing materials, fatty acids, butter, soap and soap powder, but excluding petroleum and petroleum products and coconuts and coconut products) and rice and rice products, upon a determination by the President that such controls are (a) essential to the acquisition or distribution of products in world short supply or (b) essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the Government.

Similar provisions continuing the controls until July 1, 1950, were contained in act July 1, 1949, ch. 292, 63 Stat. 405.

EXECUTIVE ORDER NO. 9729

Ex. Ord. No. 9729, May 23, 1946, 11 F.R. 5641, related to the functions and duties of the Office of Defense Transportation, which was terminated by Ex. Ord. No. 10065, July 6, 1949, eff. July 1, 1949, 14 F.R. 3719.

§§ 1153 to 1162. Omitted

CODIFICATION

Sections 1153, 1154, and 1156 to 1162 terminated June 30, 1942, and section 1155 terminated Apr. 30, 1943, pursuant to the provisions of section 1162 of this Appendix.

Section 1153, act June 28, 1940, ch. 440, title I, § 3, 54 Stat. 677, limited the provisions of section 496 of former Title 34, Navy, to contracts exceeding $25,000.

Section 1154, act June 28, 1940, ch. 440, title I, § 4, 54 Stat. 677, provided for certification as to necessity and cost of special additional equipment and facilities acquired to facilitate construction of aircraft or naval vessels under section 496 of former Title 34. A provision of this section concerning reports to Congress was repealed by act Aug. 7, 1946, ch. 770, § 1(27), 60 Stat. 868.

Section 1155, act June 28, 1940, ch. 440, title I, § 5, 54 Stat. 678, related to working hours and overtime compensation of Navy, Coast Guard, and Army employees. Act July 3, 1942, ch. 482, 56 Stat. 645, as amended Oct. 2, 1942, ch. 577, 56 Stat. 765; Dec. 22, 1942, ch. 798, 56 Stat. 1068, extended from June 30, 1942, to and including Apr. 30, 1943, the provisions for the payment of overtime rates of compensation contained in sections 1151 to 1162.

Section 1156, act June 28, 1940, ch. 440, title I, § 6, 54 Stat. 679; Aug. 21, 1941, ch. 385, 55 Stat. 654, related to reemployment of retired employees and to summary removal of civil service employees of the War and Navy Departments and the Coast Guard for national security reasons. Act Aug. 21, 1941, ch. 385, 55 Stat. 654, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

Section 1157, act June 28, 1940, ch. 440, title I, § 7, 54 Stat. 679, added a temporary section 8 to act Mar. 14, 1936, ch. 140, 49 Stat. 1161, providing for vacation pay in lieu of vacation for Navy and Coast Guard employees. The act of Mar. 14, 1936, was repealed by act Oct. 30, 1951, ch. 631, title II, § 207(a)(1), 65 Stat. 682. For accumulation of annual leave, see section 6301 et seq. of Title 5, Government Organization and Employees.

Section 1158, acts June 28, 1940, ch. 440, title I, § 8, 54 Stat. 680; Sept. 16, 1940, ch. 720, § 9, 54 Stat. 892, increased the limit of cost of vessels under section 498c–1 of former Title 34, Navy, and other statutes, suspended limitations on payments to certain Navy Department employees, and authorized the Secretary of the Navy to employ additional personnel and to provide and operate the necessary buildings, facilities, utilities, and appurtenances thereto for the purposes of sections 1151 to 1162 of this Appendix. The latter provision is covered by section 1201 of this Appendix. Act Aug. 21, 1941, ch. 395, 55 Stat. 664, made the provisions of section 1158 applicable to naval public-works projects authorized by that act and all prior acts. A provision of this section concerning reports to Congress was repealed by act Aug. 7, 1946, ch. 770, § 1(28), 60 Stat. 868.

Section 1159, act June 28, 1940, ch. 440, title I, § 9, 54 Stat. 680, authorized modification of existing Navy and Coast Guard contracts to expedite defense.

Section 1160, act June 28, 1940, ch. 440, title I, § 10, 54 Stat. 680, related to approval of certain Naval public-works contracts under act April 25, 1939, ch. 87, § 4, 53 Stat. 590.

Section 1161, act June 28, 1940, ch. 440, title I, § 11, 54 Stat. 680, related to employment of aliens in performance of secret, confidential, or restricted Government contracts.

Section 1162, act June 28, 1940, ch. 440, title I, § 12, 54 Stat. 681, provided that sections 1151 to 1161 of this Appendix terminate June 30, 1942, unless Congress otherwise provided, was omitted from the Code as terminated.

ACT JULY 2, 1940, CH. 508, 54 STAT. 712

§§ 1171, 1172. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1171, acts July 2, 1940, ch. 508, § 1, 54 Stat. 712; Sept. 9, 1940, ch. 717, title I, § 103, 54 Stat. 875; June 5, 1942, ch. 340, § 13, 56 Stat. 317, related to contracts for Army defense facilities, construction of facilities, acquisition of military equipment munitions, and supplies, suspension of limitations on costs, operation and maintenance of facilities, and disposal of land and facilities.

Section 1172, act July 2, 1940, ch. 508, § 5, 54 Stat. 714, related to contracts for emergencies affecting national defense; limitation of amount; report of expenditures; compliance with statutory conditions for contracts.

ACT JULY 17, 1953, CH. 221, 67 STAT. 177

§§ 1173 to 1175. Omitted

CODIFICATION

Sections 1173 to 1175 were omitted pursuant to act June 21, 1956, ch. 420, 70 Stat. 325, which provided that sections 1173 to 1175 of this Appendix remain in effect until six months after the national emergency proclaimed by the President on Dec. 16, 1950, or until such date as specified by a concurrent resolution of the Congress or until July 1, 1957, whichever was earliest.

Section 1173, acts July 17, 1953, ch. 221, § 1, 67 Stat. 177; July 26, 1954, ch. 570, § 2, 68 Stat. 531, related to construction authority for the Armed Forces.

Section 1174, act July 17, 1953, ch. 221, § 2, 67 Stat. 178, related to activity reports by the Secretary of Defense.

Section 1175, act July 17, 1953, ch. 221, § 3, 67 Stat. 178, prohibited construction of section 1173 to 1175 of this Appendix as a repeal or modification of section 555 of former Title 40, Public Buildings, Property, and Works.

ACT JULY 11, 1941, CH. 290, § 3, 55 STAT. 585

§ 1181. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section, act July 11, 1941, ch. 290, § 3, 55 Stat. 585, authorized the Secretary of the Treasury to negotiate contracts for Coast Guard vessels, aircraft and equipment on the basis provided by section 1152(a) of this Appendix.

ACT APR. 28, 1942, CH. 247, TITLE IV, § 403, 56 STAT. 245

§ 1191. Omitted

CODIFICATION

Section, acts Apr. 28, 1942, ch. 247, title IV, § 403, 56 Stat. 245; Oct. 21, 1942, ch. 619, title VIII, § 801(a)–(c), 56 Stat. 982; July 1, 1943, ch. 185, § 1, 57 Stat. 347, 348; July 14, 1943, ch. 239, §§ 1–4, 57 Stat. 564; Feb. 25, 1944, ch. 63, title VII, § 701(b), 58 Stat. 78; June 30, 1945, ch. 210, § 1, 59 Stat. 294; June 14, 1947, ch. 105, 61 Stat. 133; June 28, 1949, ch. 268, § 2(a), 63 Stat. 280; Mar. 23, 1951, ch. 15, title II, § 201(a)–(d), 65 Stat. 23; Oct. 20, 1951, ch. 521, title VI, § 617, 65 Stat. 569; July 17, 1952, ch. 924, § 2, 66 Stat. 753, which provided that this section be cited as the Renegotiation Act and which related to the renegotiation of contracts and determination and recovery of excess profits, was omitted in view of the application of the provisions of this section to profits derived from contracts determined under regulations prescribed by the Board (meaning the War Contracts Price Adjustment Board, prior to its abolition sixty days after Mar. 23, 1951, by section 201(a) and (k) of act Mar. 23, 1951, and thereafter the Renegotiation Board) to be reasonably allocable to performance prior to the close of Dec. 31, 1945, and the termination of the Renegotiation Board and transfer of all property, including records, of the Renegotiation Board to the Administrator, General Services Administration, on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043.

TERMS USED

Act Feb. 25, 1944, ch. 63, title VII, § 701(a), 58 Stat. 78, which provided that terms used in section 701 of act Feb. 25, 1944, have same meaning as when used in this section.

ACT FEB. 25, 1944, CH. 63, TITLE VIII, § 801, 58 STAT. 92

§ 1192. Omitted

CODIFICATION

Section, act Feb. 25, 1944, ch. 63, title VIII, § 801, 58 Stat. 92, which related to repricing of war contracts, terminated on Dec. 31, 1945 under the provisions of section 802(b) of act Feb. 25, 1944.

ACT MAY 21, 1948, CH. 333, § 3, 62 STAT. 259

§ 1193. Omitted

CODIFICATION

Section, acts May 21, 1948, ch. 333, § 3, 62 Stat. 259; Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591, provided that this section be cited as the Renegotiation Act of 1948 and related to renegotiation of airplane contracts, authorizing the Secretary of Defense, by utilizing provisions of the Renegotiation Act, section 1191 of this title, to renegotiate contracts for the purpose of eliminating excess profits.

DEPARTMENT OF DEFENSE PROCUREMENT CONTRACTS FOR FISCAL YEAR 1950 SUBJECT TO THIS SECTION

Act Oct. 29, 1949, ch. 787, § 622(a), 63 Stat. 1021, which provided that all negotiated contracts for procurement in excess of $1,000 entered into during the fiscal year 1950 by or on behalf of the Department of Defense, including the Department of the Army, Department of the Navy, and Department of the Air Force, and all subcontracts thereunder in excess of $1,000, are made subject to this section in the same manner and to the same extent as if such contracts and subcontracts were required by this section to contain the renegotiation article prescribed in subsec. (a) of this section.

ACT DEC. 17, 1942, CH. 739, 56 STAT. 1053

§ 1201. Omitted

CODIFICATION

Section, acts Dec. 17, 1942, ch. 739, § 1, 56 Stat. 1053; Aug. 7, 1946, ch. 770, § 1(32), 60 Stat. 868; July 3, 1952, ch. 570, § 1(a)(1), 66 Stat. 330, which related to acquisition and operation of buildings and facilities by the Secretary of the Navy, terminated Aug. 1, 1953.

CONTINUATION OF PROVISIONS UNTIL AUGUST 1, 1953

Act July 3, 1952, ch. 570, § 6, 66 Stat. 334, repealed act Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by acts May 28, 1952, ch. 339, 66 Stat. 96; June 14, 1952, ch. 437, 66 Stat. 137; June 30, 1952, ch. 526, 66 Stat. 296, which had continued the effectiveness of the provisions of this section until July 3, 1952. Section 1(a) of act July 3, 1952, as amended by acts Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18 and June 30, 1953, ch. 172, 67 Stat. 132, extended the time limitation on the effectiveness of the provisions of this section from Apr. 1, 1953 to Aug. 1, 1953.

ACT MAR. 23, 1951, CH. 15, 65 STAT. 7

TITLE I—RENEGOTIATION OF CONTRACTS

§§ 1211 to 1217. Omitted

CODIFICATION

Sections were omitted pursuant to section 1212(c)(1) of this Appendix, which provided that sections 1211 to 1217, and 1218 to 1224 of this Appendix not be applicable to receipts and accruals under contracts attributable to performance after Sept. 30, 1976, and in view of the termination of the Renegotiation Board and transfer of all property, including records, of the Renegotiation Board to the Administrator, General Services Administration, on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043.

Section 1211, act Mar. 23, 1951, ch. 15, title I, § 101, 65 Stat. 7, set forth the Congressional declaration of policy concerning renegotiation of contracts.

Section 1212, acts Mar. 23, 1951, ch. 15, title I, § 102, 65 Stat. 8; Sept. 1, 1954, ch. 1209, § 1, 68 Stat. 1116; Aug. 3, 1955, ch. 499, §§ 1, 2(a), 69 Stat. 447; Aug. 1, 1956, ch. 821, §§ 2, 9(b), 70 Stat. 786, 791; Sept. 6, 1958, Pub. L. 85–930, § 1, 72 Stat. 1789; July 13, 1959, Pub. L. 86–89, § 1, 73 Stat. 210; July 3, 1962, Pub. L. 87–520, § 1, 76 Stat. 134; June 30, 1964, Pub. L. 88–339, § 1, 78 Stat. 233; June 30, 1966, Pub. L. 89–480, 80 Stat. 232; Oct. 24, 1968, Pub. L. 90–634, title I, § 102, 82 Stat. 1345; July 1, 1971, Pub. L. 92–41, § 1, 85 Stat. 97; July 9, 1973, Pub. L. 93–66, § 1, 87 Stat. 152; June 30, 1974, Pub. L. 93–329, § 1, 88 Stat. 288; Dec. 31, 1975, Pub. L. 94–185, 89 Stat. 1061, which related to contracts subject to renegotiation and provided that sections 1211 to 1214 of this Appendix not be applicable to receipts and accruals under contracts attributable to performance after Sept. 30, 1976.

Section 1213, acts Mar. 23, 1951, ch. 15, title I, § 103, 65 Stat. 8; Aug. 1, 1956, ch. 821, §§ 3(a), 4, 70 Stat. 786; Sept. 6, 1958, Pub. L. 85–930, § 2(a), 72 Stat. 1789; July 13, 1959, Pub. L. 86–89, § 2, 73 Stat. 210; June 30, 1964, Pub. L. 88–339, § 2(a), 78 Stat. 233; July 1, 1971, Pub. L. 92–41, § 3(d), 85 Stat. 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), 96 Stat. 48, related to definitions for the purposes of sections 1211 to 1224 of this Appendix.

Section 1214, act Mar. 23, 1951, ch. 15, title I, § 104, 65 Stat. 11, related to renegotiation clauses in contracts.

Section 1215, acts Mar. 23, 1951, ch. 15, title I, § 105, 65 Stat. 12; Sept. 1, 1954, ch. 1209, §§ 2, 7(a), 68 Stat. 1116, 1118; Aug. 1, 1956, ch. 821, §§ 5(a)–(c), 6, 7(a), 70 Stat. 787; June 11, 1960, Pub. L. 86–507, § 1(39), 74 Stat. 202; July 3, 1962, Pub. L. 87–520, § 2(c), 76 Stat. 134; Oct. 24, 1968, Pub. L. 90–634, title I, § 103, 82 Stat. 1345; July 1, 1971, Pub. L. 92–41, §§ 2(a), 3(d), 85 Stat. 97, 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), 96 Stat. 48, related to renegotiation proceedings.

Section 1216, acts Mar. 23, 1951, ch. 15, title I, § 106, 65 Stat. 17; Sept. 1, 1954, ch. 1209, §§ 3(a), 4(a)–(c), 5(a), 6(a), 68 Stat. 1116, 1118; Aug. 3, 1955, ch. 499, §§ 3(a), 4(a), 5(a), 69 Stat. 447, 448; Aug. 1, 1956, ch. 821, §§ 8(a), 9(a), 70 Stat. 789; Oct. 24, 1968, Pub. L. 90–634, title I, § 104, 82 Stat. 1345; July 1, 1971, Pub. L. 92–41, § 3(d), 85 Stat. 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), 96 Stat. 48, related to exemptions.

Section 1217, acts Mar. 23, 1951, ch. 15, title I, § 107, 65 Stat. 19; Aug. 1, 1956, ch. 821, § 10, 70 Stat. 791; July 13, 1959, Pub. L. 86–89, § 3, 73 Stat. 211; June 11, 1960, Pub. L. 86–507, § 1(40), 74 Stat. 202; Aug. 14, 1964, Pub. L. 88–426, title III, § 305(31), 78 Stat. 426, established the Renegotiation Board and provided for its operation. The Renegotiation Board was terminated and all property, including records, of the Board was transferred to the Administrator, General Services Administration, on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043.

§ 1217a. Repealed. June 28, 1955, ch. 189, § 12(c)(5), 69 Stat. 181

Section, act Nov. 1, 1951, ch. 665, Ch. V, 65 Stat. 763, authorized the Board to place not more than five positions in grades 16, 17, or 18 of the General Schedule established by the Classification Act of 1949.

§§ 1218 to 1224. Omitted

CODIFICATION

Sections were omitted pursuant to section 1212(c)(1) of this Appendix, which provided that sections 1211 to 1217, and 1218 to 1224 of this Appendix not be applicable to receipts and accruals under contracts attributable to performance after Sept. 30, 1976, and in view of the termination of the Renegotiation Board and transfer of all property, including records, of the Renegotiation Board to the Administrator, General Services Administration, on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043.

Section 1218, acts Mar. 23, 1951, ch. 15, title I, § 108, 65 Stat. 21; Aug. 1, 1956, ch. 821, § 11(a), 70 Stat. 791; July 3, 1962, Pub. L. 87–520, § 2(b), 76 Stat. 134; July 1, 1971, Pub. L. 92–41, §§ 2(b), 3(a), 85 Stat. 97, 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), 96 Stat. 48, provided for review by the United States Claims Court [now United States Court of Federal Claims] of Renegotiation Board determinations.

Section 1218a, acts Mar. 23, 1951, ch. 15, title I, § 108A, as added Aug. 1, 1956, ch. 821, § 12, 70 Stat. 791; amended July 3, 1962, Pub. L. 87–520, § 2(a), 76 Stat. 134; July 1, 1971, Pub. L. 92–41, § 3(b), 85 Stat. 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), (c), 96 Stat. 48, provided for review of United States Claims Court [now United States Court of Federal Claims] decisions.

Section 1219, act Mar. 23, 1951, ch. 15, title I, § 109, 65 Stat. 22, authorized the Renegotiation Board to make rules and regulations as deemed necessary.

Section 1220, act Mar. 23, 1951, ch. 15, title I, § 110, 65 Stat. 22, provided that no person be held liable for damages or penalties for compliance with any rule, regulation, or order.

Section 1221, act Mar. 23, 1951, ch. 15, title I, § 111, 65 Stat. 22, related to application of the Administrative Procedure Act.

Section 1222, act Mar. 23, 1951, ch. 15, title I, § 112, 65 Stat. 22, related to authorization of appropriations.

Section 1223, acts Mar. 23, 1951, ch. 15, title I, § 113, 65 Stat. 22; Aug. 1, 1956, ch. 821, § 13, 70 Stat. 792, related to prosecution of claims against United States by former personnel.

Section 1224, acts Mar. 23, 1951, ch. 15, title I, § 114, as added Aug. 1, 1956, ch. 821, § 14, 70 Stat. 792; amended July 1, 1971, Pub. L. 92–41, § 3(c), 85 Stat. 98; Apr. 2, 1982, Pub. L. 97–164, title I, § 160(a)(18), 96 Stat. 48, required the Renegotiation Board to report to Congress on or before Jan. 1, 1957, and on or before Jan. 1, of each year thereafter on its activities for the preceding year ending on June 30.

TITLE II—GENERAL PROVISIONS

§§ 1231 to 1233. Omitted

CODIFICATION

Section 1231, acts Mar. 23, 1951, ch. 15, title II, § 201, 65 Stat. 23; July 17, 1952, ch. 924, § 3, 66 Stat. 753; Sept. 1, 1954, ch. 1209, § 8, 68 Stat. 1118, which abolished the War Contracts Price Adjustment Board and transferred its functions under section 1191 of this Appendix to the Renegotiation Board, with the exception of the functions under section 1191(a)(4)(D) of this Appendix, which were transferred to the Administrator of General Services, was omitted in view of the termination of the Renegotiation Board and transfer of all property, including records, of the Board to the Administrator, General Services Administration, on Mar. 31, 1979, pursuant to Pub. L. 95–431, title V, § 501, Oct. 10, 1978, 92 Stat. 1043, and the omission of section 1191 of this Appendix.

Section 1232, act Mar. 23, 1951, ch. 15, title II, § 202, 65 Stat. 24, which prescribed a period of limitations for actions under the Renegotiation Act of 1948, section 1193 of this Appendix, was omitted in view of the omission of section 1193 of this Appendix.

Section 1233, act Mar. 23, 1951, ch. 15, title II, § 203, 65 Stat. 25, amended section 3806(a)(1) of the Internal Revenue Code of 1939. Provisions of section 3806 of the I.R.C. of 1939 are covered by section 1481 of Title 26, Internal Revenue Code.

NATIONAL EMERGENCY AND WAR SHIPPING ACTS

ACT JUNE 11, 1940

Sec.
1251. Repealed.

ACT MAY 2, 1941

1261 to 1263. Repealed.

ACT JUNE 6, 1941

1271 to 1275. Omitted.

ACT JULY 14, 1941

1281 to 1286. Repealed.

ACT MAR. 24, 1943

1291. Rights of American seamen on privately owned and operated American vessels extended to seamen employed through the War Shipping Administration; exceptions; definitions.
1292. Insurance awards by War Shipping Administrator; findings and actions as conclusive.
1293. Payment of compensation; insurance.
1294. United States as entitled to all benefits of exemption and limitation of liability accorded to owners of vessels.
1295. Omitted.

ACT APR. 29, 1943

1301 to 1305. Repealed.

ACT AUG. 10, 1946

1306 to 1308. Repealed.

ACT JULY 9, 1943

1311, 1312. Omitted.

ACT JUNE 11, 1940, CH. 327, 54 STAT. 306

§ 1251. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section, acts June 11, 1940, ch. 327, 54 Stat. 306; May 2, 1941, ch. 84, § 1, 55 Stat. 148; June 16, 1942, ch. 416, 56 Stat. 370, related to determination of foreign construction costs of vessels.

ACT MAY 2, 1941, CH. 84, 55 STAT. 148

§§ 1261, 1262. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section 1261, acts May 2, 1941, ch. 84, § 2, 55 Stat. 148; June 16, 1942, ch. 416, 56 Stat. 370, authorized United States Maritime Commission to negotiate contracts without advertisement or bids.

Section 1262, acts May 2, 1941, ch. 84, § 3, 55 Stat. 149; June 16, 1942, ch. 416, 56 Stat. 370, authorized charter of Commission vessels to private operators for foreign trade until six months after the end of World War II.

§ 1263. Repealed. May 7, 1943, ch. 93, § 5, 57 Stat. 77

Section, acts May 2, 1941, ch. 84, § 4, 55 Stat. 150; June 16, 1942, ch. 416, 56 Stat. 370, related to working hours and overtime pay of United States Maritime Commission ship construction and other employees.

ACT JUNE 6, 1941, CH. 174, 55 STAT. 242

§§ 1271 to 1275. Omitted

CODIFICATION

Section 1271, acts June 6, 1941, ch. 174, § 1, 55 Stat. 242; June 16, 1942, ch. 416, 56 Stat. 370; Mar. 24, 1943, ch. 26, § 3(a), 57 Stat. 48, which related to purchase, requisition, etc., of foreign vessels authorized during national emergency and compensation, expired on July 1, 1953. See section 196 of Title 50.

Section 1272, acts June 6, 1941, ch. 174, § 2, 55 Stat. 243; June 16, 1942, ch. 416, 56 Stat. 370, which related to availability of appropriations for carrying out provisions of section 1271 to 1275 of this Appendix, expired on July 1, 1953.

Section 1273, acts June 6, 1941, ch. 174, § 3, 55 Stat. 243; June 16, 1942, ch. 416, 56 Stat. 370; Mar. 24, 1943, ch. 26, § 3(j), 57 Stat. 51, which related to charter of domestic and foreign vessels, expired on July 1, 1953. See sections 197 and 198 of Title 50.

Section 1274, acts June 6, 1942, ch. 174, § 4, 55 Stat. 244; June 16, 1942, ch. 416, 56 Stat. 370; Mar. 24, 1943, ch. 26, § 3(k), 57 Stat. 51, which related to purchase of domestic or foreign vessels, expired on July 1, 1953. See sections 197 and 198 of Title 50.

Section 1275, acts June 6, 1941, ch. 174, § 5, 55 Stat. 244; June 16, 1942, ch. 416, 56 Stat. 370, which related to documentation of vessels requisitioned, purchased, etc., expired on July 1, 1953. See section 198 of Title 50.

Ex. Ord. No. 9848, eff. May 8, 1947, 12 F.R. 3059, and Ex. Ord. No. 8869, eff. Aug. 23, 1941, 6 F.R. 4351, related to administration of sections 1271 to 1275 of this Appendix.

ACT JULY 14, 1941, CH. 297, 55 STAT. 591

§§ 1281 to 1286. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449

Section 1281, acts July 14, 1941, ch. 297, § 1, 55 Stat. 591; June 16, 1942, ch. 416, 56 Stat. 370, related to transportation priorities for merchant vessels during World War II.

Section 1282, acts July 14, 1941, ch. 297, § 2, 55 Stat. 591; June 16, 1942, ch. 416, 56 Stat. 370, related to form and content of warrants.

Section 1283, acts July 14, 1941, ch. 297, § 3, 55 Stat. 592; June 16, 1942, ch. 416, 56 Stat. 370, related to priorities for vessels holding warrants.

Section 1284, acts July 14, 1941, ch. 297, § 4, 55 Stat. 592; June 16, 1942, ch. 416, 56 Stat. 370, related to Commission policy regarding priorities.

Section 1285, acts July 14, 1941, ch. 297, § 5, 55 Stat. 592; June 16, 1942, ch. 416, 56 Stat. 370, defined citizens of the United States for purposes of sections 1281 to 1286 of this Appendix.

Section 1286, acts July 14, 1941, ch. 297, § 6, 55 Stat. 592; June 16, 1942, ch. 416, 56 Stat. 370, related to penalties for violations of sections 1281 to 1286 of this Appendix and jurisdiction of offenses committed in the Canal Zone and the Philippine Islands.

EXTENSION OF TERMINATION DATE

Prior to repeal, sections 1281 to 1286 had been extended until six months after termination of World War II by act June 16, 1942, ch. 416, 56 Stat. 370.

ACT MAR. 24, 1943, CH. 26, 57 STAT. 45

§ 1291. Rights of American seamen on privately owned and operated American vessels extended to seamen employed through the War Shipping Administration; exceptions; definitions

(a) Officers and members of crews (hereinafter referred to as ''seamen'') employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration[1] shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act [42 U.S.C. 301 et seq.], as amended by subsection (b)(2) and (3) of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention, or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. Such seamen, because of the temporary wartime character of their employment by the War Shipping Administration, shall not be considered as officers or employees of the United States for the purposes of the United States Employees Compensation Act, as amended [5 U.S.C. 8101 et seq.]; the Civil Service Retirement Act, as amended [5 U.S.C. 8331 et seq.]; the Act of Congress approved March 7, 1942 (Pub. Law 490, Seventy-seventh Congress) or the Act entitled ''An Act to provide benefits for the injury, disability, death, or detention of employees of contractors with the United States and certain other persons or reimbursement therefor'', approved December 2, 1942 (Public Law 784, Seventy-seventh Congress) [42 U.S.C. 1701 et seq.]. Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seaman were employed on a privately owned and operated American vessel. Any claim referred to in clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act [46 U.S.C. 30901 et seq.], notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act [said sections]. Any claim, right, or cause of ac-

[1] See Transfer of Functions note below.

tion of or in respect of any such seaman accruing on or after October 1, 1941, and prior to the date of enactment of this section [Mar. 24, 1943] may be enforced, and upon the election of the seaman or his surviving dependent or beneficiary, or his legal representative to do so shall be governed, as if this section had been in effect when such claim, right, or cause of action accrued, such election to be made in accordance with rules and regulations prescribed by the Administrator, War Shipping Administration. Rights of any seaman under the Social Security Act [42 U.S.C. 301 et seq.], as amended by subsection (b)(2) and (3), and claims therefor shall be governed solely by the provisions of such Act, so amended. When used in this subsection the term ''administratively disallowed'' means a denial of a written claim in accordance with rules or regulations prescribed by the Administrator, War Shipping Administration. When used in this subsection the terms ''War Shipping Administration'' and ''Administrator, War Shipping Administration'' shall be deemed to include the United States Maritime Commission with respect to the period beginning October 1, 1941, and ending February 11, 1942, and the term ''seaman'' shall be deemed to include any seaman employed as an employee of the United States through the War Shipping Administration on vessels made available to or subchartered to other agencies or departments of the United States.

(b)(1) Omitted [Amendment of section 1426 of the Internal Revenue Code of 1939].

(2) Omitted [Amendment of section 209 of the Social Security Act, as amended (42 U.S.C. 409)].

(3) Omitted [Amendment of section 907 of the Social Security Act Amendments of 1939 (53 Stat. 1402)].

(c) The War Shipping Administration and its agents or persons acting on its behalf or for its account may, for convenience of administration, with the approval of the Administrator, make payments of any taxes, fees, charges, or exactions to the United States or its agencies.

(Mar. 24, 1943, ch. 26, §1, 57 Stat. 45; Apr. 4, 1944, ch. 161, §§1, 2, 58 Stat. 188; Mar. 24, 1945, ch. 36, §1(a), 59 Stat. 38.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The United States Employees Compensation Act, as amended, referred to in subsec. (a), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, which was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, and the provisions thereof were reenacted by the first section thereof as subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees.

The Civil Service Retirement Act, as amended, referred to in subsec. (a), is act May 29, 1930, ch. 349, 46 Stat. 468, as amended generally by act July 31, 1956, ch. 804, §401, 70 Stat. 743, which was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as subchapter III (§8331 et seq.) of chapter 83 of Title 5.

The Act of Congress approved March 7, 1942 (Public Law 784, Seventy-seventh Congress), referred to in subsec. (a), is act Mar. 7, 1942, ch. 166, 56 Stat. 143, as amended, popularly known as the Missing Persons Act, and was classified to sections 1001 to 1018 of this Appendix. The Act was repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted by the first section thereof as subchapter VII of chapter 55 of Title 5, Government Organization and Employees, and chapter 10 of Title 37, Pay and Allowances of the Uniformed Services.

The Act entitled ''An Act to provide benefits for the injury, disability, death, or detention of employees of contractors with the United States and certain other persons or reimbursement therefor'', approved December 2, 1942 (Public Law 784, Seventy-seventh Congress), referred to in subsec. (a), is act Dec. 2, 1942, ch. 668, 56 Stat. 1028, as amended, titles I and II of which are popularly known as the War Hazards Compensation Act, and is classified principally to chapter 12 (§1701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 42 and Tables.

The Suits in Admiralty Act, referred to in subsec. (a), is act Mar. 9, 1920, ch. 95, 41 Stat. 525, which was classified generally to chapter 20 (§§741 to 743, 744 to 752) of former Title 46, Appendix, Shipping, and was repealed and restated in chapter 309 of Title 46, Shipping, by Pub. L. 109–304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 30901 of Title 46 provides that chapter 309 of Title 46 may be cited as the Suits in Admiralty Act. For disposition of sections of former Title 46, Appendix, to Title 46, see Disposition Table preceding section 101 of Title 46.

AMENDMENTS

1945—Subsec. (b)(1). Act Mar. 24, 1945, inserted last sentence.

1944—Subsec. (b)(1), (2). Act Apr. 4, 1944, inserted provisions excluding from term employment service performed under contract entered into without the United States and during the performance of which the vessel does not touch a port in the United States, or a vessel documented under the laws of a foreign country and bareboat chartered to the War Shipping Administration.

EFFECTIVE DATE

Section 1(b) of act Mar. 24, 1945, provided that the amendment made by that act shall be effective as if made by section 1 of act Mar. 24, 1943.

TRANSFER OF FUNCTIONS

War Shipping Administration terminated as of Sept. 1, 1946, and functions, powers, duties, etc., transferred to United States Maritime Commission for period Sept. 1, 1946, to Dec. 31, 1946, for purpose of liquidating Administration, by act July 8, 1946, ch. 543, title II, §202, 60 Stat. 501.

United States Maritime Commission abolished by Reorg. Plan No. 21 of 1950, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, that Board having been created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, the head of Maritime Administration, which likewise was established by the Plan in Department of Commerce with provision that Chairman of Federal Maritime Board should, ex officio, be that Administrator.

Federal Maritime Board, including offices of members of Board, abolished by section 304 of Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 843, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Board transferred either to Federal Maritime Commission or to Secretary

of Commerce by sections 103 and 202 of Reorg. Plan No. 7 of 1961.

Maritime Administration transferred from Department of Commerce to Department of Transportation by Maritime Act of 1981, Pub. L. 97–31, Aug. 6, 1981, 95 Stat. 151, which was repealed in part by Pub. L. 109–304, § 19, Oct. 6, 2006, 120 Stat. 1710. See section 109 of Title 49, Transportation.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

VESSEL OPERATIONS UNDER REVOLVING FUND

Vessel operations conducted under Vessel Operations Revolving Fund, applicability of subsecs. (a) and (c) of this section to, see section 50301(a) to (e) of Title 46, Shipping.

§ 1292. Insurance awards by War Shipping Administrators; findings and actions as conclusive

(a) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

(b) Whenever the Administrator, War Shipping Administration,[1] finds that, on or after October 1, 1941, and before thirty days after the date of enactment of this subsection [Mar. 24, 1943], a master, officer, or member of the crew of, or any persons transported on, a vessel owned by or chartered to the Maritime Commission, the War Shipping Administration, or the War Department[2] or operated by, or for the account of, or at the direction or under the control of the Commission, the Administration, or the War Department, has suffered death, injury, detention, or other casualty, for which the War Shipping Administration would be authorized to provide insurance under Subtitle—Insurance of title II of the Merchant Marine Act, 1936, as amended by this Act, the Administrator may declare that such death, injury, detention, or other casualty, shall be deemed and considered to be covered by such insurance at the time of the disaster or accident, if the Administrator finds that such action is required to make equitable provision for loss or injury related to the war effort and not otherwise adequately provided for: *Provided*, That in making provision for insurance under this subsection the Administrator shall not provide for payments in excess of those generally provided for in comparable cases under insurance hereafter furnished under the said Subtitle—Insurance of title II, as amended: *Provided further*, That any money paid to any person by reason of insurance provided for under this subsection shall apply in pro tanto satisfaction of the claim of such person against the United States arising from the same loss or injury. There shall be no recovery of any money paid on account of insurance provided for the master, officers, or members of the crew of, or individuals transported on, any vessel under this subsection or under Subtitle—Insurance of title II of the Merchant Marine Act, 1936, as amended, from any person who in the judgment of the Administrator, War Shipping Administration, is without fault, and when in the judgment of the Administrator such recovery would defeat the purposes of benefits otherwise authorized or would be against equity and good conscience. The declarations, findings, and actions of or by the Administrator under this subsection shall be final and conclusive.

(c) The Administrator, War Shipping Administration, is also authorized to make payments, in accordance with rate schedules provided by the United States Employees' Compensation Act [5 U.S.C. 8101 et seq.], to a master, officer, or member of the crew of, or any persons transported on, a vessel owned by or chartered to the Maritime Commission or the War Shipping Administration or operated by, or for the account of, or at the direction or under the control of the Commission or the Administration, for permanent total or partial disability as long as such disability resulting from causes related to the war effort whether heretofore or hereafter arising exists; such payments to commence if and when insurance benefits provided by the War Shipping Administration for such person shall have been exhausted.

(d) The War Shipping Administration shall have the right of intervention and a lien and right of recovery in the cases and to the extent of any payments paid and payable under this section or under Subtitle—Insurance of Title II of the Merchant Marine Act, 1936, as amended, in the manner provided in the last paragraph of subsection (c) of section 105 of the Act approved December 2, 1942 (Public Law 784, 77th Congress; 42 U.S.C., sec. 1701), as amended by Public Law 216, 78th Congress, approved December 23, 1943. Any amounts recovered under this provision shall be covered into the Marine and War-risk insurance fund, War Shipping Administration.

(Mar. 24, 1943, ch. 26, § 2, 57 Stat. 47; Sept. 30, 1944, ch. 451, 58 Stat. 758; Aug. 8, 1946, ch. 905, 60 Stat. 937; July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

REFERENCES IN TEXT

Title II of the Merchant Marine Act, 1936, as amended, referred to in subsecs. (b) and (d), is title II of act June 29, 1936, ch. 858, 49 Stat. 1985, as amended, which was classified to sections 1128 to 1128h of former Title 46, Shipping, and which was repealed by act July 25, 1947, ch. 327, § 1, 61 Stat. 449.

The United States Employees' Compensation Act, as amended, referred to in subsec. (c), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, which was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and the provisions thereof were reenacted by the first section thereof as subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees.

AMENDMENTS

1947—Subsec. (a). Act July 25, 1947, repealed subsec. (a) which amended section 1128a of former Title 46, Shipping.

1946—Subsec. (b). Act Aug. 8, 1946, amended subsec. (b) generally, making section applicable to employees of the War Department.

1944—Subsec. (b). Act Sept. 30, 1944, inserted sentence beginning ''There shall be no''.

Subsecs. (c), (d). Act Sept. 30, 1944, added subsecs. (c) and (d).

[1] See Transfer of Functions note below.

[2] See Change of Name note below.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 207(a), (f) of act July 26, 1947, established Department of the Air Force, headed by a Secretary, and transferred functions (relating to Army Air Forces) of Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'', which in sections 3010 to 3013 and 8010 to 8013 continued Departments of the Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

EFFECTIVE DATE OF 1946 AMENDMENT

Act Aug. 8, 1946, provided that the amendment made by that Act is effective as of Mar. 24, 1943.

TRANSFER OF FUNCTIONS

War Shipping Administration terminated as of Sept. 1, 1946, and functions, powers, duties, etc., transferred to United States Maritime Commission for period Sept. 1, 1946, to Dec. 31, 1946, for purpose of liquidating Administration, by act July 8, 1946, ch. 543, title II, § 202, 60 Stat. 501.

Maritime Commission, meaning United States Maritime Commission, abolished by Reorg. Plan No. 21 of 1950, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, that Board having been created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of that Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, the head of Maritime Administration, which likewise was established by the Plan in Department of Commerce with provision that Chairman of Federal Maritime Board should, ex officio, be that Administrator.

Federal Maritime Board, including offices of members of Board, abolished by section 304 of Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 843, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Board transferred either to Federal Maritime Commission or to Secretary of Commerce by sections 103 and 202 of Reorg. Plan No. 7 of 1961.

Maritime Administration transferred from Department of Commerce to Department of Transportation by Maritime Act of 1981, Pub. L. 97–31, Aug. 6, 1981, 95 Stat. 151, which was repealed in part by Pub. L. 109–304, § 19, Oct. 6, 2006, 120 Stat. 1710. See section 109 of Title 49, Transportation.

§ 1293. Payment of compensation; insurance

(a) Omitted [Amendment of section 1271 of this Appendix].

(b) Omitted.

(c) In the event that a vessel the title or use and possession of which is requisitioned or taken pursuant to chapter 563 of title 46 or the Act of June 6, 1941 (Public Law 101, Seventy-seventh Congress) [sections 1271 to 1275 of this Appendix], is in the custody of any court, State or Federal, it shall be the duty of all agents and officers of the court having possession, custody, or control of said vessel, forthwith upon the filing with the clerk of said court of a certified copy of the order of requisitioning or taking, and without further order of the court, to comply with said requisitioning or taking and to permit the representatives of the United States Maritime Commission or the War Shipping Administration,[1] as the case may be, to take possession, custody, and control of said vessel.

(d) Omitted [Amendment of section 902 of the Merchant Marine Act, 1936 (now 46 U.S.C. 56301 et seq.)].

(e) to (i) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

(j) Omitted [Amendment of section 1273 of this Appendix].

(k) Omitted [Amendment of section 1274 of this Appendix].

(Mar. 24, 1943, ch. 26, § 3, 57 Stat. 48; July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

CODIFICATION

Subsec. (b). Act Mar. 24, 1943, dealing with power of War Shipping Administrator to determine whether a vessel was required by United States, expired with the termination on Sept. 1, 1946, of War Shipping Administration, as set forth in note below.

In subsec. (c), ''chapter 563 of title 46'' substituted for ''section 902 of the Merchant Marine Act, 1936, as amended,'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 563 of Title 46, Shipping.

Subsecs. (e) to (i). Act Mar. 24, 1943, amended sections 1128b to 1128e and 1128h of former Title 46, Shipping, by providing compensation for servicing insurance, placing 5 percent limitation on commissions, for action in nature of bill of interpleader against interested persons, defining risks of war, and reinsurance of insurance companies.

TRANSFER OF FUNCTIONS

War Shipping Administration terminated as of Sept. 1, 1946, and functions, powers, duties, etc., transferred to United States Maritime Commission for period Sept. 1, 1946, to Dec. 31, 1946, for purpose of liquidating Administration, by act July 8, 1946, ch. 543, title II, § 202, 60 Stat. 501.

United States Maritime Commission abolished by Reorg. Plan No. 21, 1950, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, that Board having been created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, the head of Maritime Administration, which likewise was established by the Plan in Department of Commerce with provision that Chairman of Federal Maritime Board should, ex officio, be that Administrator.

Federal Maritime Board, including offices of members of Board, abolished by section 304 of Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 843, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Board transferred either to Federal Maritime Commission or to Secretary of Commerce by sections 103 and 202 of Reorg. Plan No. 7 of 1961.

Maritime Administration transferred from Department of Commerce to Department of Transportation by Maritime Act of 1981, Pub. L. 97–31, Aug. 6, 1981, 95 Stat. 151, which was repealed in part by Pub. L. 109–304, § 19, Oct. 6, 2006, 120 Stat. 1710. See section 109 of Title 49, Transportation.

[1] See Transfer of Functions note below.

VESSEL OPERATIONS UNDER REVOLVING FUND

Vessel operations conducted under Vessel Operations Revolving Fund, applicability of subsec. (c) of this section to, see section 50301(a) to (e) of Title 46, Shipping.

§ 1294. United States as entitled to all benefits of exemption and limitation of liability accorded to owners of vessels

The United States shall, with respect to vessels owned by or chartered to the War Shipping Administrator[1] under bareboat charter or time charter or operated directly by such Administrator or for his account, be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners of vessels. With respect to any such vessel, the term ''the United States'' shall include agents or other persons acting for or on behalf of the Administrator in connection with the operation thereof.

(Mar. 24, 1943, ch. 26, § 4, 57 Stat. 51.)

TRANSFER OF FUNCTIONS

War Shipping Administration terminated as of Sept. 1, 1946, and functions, powers, duties, etc., transferred to United States Maritime Commission for period Sept. 1, 1946, to Dec. 31, 1946, for purpose of liquidating Administration, by act July 8, 1946, ch. 543, title II, § 202, 60 Stat. 501.

VESSEL OPERATIONS UNDER REVOLVING FUND

Vessel operations conducted under Vessel Operations Revolving Fund, applicability of this section to, see section 50301(a) to (e) of Title 46, Shipping.

§ 1295. Omitted

CODIFICATION

Section, act Mar. 24, 1943, ch. 26, § 5, 57 Stat. 51, which provided that section 1291(a) of this Appendix should remain in force until termination of sections 601 to 605 of this Appendix by section 621 of this Appendix, was omitted in view of termination on Sept. 1, 1946, of War Shipping Administration.

ACT APR. 29, 1943, CH. 81, 57 STAT. 69

§§ 1301 to 1305. Repealed. Aug. 13, 1954, ch. 725, § 1(a), 68 Stat. 701

Section 1301, acts Apr. 29, 1943, ch. 81, § 1, 57 Stat. 69; May 18, 1944, ch. 199, § 1, 58 Stat. 223, related to return of fishing vessels, vessels of 100 tons or less and Great Lakes vessels to private owners.

Section 1302, acts Apr. 29, 1943, ch. 81, § 2, 57 Stat. 69; May 18, 1944, ch. 199, § 2, 58 Stat. 223, related to determination of availability of vessels mentioned in section 1301 of this Appendix, repayment of compensation to United States.

Section 1303, acts Apr. 29, 1943, ch. 81, § 3, 57 Stat. 69; May 18, 1944, ch. 199, § 3, 58 Stat. 244; Aug. 10, 1946, ch. 948, 60 Stat. 976, related to failure or waiver of return rights, sale of vessels.

Section 1304, acts Apr. 29, 1943, ch. 81, § 4, 57 Stat. 70; May 18, 1944, ch. 199, § 4, 58 Stat. 224, related to payment of expenses incurred by War Shipping Administration in return or sale of vessels.

Section 1305, act Apr. 29, 1943, ch. 81, § 5, as added Aug. 10, 1946, ch. 948, 60 Stat. 976, related to vessels for exclusive disposal to veterans.

SAVINGS PROVISION

See section 1(b) of act Aug. 13, 1954, set out as a note under sections 1306 to 1308 of this Appendix.

[1] See Transfer of Functions note below.

ACT AUG. 10, 1946, CH. 949, 60 STAT. 977

§§ 1306 to 1308. Repealed. Aug. 13, 1954, ch. 725, § 1(b), 68 Stat. 701

Section 1306, act Aug. 10, 1946, ch. 949, § 1, 60 Stat. 977, related to sale of surplus vessels for fishing.

Section 1307, act Aug. 10, 1946, ch. 949, § 2, 60 Stat. 977, related to definitions of terms used in sections 1306 to 1308 of this Appendix and rights of former owners.

Section 1308, act Aug. 10, 1946, ch. 949, § 3, 60 Stat. 977, related to terms of sale of vessels and other methods of disposal.

SAVINGS PROVISION

Section 1(b) of act Aug. 13, 1954, provided in part that: ''Notwithstanding the enactment of this joint resolution, the aforesaid statutory provisions shall apply to any vessels which prior to such enactment [Aug. 13, 1954] have been declared available for return to former owners by notice to the Department of Commerce under the Act of April 29, 1943, as amended [sections 1301 to 1305 of this Appendix], or determined to be surplus for sale to former owners of fishing vessels in accordance with the Act of August 10, 1946 (Public Law 717, Seventy-ninth Congress) [sections 1306 to 1308 of this Appendix]. Any other vessels which, but for the enactment of this joint resolution, would be disposed of in accordance with any of the aforesaid statutory provisions, shall be disposed of in accordance with the provisions of other existing laws.''

ACT JULY 9, 1943, CH. 212, 57 STAT. 391

§§ 1311, 1312. Omitted

CODIFICATION

Section 1311, act July 9, 1943, ch. 212, § 1, 57 Stat. 391, which created penalty for violation of regulations or orders relating to protection of vessels, harbors, ports, or waterways, terminated pursuant to section 1312 of this Appendix.

Section 1312, act July 9, 1943, ch. 212, § 2, 57 Stat. 391, provided for the termination of sections 1311 and 1312 of this Appendix six months after the cessation of hostilities, which was proclaimed by Proc. No. 2714, eff. Dec. 31, 1946, 12 F.R. 1.

FARM LABOR SUPPLY APPROPRIATION ACT, 1944

ACT FEB. 14, 1944, CH. 16, 58 STAT. 11

§§ 1351 to 1355. Omitted

CODIFICATION

Sections 1351 to 1355 were omitted as terminating Jan. 30, 1948, pursuant to act May 26, 1947, ch. 82, title I, § 101, 61 Stat. 109, set out as an Extension and Liquidation of Program note below.

Section 1351, act Feb. 14, 1944, ch. 16, title I, § 1, 58 Stat. 11, appropriated money to provide adequate supply of agricultural workers during World War II.

Section 1352, act Feb. 14, 1944, ch. 16, title I, § 2, 58 Stat. 12, related to payments to the various States to assist in supplying an adequate number of agricultural workers during World War II.

Section 1353, act Feb. 14, 1944, ch. 16, title I, § 3, 58 Stat. 12, related to expenditures by the Administrator of Food Production and Distribution.

Section 1354, act Feb. 14, 1944, ch. 16, title I, § 4, 58 Stat. 14, related to limitations on use of funds.

Section 1355, acts Feb. 14, 1944, ch. 16, title I, § 5, 58 Stat. 14; Apr. 1, 1944, ch. 152, title I, 58 Stat. 157; Apr. 25, 1945, ch. 95, title I, 59 Stat. 80; June 30, 1947, ch. 165, 61 Stat. 202, related to miscellaneous provisions for implementing sections 1351 to 1355 of this Appendix.

PRIOR PROVISIONS

Sections 1351 to 1355 are from act Feb. 14, 1944, ch. 16, title I, §§ 1–5, 58 Stat. 11–14, known as the Farm Labor

Supply Appropriation Act, 1944. Similar provisions were contained in act Apr. 29, 1943, ch. 82, §§ 1–5, 57 Stat. 70, as amended June 9, 1943, ch. 119, 57 Stat. 125; Dec. 23, 1943, ch. 381, § 1, 57 Stat. 643. Section 3 of act Apr. 29, 1943, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

ANNUAL APPROPRIATIONS

Additional funds were authorized to be merged with available funds as follows:

$3,000,000—Act May 26, 1947, ch. 82, title I, 61 Stat. 109.

$12,000,000—Act July 23, 1946, ch. 591, title I, 60 Stat. 617.

$25,000,000—Act Dec. 28, 1945, ch. 589, title I, 59 Stat. 645.

$20,000,000—Act Dec. 22, 1944, ch. 660, title I, 58 Stat. 862.

EXTENSION AND LIQUIDATION OF PROGRAM

Acts May 26, 1947, ch. 82, title I, 61 Stat. 109; Apr. 28, 1947, ch. 43, 61 Stat. 55; Aug. 9, 1946, ch. 934, 60 Stat. 617, provided in part that the funds as provided and supplemented for carrying out the purposes of sections 1351 to 1355 of this Appendix were continued available until Jan. 30, 1948, which allowed for a six months extension and final liquidation of the program.

WAR OVERTIME PAY ACT OF 1943

ACT MAY 7, 1943, CH. 93, 57 STAT. 75

§§ 1401 to 1415. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651, 652

Section 1401, act May 7, 1943, ch. 93, § 1, 57 Stat. 75, related to officers and employees subject to sections 1401 to 1415 of this Appendix.

Section 1402, act May 7, 1943, ch. 93, § 2, 57 Stat. 76, related to computation of overtime compensation.

Section 1403, acts May 7, 1943, ch. 93, § 3, 57 Stat. 76; Sept. 30, 1944, ch. 450, 58 Stat. 758, related to additional officers and employees subject to sections 1401 to 1415 of this Appendix.

Section 1404, act May 7, 1943, ch. 93, § 4, 57 Stat. 77, related to Senate official reporters and employees subject to sections 1401 to 1415 of this Appendix.

Section 1405, act May 7, 1943, ch. 93, § 5, 57 Stat. 77, related to repeal of certain wage overtime provisions.

Section 1406, act May 7, 1943, ch. 93, § 6, 57 Stat. 77, related to suspension of the Saturday half-holiday rule.

Section 1407, act May 7, 1943, ch. 93, § 7, 57 Stat. 77, related to construction of other laws with sections 1401 to 1415 of this Appendix.

Section 1408, act May 7, 1943, ch. 93, § 8, 57 Stat. 77, related to adjustment of gross inequities in pay differentials.

Section 1409, act May 7, 1943, ch. 93, § 9, 57 Stat. 77, related to administrative rules and regulations.

Section 1410, act May 7, 1943, ch. 93, § 10, 57 Stat. 77, related to change of salaries and number of legislative employees.

Section 1411, act May 7, 1943, ch. 93, § 11, 57 Stat. 78, related to report on the number of employees required in executive branch departments.

Section 1412, act May 7, 1943, ch. 93, § 12, 57 Stat. 78, related to overtime or additional compensation as part of annual income.

Section 1413, act May 7, 1943, ch. 93, § 13, 57 Stat. 78, related to certain employees of the Army Engineering Corps and the Coast and Geodetic Survey as subject to sections 1401 to 1415 of this Appendix.

Section 1414, act May 7, 1943, ch. 93, § 14, 57 Stat. 78, related to effective and termination dates of sections 1401 to 1415 of this Appendix.

Section 1415, act May 7, 1943, ch. 93, § 15, 57 Stat. 78, provided that sections 1401 to 1415 of this Appendix were to be cited as the War Overtime Pay Act of 1943.

WAIVER OF RESTRICTIONS

Act Apr. 1, 1944, ch. 152, title II, § 202, 58 Stat. 176, related to waiver of restrictions in appropriations limiting amounts payable for personal services to meet cost of overtime and additional compensation authorized by sections 1401 to 1415 of this Appendix.

BASIC RATE FOR OVERTIME COMPENSATION

Act Apr. 1, 1944, ch. 152, title II, § 203, 58 Stat. 176, provided that the basic rate for overtime compensation should be one and one-half times basic rate for work performed in excess of forty hours per week.

TRAINING OF NURSES THROUGH GRANTS TO INSTITUTIONS

ACT JUNE 15, 1943, CH. 126, 57 STAT. 153

§§ 1451 to 1462. Omitted

CODIFICATION

Sections 1451 to 1462 were omitted as terminating Dec. 31, 1946, pursuant to section 1460 of this Appendix.

Section 1451, act June 15, 1943, ch. 126, § 1, 57 Stat. 153, authorized appropriations to assure supply of nurses for armed forces and other needs during World War II.

Section 1452, act June 15, 1943, ch. 126, § 2, 57 Stat. 153, related to approval of submitted plans for training nurses.

Section 1453, act June 15, 1943, ch. 126, § 3, 57 Stat. 154, related to payments to institutions with approved training plans.

Section 1454, act June 15, 1943, ch. 126, § 4, 57 Stat. 154, related to recruitment of nurses.

Section 1455, act June 15, 1943, ch. 126, § 5, 57 Stat. 155, related to conclusiveness of determinations under sections 1453 and 1454 of this Appendix.

Section 1456, act June 15, 1943, ch. 126, § 6, 57 Stat. 155, related to computation of payments under sections 1453 and 1454 of this Appendix.

Section 1457, acts June 15, 1943, ch. 126, § 7, 57 Stat. 155; Mar. 4, 1944, ch. 83, 58 Stat. 112, related to insignia for student nurses.

Section 1458, act June 15, 1943, ch. 126, § 8, 57 Stat. 155, related to prohibitions of discrimination against particular institutions.

Section 1459, act June 15, 1943, ch. 126, § 9, 57 Stat. 155, authorized issuance of rules and regulations and established an advisory committee to aid in such issuance. Section was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

Section 1460, act June 15, 1943, ch. 126, § 10, 57 Stat. 155, related to effective and termination dates of sections 1451 to 1462 of this Appendix and provided that said sections were to terminate upon the proclamation of the cessation of hostilities of World War II, which was proclaimed Dec. 31, 1946, by Proc. No. 2714, eff. Dec. 31, 1946, 12 F.R. 1, set out preceding section 1 of this Appendix.

Section 1461, act June 15, 1943, ch. 126, § 11, as added Mar. 4, 1944, ch. 83, 58 Stat. 112, related to transfer of student nurses.

Section 1462, act June 15, 1943, ch. 126, § 12, as added Mar. 4, 1944, ch. 83, 58 Stat. 112, related to the designation of nurse insignia and uniforms.

TERMINATION OF APPROPRIATIONS

Section 803 of the Labor-Federal Security Appropriation Act of 1946, act July 3, 1945, ch. 263, 59 Stat. 383, provided that no part of any appropriation for training of defense workers contained in said act should be available for obligation longer than 60 days after cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, eff. Dec. 31, 1946, 12 F.R. 1, set out preceding section 1 of this Appendix.

MERGER OF APPROPRIATIONS

The Federal Security Agency Appropriation Act, 1948, act July 8, 1947, ch. 210, title II, 61 Stat. 270, provided in part that the appropriation contained therein for the training of nurses under sections 1451 to 1462 of this Ap-

pendix was available for transfer and consolidation with the appropriations of St. Elizabeths and Freedmen's Hospitals to cover cost of items furnished to student nurses in training.

Similar provisions were contained in the following acts:

July 26, 1946, ch. 672, title II, 60 Stat. 692.
July 3, 1945, ch. 263, title II, 59 Stat. 370.
June 28, 1944, ch. 302, title II, 58 Stat. 557.
Apr. 1, 1944, ch. 152, title I, 58 Stat. 152.

CIVILIAN REEMPLOYMENT OF MEMBERS OF MERCHANT MARINE

ACT JUNE 23, 1943, CH. 142, 57 STAT. 162

§§ 1471 to 1475. Repealed. July 24, 1956, ch. 671, § 5(a)(3), 70 Stat. 606

Section 1471, acts June 23, 1943, ch. 142, § 1, 57 Stat. 162; Aug. 8, 1946, ch. 867, 60 Stat. 905; Aug. 8, 1946, ch. 912, 60 Stat. 945, authorized a certificate of service for service in merchant marine after May 1, 1940, and before the termination of the national emergency (July 25, 1947).

Section 1472, acts June 23, 1943, ch. 142, § 2, 57 Stat. 162; Aug. 8, 1946, ch. 867, 60 Stat. 906, related to restoration of members of merchant marine to civilian employment.

Section 1473, acts June 23, 1943, ch. 142, § 3, 57 Stat. 162; Aug. 8, 1946, ch. 867, 60 Stat. 907, related to proceedings to compel employer compliance with section 1472 of this Appendix.

Section 1474, acts June 23, 1943, ch. 142, § 4, 57 Stat. 163; Aug. 8, 1946, ch. 867, 60 Stat. 907, related to additional compensation to certain members of merchant marine.

Section 1475, acts June 23, 1943, ch. 142, § 5, 57 Stat. 163; Aug. 8, 1946, ch. 867, 60 Stat. 907, related to issuance of rules and regulations.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1954, see section 5(a) of act July 24, 1956.

WAR LABOR DISPUTES ACT

ACT JUNE 25, 1943, CH. 144, 57 STAT. 163

§§ 1501 to 1511. Omitted

CODIFICATION

Sections 1501 to 1511 were omitted as terminating six months after Dec. 31, 1946, under the terms of section 510 of this Appendix, pursuant to the proclamation of the cessation of hostilities of World War II by Proc. No. 2714, eff. Dec. 31, 1946, 12. F.R. 1, set out preceding section 1 of this Appendix.

Section 1501, act June 25, 1943, ch. 144, § 1, 57 Stat. 163, provided that sections 1501 to 1511 of this Appendix were to be known as the War Labor Disputes Act.

Section 1502, act June 25, 1943, ch. 144, § 2, 57 Stat. 164, defined terms for purposes of sections 1501 to 1511 of this Appendix.

Section 1503, act June 25, 1943, ch. 144, § 3, 57 Stat. 164, amended section 309 of this Appendix and related to power of President to take possession of certain manufacturing facilities.

Section 1504, act June 25, 1943, ch. 144, § 4, 57 Stat. 165, related to terms of employment at government operated plants.

Section 1505, act June 25, 1943, ch. 144, § 5, 57 Stat. 165, related to applications to War Labor Board for changes in terms of employment at government operated plants.

Section 1506, act June 25, 1943, ch. 144, § 6, 57 Stat. 165, related to interference with government operation of plants.

Section 1507, act June 25, 1943, ch. 144, § 7, 57 Stat. 166, related to functions and duties of National War Labor Board.

Section 1508, act June 25, 1943, ch. 144, § 8, 57 Stat. 167, related to notice of threatened interruptions in war production.

Section 1509, act June 25, 1943, ch. 144, § 9, 57 Stat. 167, related to political contributions by labor organizations. Section 1509 was also repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Section 1510, act June 25, 1943, ch. 144, § 10, 57 Stat. 168, provided that sections 1501 to 1511 of this Appendix were to cease to be effective, six months after Dec. 31, 1946, the date on which the cessation of hostilities of World War II was proclaimed by Proc. No. 2714, eff. Dec. 31, 1946, 12 F.R. 1, set out preceding section 1 of this Appendix.

Section 1511, act June 25, 1943, ch. 144, § 11, 57 Stat. 168, contained separability provisions.

EFFECTIVE DATE OF REPEAL

Repeal of section 1509 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

VOLUNTARY ENLISTMENTS IN REGULAR MILITARY ESTABLISHMENT

ACT JUNE 1, 1945, CH. 168, 59 STAT. 230

§§ 1531 to 1534. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section 1531, acts June 1, 1945, ch. 168, § 1, 59 Stat. 230; Oct. 6, 1945, ch. 393, § 3(a), 59 Stat. 538, related to enlistments and reenlistments in the Regular Army.

Section 1532, act June 1, 1945, ch. 168, § 2, as added Oct. 6, 1945, ch. 393, § 3(a), 59 Stat. 539, related to regulations.

Section 1533, act June 1, 1945, ch. 168, § 3, as added Oct. 6, 1945, ch. 393, § 3(a), 59 Stat. 539, relating to termination of authority to accept enlistments, terminated on June 30, 1947, by its own terms.

Section 1534, act June 1, 1945, ch. 168, § 4, as added Oct. 6, 1945, ch. 393, § 3(a), 59 Stat. 539, related to promotion after six months service in seventh grade.

WOMEN'S ARMY CORPS

ACT JULY 1, 1943, CH. 187, 57 STAT. 371

§§ 1551 to 1555. Repealed. July 25, 1947, ch. 327, § 2a, 61 Stat. 451

Section 1551, act July 1, 1943, ch. 187, § 1, 57 Stat. 371, related to establishment and duration of Women's Army Corps.

Section 1552, act July 1, 1943, ch. 187, § 2, 57 Stat. 371, related to qualifications for membership.

Section 1553, act July 1, 1943, ch. 187, § 3, 57 Stat. 371, related to officers in the Corps.

Section 1554, act July 1, 1943, ch. 187, § 4, 57 Stat. 371, related to Corps' uniforms, insignia, accessories and equipment.

Section 1555, act July 1, 1943, ch. 187, § 5, 57 Stat. 371, repealed certain prior provisions.

EFFECTIVE DATE OF REPEAL

Repeal was to be effective July 1, 1948, but section 110 of act June 12, 1948, ch. 449, title I, 62 Stat. 363, provided in part that the effective date of repeal be postponed until June 12, 1949.

UNITED NATIONS RELIEF AND REHABILITATION ADMINISTRATION

ACT MAR. 28, 1944, CH. 135, 58 STAT. 122

§§ 1571 to 1578. Omitted

CODIFICATION

Sections 1571 to 1578 were omitted as terminating on June 30, 1947, pursuant to section 9 of Act Mar. 28, 1944, set out as a Termination Date note below.

Section 1571, acts Mar. 28, 1944, ch. 135, § 1, 58 Stat. 122; Dec. 18, 1945, ch. 580, 59 Stat. 612, authorized appropriations for purposes of sections 1571 to 1578 of this Appendix.

Section 1572, act Mar. 28, 1944, ch. 135, § 2, 58 Stat. 127, related to disbursements under Presidential direction.

Section 1573, act Mar. 28, 1944, ch. 135, § 3, 58 Stat. 127, related to extent of rehabilitation.

Section 1574, act Mar. 28, 1944, ch. 135, § 4, 58 Stat. 127, related to area included for relief.

Section 1575, act Mar. 28, 1944, ch. 135, § 5, 58 Stat. 128, related to need for Congressional approval for new applications.

Section 1576, act Mar. 28, 1944, ch. 135, § 6, 58 Stat. 128, related to approval of contributions by Congress.

Section 1577, act Mar. 28, 1944, ch. 135, § 7, 58 Stat. 128, related to extent of rehabilitation.

Section 1578, acts Mar. 28, 1944, ch. 135, § 8, 58 Stat. 128; Dec. 18, 1945, ch. 580, 59 Stat. 612, related to limitation on contracts and obligations.

TERMINATION DATE

Section 9 of act Mar. 28, 1944, as amended by act Dec. 18, 1945, provided that the authorizations contained in sections 1571 to 1578 were to expire on June 30, 1947.

OFFICERS AND EMPLOYEES

Act June 30, 1944, ch. 324, title II, § 201, 58 Stat. 629, provided in part for retention of all rights and privileges by officers and employees detailed to the Administration.

ADDITIONAL APPROPRIATIONS

Act Dec. 14, 1945, ch. 577, 59 Stat. 609, appropriated $550,000,000 to the Administration to be available during fiscal year 1946.

LIQUIDATION EXPENDITURES

Act July 8, 1947, ch. 209, 61 Stat. 260, appropriated not to exceed $2,370,000 for the liquidation expenses of the Administration.

TEMPORARY APPOINTMENTS OF ARMY NURSE CORPS MEMBERS, ETC., AS OFFICERS OF ARMY OF UNITED STATES

ACT JUNE 22, 1944, CH. 272, 58 STAT. 324

§§ 1591 to 1598. Repealed. Pub. L. 99–145, title XIII, § 1301(e)(1), Nov. 8, 1985, 99 Stat. 737

Section 1591, act June 22, 1944, ch. 272, § 1, 58 Stat. 324, related to temporary appointments as officers in the Army of the United States under the provisions of act Sept. 22, 1941, ch. 414, 55 Stat. 728, of members of the Army Nurse Corps, females qualified for appointment in such Corps, female dietetic and physical-therapy personnel of the Army Medical Department, and females qualified for appointment in such Department as female dietetic or physical-therapy personnel.

Section 1592, act June 22, 1944, ch. 272, § 2, 58 Stat. 325, provided that persons appointed as officers in the United States Army under section 1591 of this Appendix, and their dependents and beneficiaries, have all rights, privileges, and benefits accorded in like cases to persons appointed under act Sept. 22, 1941.

Section 1593, act June 22, 1944, ch. 272, § 3, 58 Stat. 325, related to retirement of persons appointed under section 1591 of this Appendix, and retirement for disability of Army Nurse Corps members between Dec. 7, 1941, and June 22, 1944, or of any female dietitian or physical-therapy aide between Jan. 12, 1943, and June 22, 1944.

Section 1594, act June 22, 1944, ch. 272, § 4, 58 Stat. 325, related to computation of years of service of Army Nurse Corps members appointed under section 1591 of this Appendix.

Section 1595, act June 22, 1944, ch. 272, § 5, 58 Stat. 325, related to computation of years of service of female dietetic and physical-therapy personnel appointed under section 1591 of this Appendix, and included service rendered under Act December 22, 1942, ch. 805, 56 Stat. 1072.

Section 1596, act June 22, 1944, ch. 272, § 6, 58 Stat. 325, related to uniform allowances and issues for women appointed as officers in the Army of the United States under section 1591 of this Appendix.

Section 1597, act June 22, 1944, ch. 272, § 7, 58 Stat. 326, related to blanket order appointments by the President of persons described in section 1591 of this Appendix, acceptance or declination of such appointments, and oaths of office.

Section 1598, act June 22, 1944, ch. 272, § 8, 58 Stat. 326, related to award of mileage allowances to women appointed in the Army Nurse Corps, female dietitians and physical-therapy aides appointed in the Army Medical Department, and women appointed from civilian life under section 1591 of this Appendix in the same amount as for persons appointed under act Sept. 22, 1941, ch. 414, 55 Stat. 728.

PERSON APPOINTED AND ASSIGNED UNDER FORMER SECTION 1591

Section 1301(e)(2) of Pub. L. 99–145 provided that: ''The repeal made by paragraph (1) [repealing sections 1591 to 1598 of this Appendix] shall not apply in the case of any person appointed and assigned under the first section of the Act [section 1591 of this Appendix] repealed by such paragraph, as such Act was in effect on the day before the date of the enactment of this Act [Nov. 8, 1985].''

DISPOSAL OF MATERIALS ON PUBLIC LANDS

ACT SEPT. 27, 1944, CH. 416, 58 STAT. 745

§§ 1601 to 1603. Omitted

CODIFICATION

Sections 1601 to 1603 were omitted as terminated pursuant to section 1603 of this Appendix.

Section 1601, act Sept. 27, 1944, ch. 416, § 1, 58 Stat. 745, related to rules and regulations governing disposal of materials on public lands.

Section 1602, act Sept. 27, 1944, ch. 416, § 2, 58 Stat. 745, related to disposition of moneys received from sale of materials.

Section 1603, act Sept. 27, 1944, ch. 416, § 3, 58 Stat. 745, provided for termination of sections 1601 to 1603 of this Appendix on the cessation of hostilities of World War II as determined by Presidential proclamation or congressional resolution. Proc. No. 2714, eff. Dec. 31, 1946, 12 F.R. 1, provided for the cessation of hostilities of World War II and is set out preceding section 1 of this Appendix.

For similar provisions, see sections 601 to 604 of Title 30, Mineral Lands and Mining.

SURPLUS PROPERTY ACT OF 1944

ACT OCT. 3, 1944, CH. 479, 58 STAT. 765

Sec.
1611 to 1621a. Repealed or Transferred.
1622. Disposal to local governments and nonprofit institutions.
1622a to 1646. Repealed or Omitted.

§§ 1611 to 1614. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 1611, act Oct. 3, 1944, ch. 479, § 2, 58 Stat. 766, related to declaration of general objectives.

Section 1612, acts Oct. 3, 1944, ch. 479, § 3, 58 Stat. 768; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to definitions.

Section 1613, act Oct. 3, 1944, ch. 479, § 4, 58 Stat. 768, related to a general rule regarding disposition of surplus property.

Section 1614, act Oct. 3, 1944, ch. 479, § 5, 58 Stat. 768, related to establishment of Surplus Property Board.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§§ 1614a, 1614b. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 653

Section 1614a, act Sept. 18, 1945, ch. 368, § 1, 59 Stat. 533, related to establishment of Surplus Property Administration.

Section 1614b, act Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to abolishment of Surplus Property Board.

§§ 1615 to 1621. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 1615, acts Oct. 3, 1944, ch. 479, § 6, 58 Stat. 768; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to duties and authority of Surplus Property Administrator.

Section 1616, acts Oct. 3, 1944, ch. 479, § 7, 58 Stat. 768; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to Surplus Property Administrator's cooperation with other government agencies.

Section 1617, acts Oct. 3, 1944, ch. 479, § 8, 58 Stat. 768; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to delegation of authority by other government agencies.

Section 1618, acts Oct. 3, 1944, ch. 479, § 9, 58 Stat. 769; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to issuance of regulations by Surplus Property Administrator.

Section 1619, acts Oct. 3, 1944, ch. 479, § 10, 58 Stat. 769; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; Aug. 1, 1946, ch. 723, § 1, 60 Stat. 754, related to designation of disposal agencies.

Section 1620, acts Oct. 3, 1944, ch. 479, § 11, 58 Stat. 769; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to declaration and disposition of surplus property.

Section 1621, acts Oct. 3, 1944, ch. 479, § 12, 58 Stat. 770; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; May 3, 1946, ch. 248, §§ 2–4, 60 Stat. 168, related to utilization of surplus property by Federal agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§ 1621a. Transferred

CODIFICATION

Section, act June 29, 1948, ch. 719, § 4, 62 Stat. 1100, relating to the utilization of surplus property by Federal Prisons Industries, Incorporated, is set out as a note under section 4122 of Title 18, Crimes and Criminal Procedure.

§ 1622. Disposal to local governments and nonprofit institutions

(a) to (c) Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

(d) Power transmission lines

Whenever any State or political subdivision thereof, or any State or Government agency or instrumentality certifies to the Administrator of General Services that any power transmission line determined to be surplus property under the provisions of this Act [sections 1611 to 1646 of this Appendix] is needful for or adaptable to the requirements of any public or cooperative power project, such line and the right-of-way acquired for its construction shall not be sold, leased for more than one year, or otherwise disposed of, except as provided in section 12[1] [section 1621 of this Appendix] or this section, unless specifically authorized by Act of Congress.

(e), (f) Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

(g) Repealed. Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379

(Oct. 3, 1944, ch. 479, § 13, 58 Stat. 770; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; May 3, 1946, ch. 248, § 5, 60 Stat. 169; 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F.R. 4535, 61 Stat. 952; July 30, 1947, ch. 404, 61 Stat. 678; June 10, 1948, ch. 433, §§ 1, 2, 62 Stat. 350; June 29, 1948, ch. 727, 62 Stat. 1103; June 30, 1949, ch. 288, title I, § 105, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 381, 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; amended Oct. 1, 1949, ch. 589, §§ 1, 5, 63 Stat. 701; Pub. L. 85–726, title XIV, § 1402(c), Aug. 23, 1958, 72 Stat. 807; Pub. L. 87–90, July 20, 1961, 75 Stat. 211; Pub. L. 91–258, title I, § 52(b)(6), May 21, 1970, 84 Stat. 235; Pub. L. 91–485, § 5, Oct. 22, 1970, 84 Stat. 1085; Pub. L. 92–362, § 2, Aug. 4, 1972, 86 Stat. 504; Pub. L. 97–248, title V, § 524(c), Sept. 3, 1982, 96 Stat. 696; Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.)

REFERENCES IN TEXT

Section 12, referred to in subsec. (d), is section 12 of act Oct. 3, 1944, ch. 479, which was classified to section 1621 of this Appendix prior to repeal by act June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–272 struck out subsec. (g) which provided for conveyance or disposal of surplus real or personal property to States, political subdivisions, municipalities, or tax-supported institutions for development, improvement, operation, or maintenance of public airports. See sections 47151 to 47153 of Title 49, Transportation.

1982—Subsec. (g)(1). Pub. L. 97–248 substituted "Airport and Airway Improvement Act of 1982" for "Airport and Airway Development Act of 1970".

1972—Subsec. (h). Pub. L. 92–362 repealed subsec. (h) which related to conveyance of surplus lands to local government agencies, determined to be historic monuments, without monetary consideration and for reversion to United States when purposes of conveyance were unfulfilled.

1970—Subsec. (g)(1). Pub. L. 91–258 substituted "Airport and Airway Development Act of 1970" for "Federal Airport Act (60 Stat. 170)".

Subsec. (h)(1). Pub. L. 91–485, § 5(1), limited the conveyance of surplus land for use as a historic monument by striking out public park and public recreational area.

Subsec. (h)(2). Pub. L. 91–485, § 5(2), struck out provisions relating to the price adjustment of conveyances for park or recreational purposes.

[1] See References in Text note below.

1961—Subsec. (h)(2). Pub. L. 87–90 substituted ''its historical significance relates to a period of time within the fifty years immediately preceding the determination of suitability and desirability for such use'' for ''it was acquired by the United States at any time subsequent to January 1, 1900''.

1958—Subsec. (g). Pub. L. 85–726 substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics'' in six places.

1949—Subsecs. (a) to (c), (e), (f). Act June 30, 1949, eff. July 1, 1949, repealed subsecs. (a) to (c), (e), and (f).

Subsec. (g)(2)(A). Act Oct. 1, 1949, §1, struck out ''*Provided*, That no structures disposed of hereunder shall be used as an industrial plant, factory or similar facility within the meaning of section 23 of this Act, unless the public agency receiving title to such structures shall pay to the United States such sum as the Administrator shall determine to be fair consideration for the removal of the restrictions imposed by this proviso.''

Subsec. (g)(4). Act Oct. 1, 1949, §5, repealed par. (4) which related to sole responsibility of Administrator for determining and enforcing compliance with the terms, conditions, reservations, and restrictions upon or subject to which surplus property is disposed of pursuant to this subsection.

1948—Subsec. (a)(3). Act June 29, 1948, made available without charge, except for reimbursement of disposal expenses, to local governments who maintain a civilian unit, certain surplus property.

Subsec. (f). Act June 10, 1948, §2, gave State and local governments a higher priority than the Reconstruction Finance Corporation with regard to certain properties.

Subsec. (h). Act June 10, 1948, §1, added subsec. (h).

1947—Subsec. (c). Act July 30, 1947, §1, struck out reference to airport.

Subsec. (g). Act July 30, 1947, §2, added subsec. (g).

1946—Subsec. (f). Act May 3, 1946, substituted provisions relating to priorities for disposal of surplus property to the United States for provisions relating to property donated by the American Red Cross.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 effective Sept. 3, 1982, see section 523(b) of Pub. L. 97–248.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–726 effective on 60th day following date on which Administrator of Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office, see section 1505(2) of Pub. L. 85–726. Administrator appointed, qualified, and took office on Oct. 31, 1958.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act June 30, 1949, effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

TRANSFER OF FUNCTIONS

Reference to Administrator of General Services substituted in subsec. (d) for reference to War Assets Administrator on authority of section 105 of act June 30, 1949, in view of transfer of functions, records, property, etc., of War Assets Administration to General Services Administration and abolition of War Assets Administration. Previously, reference to War Assets Administrator was substituted in subsec. (d) for reference to Surplus Property Administrator on authority of Reorg. Plan No. 1, 1947, §501, eff. July 1, 1947, 12 F.R. 4535, 61 Stat. 952, which was later repealed by act June 30, 1949, ch. 288, title VI, §602(a)(1), formerly title V, §502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583. Previously, reference to Surplus Property Administrator was substituted in subsec. (d) for reference to Surplus Property Board on authority of section 2 of act Sept. 18, 1945, in view of transfer of functions of Surplus Property Board to Surplus Property Administrator and abolition of Surplus Property Board.

SURPLUS ATHLETIC EQUIPMENT

Act June 16, 1948, ch. 478, 62 Stat. 458, provided for disposal of surplus athletic equipment to State, public and government institutions, and private charitable and nonprofit organizations for use in sports by the youth of the country, prior to repeal by act Oct. 31, 1951, ch. 654, §1(128), 65 Stat. 706.

§§1622a to 1622c. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 1622a, acts Oct. 1, 1949, ch. 589, §2, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, title XIV, §1402(c), 72 Stat. 807, provided for extinguishment of restrictions on use of structures in disposal of surplus airport property.

Section 1622b, acts Oct. 1, 1949, ch. 589, §3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, title XIV, §1402(c), 72 Stat. 807, related to terms and conditions of disposal instruments. See section 47151 of Title 49, Transportation.

Section 1622c, acts Oct. 1, 1949, ch. 589, §4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, title XIV, §1402(c), 72 Stat. 807, related to granting of releases from terms and conditions of disposal instruments and terms and conditions of releases. See section 47153 of Title 49, Transportation.

§§1623 to 1630. Repealed. June 30, 1949, ch. 288, title VI, §602(a)(1), formerly title V, §502(a)(1), 63 Stat. 399; renumbered title VI, §602(a)(1), Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583

Section 1623, acts Oct. 3, 1944, ch. 479, §14, 58 Stat. 772; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533; July 23, 1946, ch. 590, 60 Stat. 599, related to disposition of property by any owning agency.

Section 1624, acts Oct. 3, 1944, ch. 479, §15, 58 Stat. 772; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533, related to methods of disposition of property by government agencies.

Section 1625, acts Oct. 3, 1944, ch. 479, §16, 58 Stat. 773; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533; May 3, 1946, ch. 248, §1, 60 Stat. 168, related to disposition of surplus property to veterans.

Section 1626, acts Oct. 3, 1944, ch. 479, §17, 58 Stat. 773; Ex. Ord. No. 9577, eff. June 30, 1945, 10 F.R. 8087; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533; Reorg. Plan No. 3 of 1946, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, related to disposition of surplus property in rural areas.

Section 1627, acts Oct. 3, 1944, ch. 479, §18, 58 Stat. 773; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533; May 3, 1946, ch. 248, §6, 60 Stat. 169; June 10, 1948, ch. 433, §3, 62 Stat. 351, related to disposition of surplus property to small businesses.

Section 1628, acts Oct. 3, 1944, ch. 479, §19, 58 Stat. 774; Oct. 22, 1945, ch. 432, 59 Stat. 546, related to disposition of surplus plants.

Section 1629, acts Oct. 3, 1944, ch. 479, §20, 59 Stat. 775; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533, related to applicability of antitrust laws to disposition of surplus property.

Section 1630, acts Oct. 3, 1944, ch. 479, §21, 58 Stat. 775; Sept. 18, 1945, ch. 368, §2, 59 Stat. 533, related to formulation of policies for disposal of surplus agricultural commodities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§1631. Repealed. June 7, 1939, ch. 190, §6(e), as added July 23, 1946, ch. 590, 60 Stat. 599

Section, act Oct. 3, 1944, ch. 479, §22, 58 Stat. 776, related to stock piling of surplus materials. See section 98 et seq. of Title 50, War and National Defense.

§ 1632. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section, acts Oct. 3, 1944, ch. 479, § 23, 58 Stat. 777; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; Aug. 7, 1946, ch. 790, §§ 1, 2, 60 Stat. 886, related to disposal of surplus real property.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§§ 1632a, 1632b. Omitted

CODIFICATION

Section 1632a, act Apr. 24, 1948, ch. 230, § 1, 62 Stat. 199, authorizing transfer of surplus real property to Department of the Interior, expired July 1, 1952, under the provisions of section 1632b of this Appendix.

Section 1632b, act Apr. 24, 1948, ch. 230, § 2, 62 Stat. 199, subjecting any surplus real property transferred to Department of the Interior to all laws and regulations applicable to area with which it is consolidated, was omitted, the authorization to make such transfers having expired by its own terms on July 1, 1952.

§§ 1633 to 1636. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 1633, acts Oct. 3, 1944, ch. 479, § 24, 58 Stat. 780; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to a report concerning disposition of surplus property.

Section 1634, act Oct. 3, 1944, ch. 479, § 25, 58 Stat. 780, related to conclusiveness of purchaser's title to property received from government agencies.

Section 1635, act Oct. 3, 1944, ch. 479, § 26, 58 Stat. 780, related to civil remedies for fraudulent acts with respect to disposition of surplus property.

Section 1636, act Oct. 3, 1944, ch. 479, § 27, 58 Stat. 781, related to the limitation on the practice of law, etc., by former employees in matters involving the disposition of surplus property.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§ 1637. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section, act Oct. 3, 1944, ch. 479, § 28, 58 Stat. 781, related to an amendment of section 590a of former Title 18, Criminal Code and Criminal Procedure. See section 3287 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 20 of act June 25, 1948.

§§ 1638 to 1640. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 1638, acts Oct. 3, 1944, ch. 479, § 29, 58 Stat. 781; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to competitive bidding with regard to surplus property disposals.

Section 1639, acts Oct. 3, 1944, ch. 479, § 30, 58 Stat. 781; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to disposition of proceeds from transfer or or disposition of surplus property.

Section 1640, act Oct. 3, 1944, ch. 479, § 31, 58 Stat. 782, related to use of appropriated funds for the care and handling of surplus property pending its disposition.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

§ 1641. Repealed. Pub. L. 87–256, § 111(a)(1), Sept. 21, 1961, 75 Stat. 538

Section, acts Oct. 3, 1944, ch. 479, § 32, 58 Stat. 782; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533; Aug. 1, 1946, ch. 723, § 2, 60 Stat. 754; June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; June 20, 1952, ch. 449, § 11, 66 Stat. 151; Aug. 26, 1954, ch. 937, title V, § 544(d), as added July 18, 1956, ch. 627, § 11(a), 70 Stat. 563, and amended Aug. 14, 1957, Pub. L. 85–141, § 11(b)(1), 71 Stat. 365; Aug. 17, 1961, Pub. L. 87–153, 75 Stat. 390, related to use of foreign currencies, foreign scholarships, and establishment of Board of Foreign Scholarships. See section 2451 et seq. of Title 22, Foreign Relations and Intercourse.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, section 2451 et seq. of Title 22, Foreign Relations and Intercourse, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of this section, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of Title 22.

§§ 1642 to 1646. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), formerly title V, § 502(a)(1), 63 Stat. 399; renumbered title VI, § 602(a)(1), Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 1642, act Oct. 3, 1944, ch. 479, § 33, 58 Stat. 782; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to restrictions on importation of surplus property into the United States.

Section 1643, acts Oct. 3, 1944, ch. 479, § 34, 58 Stat. 783; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to savings provisions.

Section 1644, acts Oct. 3, 1944, ch. 479, § 35, 58 Stat. 783; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to temporary applicability of existing procedures with regard to surplus property.

Section 1645, acts Oct. 3, 1944, ch. 479, § 36, 58 Stat. 783; Sept. 18, 1945, ch. 368, § 2, 59 Stat. 533, related to disposition and removal of termination inventories from plants of war contractors.

Section 1646, act Oct. 3, 1944, ch. 479, § 37, 58 Stat. 784, related to an amendment and effective date with regard to section 968 of this Appendix.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, with priorities and preferences for surplus real estate continued until Dec. 31, 1949, see sections 602(a)(1) and 605, formerly sections 502(a)(1) and 505, of act June 30, 1949.

WAR MOBILIZATION AND RECONVERSION ACT OF 1944

ACT OCT. 3, 1944, CH. 480, 58 STAT. 785

§§ 1651, 1652. Omitted

CODIFICATION

Sections 1651 and 1652 were omitted as terminated on June 30, 1947, pursuant to section 603 of act Oct. 3, 1944, set out as a Termination Date note below, and were subsequently repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 652.

Section 1651, act Oct. 3, 1944, ch. 480, title I, § 101, 58 Stat. 785, related to establishment of Office of War Mobilization and Reconversion.

Section 1652, act Oct. 3, 1944, ch. 480, title I, § 102, 58 Stat. 786, related to creation of an advisory board.

SHORT TITLE

Act Oct. 3, 1944, ch. 480, title VI, § 607, 58 Stat. 792, provided that sections 1651, 1652, 1656 to 1663, 1666, 1667, 1671, and 1676 to 1678 of this Appendix be cited as the ''War Mobilization and Reconversion Act of 1944''.

TERMINATION DATE

Act Oct. 3, 1944, ch. 480, title VI, § 603, 58 Stat. 792, provided that the provisions of sections 1651, 1652, 1656 to 1663, 1671, and 1676 to 1678 of this Appendix terminate on June 30, 1947.

SEPARABILITY CLAUSE

Act Oct. 4, 1944, ch. 480, title VI, § 604, 58 Stat. 792, provided that if any provision of sections 1651, 1652, 1656 to 1663, 1666, 1667, 1671, and 1676 to 1678 of this Appendix, or the application of such provision to any person or circumstance, is held invalid, the remainder of such sections or the application of such provision to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATION

Act Oct. 3, 1944, ch. 480, title VI, § 602, 58 Stat. 792, authorized to be appropriated such sums as might be necessary or appropriate to carry out the purposes and provisions of act Oct. 3, 1944.

§§ 1656 to 1663. Omitted

CODIFICATION

Sections 1656 to 1663 were omitted as terminated on June 30, 1947, pursuant to section 603 of act Oct. 3, 1944, set out as a Termination Date note under former section 1652 of this Appendix.

Section 1656, act Oct. 3, 1944, ch. 480, title II, § 201, 58 Stat. 787, related to a prohibition of indefinite military service.

Section 1657, act Oct. 3, 1944, ch. 480, title II, § 202, 58 Stat. 787, related to termination of prime war contracts.

Section 1658, act Oct. 3, 1944, ch. 480, title II, § 203, 58 Stat. 787, related to integration of termination of war contracts with resumption of civilian production.

Section 1659, act Oct. 3, 1944, ch. 480, title II, § 204, 58 Stat. 788, related to small plant participation in civilian production.

Section 1660, act Oct. 3, 1944, ch. 480, title II, § 205, 58 Stat. 788, related to surveys by Attorney General.

Section 1661, act Oct. 3, 1944, ch. 480, title III, § 301, 58 Stat. 788, related to establishment of a Retraining and Reemployment Administration, and was subsequently repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 652.

Section 1662, act Oct. 3, 1944, ch. 480, title III, § 302, 58 Stat. 789, related to functions of Retraining and Reemployment Administration.

Section 1663, act Oct. 3, 1944, ch. 480, title III, § 303, 58 Stat. 789, related to employment of Assistant Administrators, officers and employees, and was subsequently repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 652.

§§ 1666, 1667. Omitted

CODIFICATION

Section 1666, act Oct. 3, 1944, ch. 480, title IV, § 401, 58 Stat. 789; Reorg. Plan. No. 2 of 1946, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, consisted of provisions amending section 1104 of Title 42, The Public Health and Welfare.

Section 1667, act Oct. 3, 1944, ch. 480, title IV, § 402, 58 Stat. 790; Reorg. Plan No. 2 of 1946, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, consisted of provisions enacting section 1321 of Title 42, The Public Health and Welfare.

§ 1671. Omitted

CODIFICATION

Section, act Oct. 3, 1944, ch. 480, title V, § 501, 58 Stat. 791, which related to advance provision by States and other agencies for construction of public works, terminated on June 30, 1947, pursuant to section 603 of act Oct. 4, 1944, set out as a Termination Date note under section 1652 of this Appendix.

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with loans or advances made pursuant to section 1671 of this Appendix, see section 1701g–5 of Title 12, Banks and Banking, and References in Text note thereunder.

§§ 1676 to 1678. Omitted

CODIFICATION

Sections 1676 to 1678 were omitted as terminated on June 30, 1947, pursuant to section 603 of act Oct. 3, 1944, set out as a Termination Date note under former section 1652 of this Appendix.

Section 1676, act Oct. 3, 1944, ch. 480, title VI, § 601, 58 Stat. 791, defined ''executive agency'' and ''contracting agency''.

Section 1677, act Oct. 3, 1944, ch. 480, title VI, § 605, 58 Stat. 792, related to disbandment and transfer of functions of certain offices, boards, etc.

Section 1678, act Oct. 3, 1944, ch. 480, title VI, § 606, 58 Stat. 792, provided for a saving clause.

FLEET ADMIRAL OF NAVY AND GENERAL OF ARMY

ACT DEC. 14, 1944, CH. 580, 58 STAT. 802

§§ 1691 to 1697. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, 674

Section 1691, act Dec. 14, 1944, ch. 580, § 1, 58 Stat. 802, established Fleet Admiral of United States Navy as highest grade in Navy with provision for appointment of four on active list at any one time.

Section 1692, act Dec. 14, 1944, ch. 580, § 2, 58 Stat. 802, established General of the Army as highest grade in Army with provision for appointment of four on active list at any one time.

Section 1693, act Dec. 14, 1944, ch. 580, § 3, 58 Stat. 802, related to appointment without examination, tenure, effect on permanent or temporary status, appointment and reversion of retired officers.

Section 1694, act Dec. 14, 1944, ch. 580, § 4, 58 Stat. 803, related to pay and allowances of appointees under sections 1691 to 1697 of this Appendix.

Section 1695, act Dec. 14, 1944, ch. 580, § 5, 58 Stat. 803, related to rank and pay on retirement of appointees under sections 1691 to 1697 of this Appendix.

Section 1696, act Dec. 14, 1944, ch. 580, § 6, 58 Stat. 803, related to rank and precedence of appointees under sec-

tions 1691 to 1697 of this Appendix according to date of appointment.

Section 1697, act Dec. 14, 1944, ch. 580, § 7, 58 Stat. 803, left unaffected by sections 1691 to 1697 of this Appendix, any other law relating to office of General of the Armies of the United States.

DISPOSAL OF CENSORED MAIL

ACT DEC. 22, 1944, CH. 673, 58 STAT. 913

§ 1701. Omitted

CODIFICATION

Section, act Dec. 22, 1944, ch. 673, § 1, 58 Stat. 913, relating to disposal of censored mail, expired six months after termination of hostilities in World War II, which was proclaimed at 12 o'clock noon on Dec. 31, 1946 by Proc. No. 2714, Dec. 31, 1946, 12 F.R. 1, set out preceding section 1 of this Appendix, pursuant to section 2 of act Dec. 22, 1944.

DISBURSING OFFICERS' ADDITIONAL FUNCTIONS

ACT DEC. 23, 1944, CH. 716, 58 STAT. 921

§§ 1705 to 1707. Transferred

CODIFICATION

Sections 1705 to 1707, acts Dec. 23, 1944, ch. 716, §§ 1, 2, 58 Stat. 921; June 16, 1953, ch. 115, 67 Stat. 62, were transferred to sections 492a to 492c, respectively, of former Title 31, Money and Finance, and subsequently repealed by section 5(b) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1076, the first section of which enacted Title 31. See section 3342 of Title 31.

Section 1705 related to check cashing and exchange transactions authorized for official and accommodation purposes.

Section 1706 related to coverage into Treasury of any gains realized from the operations conducted pursuant to sections 1705 to 1707 of this Appendix.

Section 1707 related to the issuance of regulation by Secretary of the Treasury to carry out purposes of sections 1705 to 1707 of this Appendix.

GENERAL OF MARINE CORPS

ACT MAR. 21, 1945, CH. 29, 59 STAT. 36

§§ 1711 to 1715. Omitted

CODIFICATION

Sections 1711 to 1715 were omitted as terminated pursuant to section 1715 of this Appendix.

Section 1711, act Mar. 21, 1945, ch. 29, § 1, 59 Stat. 36, established grade and rank of General of Marine Corps and provided for appointment of Commandant of Marine Corps thereto.

Section 1712, act Mar. 21, 1945, ch. 29, § 2, 59 Stat. 36, related to appointment without examination, tenure and effect on permanent or temporary status.

Section 1713, act Mar. 21, 1945, ch. 29, § 3, 59 Stat. 36, related to pay and allowances of appointees under sections 1711 to 1715 of this Appendix.

Section 1714, act Mar. 21, 1945, ch. 29, § 4, 59 Stat. 36, related to rank and pay on retirement of appointees under sections 1711 to 1715 of this Appendix.

Section 1715, act Mar. 21, 1945, ch. 29, § 5, 59 Stat. 37, provided for the termination of sections 1711 to 1715 of this Appendix six months after the termination of the wars in which the United States was engaged as proclaimed by the President or such earlier date as Congress, by concurrent resolution, might fix. Cessation of hostilities of World War II, eff. twelve o'clock noon, Dec. 31, 1946, was proclaimed by the President in Proc. No. 2714, Dec. 31, 1946, 12 F.R. 1. The Treaty of Peace with Japan, signed at San Francisco on Sept. 8, 1951, was ratified by the United States Senate on Mar. 20, 1952 and came into force on Apr. 28, 1952. See Termination of State of War notes set out preceding section 1 of this Appendix.

PERMANENT APPOINTMENT

Section 2 of act Mar. 23, 1946, ch. 112, 60 Stat. 60, provided for permanent appointment in grade of General in Regular Marine Corps of General Alexander A. Vandegrift. Section also provided for full pay upon retirement.

ADMIRAL IN COAST GUARD

ACT MAR. 21, 1945, CH. 30, 59 STAT. 37

§§ 1721 to 1725. Repealed. Pub. L. 101–225, title III, § 307(15), Dec. 12, 1989, 103 Stat. 1925

Section 1721, act Mar. 21, 1945, ch. 30, § 1, 59 Stat. 37, established grade and rank of Admiral in Coast Guard and provided for appointment of Commandant of Coast Guard thereto.

Section 1722, act Mar. 21, 1945, ch. 30, § 2, 59 Stat. 37, related to appointment without examination, tenure and effect on permanent or temporary status.

Section 1723, act Mar. 21, 1945, ch. 30, § 3, 59 Stat. 37, related to pay and allowances of appointees under sections 1721 to 1725 of this Appendix.

Section 1724, act Mar. 21, 1945, ch. 30, § 4, 59 Stat. 37, related to rank and pay on retirement of appointees under sections 1721 to 1725 of this Appendix.

Section 1725, act Mar. 21, 1945, ch. 30, § 5, 59 Stat. 37, provided for termination of sections 1721 to 1725 of this Appendix six months after termination of wars in which United States was engaged as proclaimed by President or such earlier date as Congress, by concurrent resolution, might fix. Cessation of hostilities of World War II, eff. twelve o'clock noon, Dec. 31, 1946, proclaimed by President in Proc. No. 2714, Dec. 31, 1946, 12 F.R. 1. Treaty of Peace with Japan, signed at San Francisco on Sept. 8, 1951, ratified by United States Senate on Mar. 20, 1952, and came into force on Apr. 28, 1952. See Termination of State of War notes set out preceding section 1 of this Appendix.

PERMANENT APPOINTMENT

Section 3 of act Mar. 3, 1946, ch. 112, 60 Stat. 60, provided for permanent appointment in grade of Admiral in Coast Guard of Admiral Russell R. Waesche. Section also provided for full pay upon retirement.

EXCEPTION OF NAVY OR COAST GUARD VESSELS FROM CERTAIN NAVIGATION RULES

ACT DEC. 3, 1945, CH. 511, 59 STAT. 590

§§ 1731, 1732. Transferred

CODIFICATION

Section 1731, act Dec. 3, 1945, ch. 511, § 1, 59 Stat. 590, which related to an exemption from requirements as to number, position, etc., of lights for vessels of special construction, was transferred to section 360 of Title 33, Navigation and Navigable Waters, and was subsequently repealed by Pub. L. 96–591, § 8(a), Dec. 24, 1980, 94 Stat. 3435.

Section 1732, act Dec. 3, 1945, ch. 511, § 2, 59 Stat. 591, which related to publication of notice of findings or certification and character and number of lights, was transferred to section 360a of Title 33, Navigation and Navigable Waters, and was subsequently repealed by Pub. L. 96–591, § 8(a), Dec. 24, 1980, 94 Stat. 3435.

SALE OF SURPLUS WAR-BUILT VESSELS

ACT MAR. 8, 1946, CH. 82, 60 STAT. 41

Sec.
1735. Declaration of policy.

Sec.
1736. Definitions.
1737. Repealed.
1738. Charter of vessels.
1738a to 1740. Repealed or Omitted.
1741. Exchange of vessels.
1742. Repealed.
1743. Repealed.
1744. National Defense Reserve Fleet.
1745. Reconversion of vessels for normal commercial operation; applicability of other laws to construction contracts; coastwise trade; disposition of moneys; Great Lakes trade.
1745a, 1746. Repealed.

§ 1735. Declaration of policy

(a) It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American-owned merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by efficient American-owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act [sections 1735 to 1746 of this Appendix] to foster the development and encourage the maintenance of such a merchant marine.

(Mar. 8, 1946, ch. 82, § 2, 60 Stat. 41.)

SHORT TITLE

Section 1 of act Mar. 8, 1946, provided that: ''This Act [enacting this section and sections 1736 to 1746 of this Appendix] may be cited as the 'Merchant Ship Sales Act of 1946'.''

TERMINATION DATE

Section 14 of act Mar. 8, 1946, as amended June 28, 1947, ch. 161, § 1, 61 Stat. 190; Feb. 27, 1948, ch. 78, § 1(a), 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; June 29, 1949, ch. 281, § 1, 63 Stat. 349; June 30, 1950, ch. 427, § 1, 64 Stat. 308; Aug. 17, 1950, ch. 725, 64 Stat. 452, provided that: ''No contract of sale shall be made under this Act [sections 1735 to 1746 of this Appendix] after January 15, 1951, and no contract of charter shall be made under this Act [sections 1735 to 1746 of this Appendix] after June 30, 1950, except as provided for charter under subsections (e) and (f) of section 5 hereof, as amended [section 1738(e), (f) of this Appendix].''

GREAT LAKES VESSELS

Section 3 of act Sept. 28, 1950, ch. 1093, 64 Stat. 1078, provided: ''Contracts for the sale of vessels for exclusive use on the Great Lakes, including the Saint Lawrence River and Gulf and their connecting waterways, may be made until December 31, 1950. Such contracts shall require that transfer to the Great Lakes of such vessels by the buyers shall be completed by December 31, 1951.''

§ 1736. Definitions

As used in this Act [sections 1735 to 1746 of this Appendix] the term—

(a) ''Secretary'' means the Secretary of Transportation.

(b) to (f) Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.

(g) ''Citizen of the United States'' includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 50501 of title 46. The term ''affiliated interest'' as used in sections 9 and 10 of this Act [sections 1742 and 1743 of this Appendix] includes any person affiliated or associated with a citizen applicant for benefits under this Act [sections 1735 to 1746 of this Appendix] who the Secretary, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act [said sections].

(Mar. 8, 1946, ch. 82, § 3, 60 Stat. 41; Pub. L. 97–31, § 12(153), Aug. 6, 1981, 95 Stat. 167; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.)

CODIFICATION

In subsec. (g), ''section 50501 of title 46'' substituted for ''section 2 of the Shipping Act of 1916, as amended'' which probably meant section 2 of the Shipping Act, 1916, on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 50501 of Title 46, Shipping.

AMENDMENTS

1989—Subsecs. (b) to (f). Pub. L. 101–225 struck out subsecs. (b) to (f) which defined ''war-built vessel'', ''prewar domestic cost'', ''statutory sales price'', ''domestic war cost'', and ''cessation of hostilities'', respectively.

1981—Subsec. (a). Pub. L. 97–31, § 12(153)(A), (B), substituted ''Secretary'' for ''Commission'' and ''Secretary of Transportation'' for ''United States Maritime Commission''.

Subsecs. (c) to (e), (g). Pub. L. 97–31, § 12(153)(C), substituted ''Secretary'' for ''Commission'' wherever appearing.

§ 1737. Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

Section, acts Mar. 8, 1946, ch. 82, § 4, 60 Stat. 43; June 12, 1960, Pub. L. 86–518, § 1, 74 Stat. 216; Aug. 6, 1981, Pub. L. 97–31, § 12(154), 95 Stat. 167, provided for sales of vessels to citizens, sales price, down payment and installment payments, and restrictions on vessel operations.

§ 1738. Charter of vessels

(a), (b) Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

(c) Laws applicable to charter hire

The provisions of sections 57514 and 57516 to 57521 of title 46 shall be applicable to charters made under this section.

(d) Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

(e) Proceedings and findings; extension of charters

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended [sections 1744 and 1735 note of this Appendix], war-built dry-cargo vessels owned by the United States on or after June 30, 1950, may be chartered pursuant to this Act [sections 1735 to 1746 of this Appendix] for bareboat use in any service which, in the opinion of the Maritime Administration, is re-

quired in the public interest and is not adequately served, and for which privately owned American flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. No charters shall be made by the Secretary of Transportation under authority of this subsection until the Maritime Administration shall have given due notice to all interested parties and shall have afforded such parties an opportunity for a public hearing on such charters and shall have certified its findings to the Secretary of Transportation. The Secretary of Transportation is authorized to include in such charters such restrictions and conditions as the Maritime Administration determines to be necessary or appropriate to protect the public interest in respect of such charters and to protect privately owned vessels against competition from vessels chartered under this section: *Provided, however*, That all such charters shall contain a provision that they will be reviewed annually by the Maritime Administration, with recommendations to the Secretary of Transportation, for the purpose of determining whether conditions exist justifying continuance of the charters under the provisions of this subsection.

(2) A charter existing on June 30, 1950, with respect to a war-built dry-cargo vessel may be extended to October 31, 1950, if application is made within ten days after the enactment hereof [June 30, 1950] for the charter of such vessel under this subsection and if the Secretary of Transportation deems such extension is justified in accordance with the provisions of subdivision (1) of this subsection: *Provided, however*, That a new voyage under such extended charter shall not be begun after October 31, 1950, unless it has been determined prior to such date, in accordance with the procedure set forth in this subsection, that the continued use of the vessel in the service is required. The Maritime Administration shall conduct all hearings on applications made under this paragraph immediately upon receipt thereof and shall promptly certify its findings to the Secretary of Transportation, provided that all such certifications shall be made not later than October 31, 1950.

(f) Charter of passenger vessels

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended [sections 1744 and 1735 note of this Appendix], the Secretary of Transportation may charter any passenger vessel, whether or not war-built, owned by the United States on or after June 30, 1950, pursuant to chapter 575 of title 46, and may charter any war-built passenger vessel owned by the United States for use in the domestic trade of the United States, under the conditions prescribed for the charter of war-built cargo vessels in subsection (e) of this section.

(2) Charters existing on June 30, 1950, with respect to passenger vessels may be continued until December 31, 1951, or until expiration thereof by the terms of their provisions.

(Mar. 8, 1946, ch. 82, § 5, 60 Stat. 43; June 28, 1947, ch. 161, § 2, 61 Stat. 191; June 30, 1950, ch. 427, § 3, 64 Stat. 308; Aug. 31, 1954, ch. 1175, 68 Stat. 1050; Pub. L. 97–31, § 12(155), Aug. 6, 1981, 95 Stat. 167; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.)

CODIFICATION

In subsec. (c), ''sections 57514 and 57516 to 57521 of title 46'' substituted for ''sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended,'', and in subsec. (f)(1), ''chapter 575 of title 46,'' substituted for ''title VII of the Merchant Marine Act, 1936, as amended,'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 575 of Title 46, Shipping.

AMENDMENTS

1989—Subsecs. (a), (b), (d). Pub. L. 101–225 struck out subsec. (a) which related to charter of vessels to citizens and publication of domestic prewar cost as a prerequisite, subsec. (b) which related to rate of charter hire, and subsec. (d) which related to computation of charter hire where an operator is engaged in both foreign and domestic trade.

1981—Subsec. (a). Pub. L. 97–31, § 12(155)(A), (B), substituted ''Secretary'' for ''Commission'' and ''his'' for ''its'' wherever appearing.

Subsec. (b). Pub. L. 97–31, § 12(155)(A), substituted ''Secretary'' for ''Commission'' wherever appearing.

Subsec. (d). Pub. L. 97–31, § 12(155)(C), substituted ''Secretary of Transportation'' for ''Maritime Commission''.

Subsec. (e). Pub. L. 97–31, § 12(155)(D), (E), substituted ''Maritime Administration'' for ''Federal Maritime Board'' and ''Secretary of Transportation'' for ''Secretary of Commerce'' wherever appearing.

Subsec. (f)(1). Pub. L. 97–31, § 12(155)(E), substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

1954—Subsec. (f)(1). Act Aug. 31, 1954, allowed the chartering of war-built passenger vessels.

1950—Subsecs. (e), (f). Act June 30, 1950, added subsecs. (e) and (f).

1947—Subsec. (d). Act June 28, 1947, added subsec. (d).

AUTHORIZATION FOR PAYMENTS BY SECRETARY OF COMMERCE TO PERSONS TO WHOM HE CHARTERED VESSELS

Pub. L. 85–721, Aug. 21, 1958, 72 Stat. 710, provided: ''That the Secretary of Commerce [now Secretary of Transportation] is authorized to pay to any person to whom he has chartered any vessel under authority of section 5 of the Merchant Ship Sales Act of 1946, as amended (50 U.S.C. App., sec. 1738), out of the Vessel Operations Revolving Fund established in chapter VIII of the Third Supplemental Appropriations [Appropriation] Act, 1951 (46 U.S.C. [App.], sec. 1241a) [now 46 U.S.C. 50301(a) to (e)], an amount equal to the fair and reasonable expenses incurred by such person, as determined by the Maritime Administrator, during the calendar year beginning January 1, 1957, to activate such vessel. Such amount shall be reduced by the amount of the difference, as determined by the Maritime Administrator, between the charter hire which such person paid for such vessel, and the charter hire which was paid for similar vessels which the United States activated at its own expense during such calendar year.''

§ 1738a. Repealed. Pub. L. 101–225, title III, § 307(13), Dec. 12, 1989, 103 Stat. 1925

Section, acts June 29, 1949, ch. 281, § 2, 63 Stat. 349; Aug. 6, 1981, Pub. L. 97–31, § 12(156), 95 Stat. 167, provided for termination of charters, except passenger vessel charters.

§ 1738b. Omitted

CODIFICATION

Section, Pub. L. 94–121, title III, Oct. 21, 1975, 89 Stat. 628, which related to conditions for chartering vessels, was from the Department of Commerce Appropriation Act, 1976, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Oct. 5, 1974, Pub. L. 93–433, title III, 88 Stat. 1199.
Nov. 27, 1973, Pub. L. 93–162, title III, 87 Stat. 649.
Oct. 25, 1972, Pub. L. 92–544, title III, 86 Stat. 1124.
Aug. 10, 1971, Pub. L. 92–77, title III, 85 Stat. 260.
Oct. 21, 1970, Pub. L. 91–472, title III, 84 Stat. 1054.
Dec. 24, 1969, Pub. L. 91–153, title III, 83 Stat. 417.
Aug. 9, 1968, Pub. L. 90–470, title III, 82 Stat. 682.
Nov. 8, 1967, Pub. L. 90–133, title III, 81 Stat. 425.
Nov. 8, 1966, Pub. L. 89–797, title III, 80 Stat. 1494.
Sept. 2, 1965, Pub. L. 89–164, title III, 79 Stat. 634.
Aug. 31, 1964, Pub. L. 88–527, title III, 78 Stat. 726.
Dec. 30, 1963, Pub. L. 88–245, title III, 77 Stat. 791.
Oct. 18, 1962, Pub. L. 87–843, title III, 76 Stat. 1093.
Aug. 3, 1961, Pub. L. 87–125, title II, 75 Stat. 274.
May 13, 1960, Pub. L. 86–451, title I, 74 Stat. 97.
July 13, 1959, Pub. L. 86–88, title I, 73 Stat. 204.
June 25, 1958, Pub. L. 85–469, title I, 72 Stat. 231.
June 13, 1957, Pub. L. 85–52, title I, 71 Stat. 74.
June 20, 1956, ch. 415, title I, 70 Stat. 318.
June 30, 1955, ch. 253, title I, 69 Stat. 231.
July 2, 1954, ch. 456, title III, 68 Stat. 426.
Aug. 5, 1953, ch. 328, title III, 67 Stat. 381.
July 5, 1952, ch. 578, title II, 66 Stat. 414.
Aug. 31, 1951, ch. 376, title II, 65 Stat. 286.
Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 717.
Oct. 10, 1949, ch. 662, title I, 63 Stat. 743.

§§ 1739, 1740. Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

Section 1739, acts Mar. 8, 1946, ch. 82, § 6, 60 Stat. 43; Aug. 6, 1981, Pub. L. 97–31, § 12(154), 95 Stat. 167, provided for sale of vessels to non-citizens, sales conditions and priority of mortgage on unpaid balance.

Section 1740, acts Mar. 8, 1946, ch. 82, § 7, 60 Stat. 44; Sept. 26, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038; Sept. 27, 1979, Pub. L. 96–70, § 3(b)(5), 93 Stat. 455; Aug. 6, 1981, Pub. L. 97–31, § 12(154), 95 Stat. 167, provided for order of preference in sales and charters, determining relevant factors, and operation of commercial vessels by Government.

§ 1741. Exchange of vessels

(a) to (c) Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

(d) Transfer of substitute vessels

In the case of any vessel constructed in the United States after January 1, 1937, which has been taken by the United States for use in any manner, the Secretary, if in his opinion the transfer would aid in carrying out the policies of this Act [sections 1735 to 1746 of this Appendix], is authorized to transfer to the owner of such vessel another vessel which is deemed by the Secretary to be of comparable type with adjustments for depreciation and difference in design or speed, and to the extent applicable, adjustments with respect to the retained vessel as provided for in section 9 [section 1742 of this Appendix], and such other adjustments and terms and conditions, including transfer of mortgage obligations in favor of the United States binding upon the old vessel, as the Secretary may prescribe.

(Mar. 8, 1946, ch. 82, § 8, 60 Stat. 45; Pub. L. 97–31, § 12(154), Aug. 6, 1981, 95 Stat. 167; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.)

AMENDMENTS

1989—Subsecs. (a) to (c). Pub. L. 101–225 struck out subsecs. (a) to (c) which related to allowance as credit on purchase price and vessels acceptable, amount of allowance, and transfers in settlement of claims, respectively.

1981—Pub. L. 97–31 substituted ''Secretary'' for ''Commission'' wherever appearing.

§ 1742. Repealed. Pub. L. 94–412, title V, § 501(g), Sept. 14, 1976, 90 Stat. 1258

Section, acts Mar. 8, 1946, ch. 82, § 9, 60 Stat. 46; Aug. 6, 1956, ch. 1013, 70 Stat. 1068, made provision for price adjustments on prior sales of surplus war-built vessels to citizens.

SAVINGS PROVISION

Repeal not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 1743. Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

Section, acts Mar. 8, 1946, ch. 82, § 10, 60 Stat. 49; Aug. 6, 1981, Pub. L. 97–31, § 12(154), 95 Stat. 167, limited eligibility for benefits under Merchant Ship Sales Act of 1946.

§ 1744. National Defense Reserve Fleet

(a) Fleet components

The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

(b) Permitted uses

Except as otherwise provided by law, a vessel in the fleet may be used—

(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under chapter 563 of title 46; or

(2) on the request of the Secretary of Defense, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

(A) testing for readiness and suitability for mission performance;

(B) defense sealift functions for which other sealift assets are not reasonably available; and

(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

(c) Ready Reserve Force management

(1) Minimum requirements

To ensure the readiness of vessels in the Ready Reserve Force component of the Na-

tional Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

(B) activate and conduct sea trials on each vessel at least once every twenty-four months;

(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

(2) Vessel managers

(A) Eligibility for contract

A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

(B) Contract requirement

The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code, for a seaman performing that service while operating the vessel if the vessel were not a public vessel.

(d) Applicability of limitations on overhaul, repair, and maintenance in foreign shipyards

(1) Application of limitation

The provisions of section 7310 of title 10, United States Code, shall apply to vessels specified in subsection (b), and to the Secretary of Transportation with respect to those vessels, in the same manner as those provisions apply to vessels specified in subsection (b) of such section, and to the Secretary of the Navy, respectively.

(2) Covered vessels

Vessels specified in this paragraph are vessels maintained by the Secretary of Transportation in support of the Department of Defense, including any vessel assigned by the Secretary of Transportation to the Ready Reserve Force that is owned by the United States.

(e) Exemption from tank vessel construction standards

Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.

(Mar. 8, 1946, ch. 82, § 11, 60 Stat. 49; June 28, 1947, ch. 161, § 1, 61 Stat. 190; Feb. 27, 1948, ch. 78, § 1(a), 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; June 29, 1949, ch. 281, § 1, 63 Stat. 349; June 30, 1950, ch. 427, § 2, 64 Stat. 308; Pub. L. 97–31, § 12(157), Aug. 6, 1981, 95 Stat. 167; Pub. L. 101–115, § 6, Oct. 13, 1989, 103 Stat. 693; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925; Pub. L. 102–241, § 57, Dec. 19, 1991, 105 Stat. 2234; Pub. L. 102–587, title VI, § 6205(a), Nov. 4, 1992, 106 Stat. 5094; Pub. L. 104–106, div. A, title X, § 1014(b), Feb. 10, 1996, 110 Stat. 424; Pub. L. 104–239, § 9, Oct. 8, 1996, 110 Stat. 3133; Pub. L. 109–364, div. C, title XXXV, § 3503, Oct. 17, 2006, 120 Stat. 2516.)

CODIFICATION

In subsec. (b)(1), ''chapter 563 of title 46'' substituted for ''section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 563 of Title 46, Shipping.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–364 added subsec. (d).

1996—Subsec. (b)(2). Pub. L. 104–239, § 9(1), substituted ''of the Secretary of Defense'' for ''of the Secretary of the Navy''.

Subsecs. (c), (d). Pub. L. 104–239, § 9(2), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—

''(1) required by law; or

''(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract.''

Subsec. (e). Pub. L. 104–106 added subsec. (e).

1992—Subsec. (b). Pub. L. 102–587 amended subsec. (b) to read as if it had not been repealed by Pub. L. 101–225. See 1989 Amendment note below.

1991—Subsec. (d). Pub. L. 102–241 added subsec. (d).

1989—Pub. L. 101–225 struck out subsec. (b) as it appeared after a general amendment by Pub. L. 101–115, see below. See also 1992 Amendment note above.

Pub. L. 101–115 amended section generally. Prior to amendment, section read as follows:

''(a) The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of the Army and the Secretary of the Navy, he deems should be retained for the national defense, and (2) all vessels owned by the Department of Transportation on June 30, 1950, for the sale of which a contract has not been made by that time, except those determined by the Secretary of Transportation to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended. A vessel under charter on March 1, 1948, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense. A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for ac-

count of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended, and that any such vessel may be used under a bare-boat charter entered into pursuant to authority vested in the Secretary of Transportation on July 1, 1950, or granted to the Secretary of Transportation after such date.

''(b) Any war-built vessel may be made available by the Secretary of Transportation to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941 (Public Law 191, Seventy-seventh Congress; 55 Stat. 607).''

1981—Subsec. (a). Pub. L. 97–31 substituted ''Secretary of Transportation'' first three times it appears for ''Commission'' and last two times it appears for ''Secretary of Commerce''; ''Department of Transportation'' for ''it''; and ''he'' for ''it''.

Subsec. (b). Pub. L. 97–31 substituted ''Secretary of Transportation'' for ''Commission''.

1950—Subsec. (a). Act June 30, 1950, amended subsec. (a) to provide that a vessel placed in reserve may not be used for any purpose whatsoever except (1) for the account of any Federal agency or department during the period in which vessels may be requisitioned under section 1242 of Title 46 and (2) and any such vessel may be used under a bare-boat charter entered into pursuant to the authority vested in the Secretary of Commerce.

1949—Subsec. (a). Joint Res. June 29, 1949, extended provisions of section from June 30, 1949, to June 30, 1950. Joint Res. Feb. 28, 1949, extended provisions of section from Mar. 1, 1949, to June 30, 1949.

1948—Subsec. (a). Act Feb. 27, 1948, extended provisions of section from Mar. 1, 1948, to Mar. 1, 1949.

1947—Subsec. (a). Act June 28, 1947, extended provisions of section from Dec. 31, 1947, to Mar. 1, 1948.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 6205(a) of Pub. L. 102–587 provided in part that: ''The effective date of this subsection [amending this section] is December 12, 1989.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM

Section 16 of Pub. L. 104–239 provided that:

''(a) IN GENERAL.—The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using renewable contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act [Oct. 8, 1996], shall award 9 contracts for this purpose.

''(b) USE OF VARIOUS CONTRACTING ARRANGEMENTS.—In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

''(c) CONTRACT REQUIREMENTS.—Each contract with a shipyard under this section shall—

''(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard;

''(2) be effective for 1 fiscal year; and

''(3) be renewable, subject to the availability of appropriations, for each subsequent fiscal year through fiscal year 1998.

''(d) LIMITATION OF WORK UNDER CONTRACTS.—A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1774(d)(2)) applies.

''(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

''(f) REPORTS.—The Secretary shall submit to the Congress—

''(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel included in the contract, no later than 20 months after the date of the enactment of this Act [Oct. 8, 1996]; and

''(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.''

§ 1745. Reconversion of vessels for normal commercial operation; applicability of other laws to construction contracts; coastwise trade; disposition of moneys; Great Lakes trade

(a) The Secretary is authorized to reconvert or restore for normal operation in commercial services and to convert for operation on the Great Lakes, including the Saint Lawrence River and Gulf, and their connecting waterways, including removal of national defense or war-service features, any vessel authorized to be sold or chartered under this Act [sections 1735 to 1746 of this Appendix]. The Secretary is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act [said sections], and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

(b) to (e) Repealed. Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.

(Mar. 8, 1946, ch. 82, § 12, 60 Stat. 49; Sept. 28, 1950, ch. 1093, §§ 1, 2, 64 Stat. 1078; Pub. L. 97–31, § 12(158), Aug. 6, 1981, 95 Stat. 168; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925.)

AMENDMENTS

1989—Subsecs. (b) to (e). Pub. L. 101–225, which directed repeal of subsecs. (b) to (f), was executed by striking out subsecs. (b) to (e) as the probable intent of Congress because there was no subsec. (f). Subsecs. (b) to (e) provided in subsec. (b) that section 202 of the War Mobilization and Reconversion Act was inapplicable to contracts of the Commission for or relating to construction of ships, in subsec. (c) that no vessel sold or chartered to a citizen of the United States be prohibited from engaging in the coastwise trade of the United States merely because it was under foreign registry on or after May 27, 1941, in subsec. (d) that all moneys received be deposited in the Treasury to the credit of miscellaneous receipts, and in subsec. (e) that the Secretary make allowances to purchasers of not more than ten vessels sold for exclusive use on the Great Lakes.

1981—Subsecs. (a), (c), (d). Pub. L. 97–31, § 12(158)(A), substituted ''Secretary'' for ''Commission'' wherever appearing.

Subsec. (e). Pub. L. 97–31, § 12(158)(B), substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

1950—Subsec. (a). Act Sept. 28, 1950, §1, provided for conversion for operation on the Great Lakes, including the Saint Lawrence River and Gulf, and their connecting waterways.

Subsec. (e). Act Sept. 28, 1950, §2, added subsec. (e).

§ 1745a. Repealed. Pub. L. 101–225, title III, § 307(14), Dec. 12, 1989, 103 Stat. 1925

Section, Pub. L. 86–315, Sept. 21, 1959, 73 Stat. 588, accorded Great Lakes vessels operation status of documented vessels.

§ 1746. Repealed. Pub. L. 99–386, title I, § 107, Aug. 22, 1986, 100 Stat. 822; Pub. L. 101–225, title III, § 307(12), Dec. 12, 1989, 103 Stat. 1925

Section, acts Mar. 8, 1946, ch. 82, §13, 60 Stat. 50; Aug. 6, 1981, Pub. L. 97–31, §12(154), 95 Stat. 167, required submission of quarterly reports by Secretary to Congress with respect to all activities or transactions under sections 1735 to 1746 of this Appendix not covered by any previous such report.

Pub. L. 89–348, §2(1), Nov. 8, 1965, 79 Stat. 1312, modified this section to require annual instead of quarterly reports.

REHABILITATION OF PHILIPPINES

ACT APR. 30, 1946, CH. 243, 60 STAT. 128

§§ 1751 to 1763. Omitted

PAYMENT OF BALANCE OF AWARDS TO PHILIPPINES

Pub. L. 87–616, Aug. 30, 1962, 76 Stat. 411, as amended by Pub. L. 88–94, §3, Aug. 12, 1963, 77 Stat. 122, provided:

''[SEC. 1. *Conditions; limitations on amount*]. That the Foreign Claims Settlement Commission (hereafter in this Act referred to as the ''Commission'') shall provide, out of funds appropriated pursuant to this Act, for the payment of the unpaid balance of awards heretofore made by the Philippine War Damage Commission under title I of the Philippine Rehabilitation Act of 1946 [sections 1751 to 1763 of this Appendix]. No payment shall be made under this Act to any person, or to his successors in interest, on account of any award unless payment was made on such award under the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix], and the maximum amount paid under this Act, when added to amounts paid under the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix] and section 7 of the War Claims Act of 1948 [section 2006 of this Appendix] on account of any claim shall not exceed the aggregate amount of claims approved in favor of such claimant after reduction under the last proviso of section 102(a) of the Philippine Rehabilitation Act of 1946 [section 1752(a) of this Appendix], or $25,000, whichever is the lesser. All payments under this Act in amounts over 25,000 pesos or equivalent value in dollars shall be subject to the provisions of section 104(c) of the Philippine Rehabilitation Act of 1946 [section 1754(c) of this Appendix].

''SEC. 2. [*Applications; commencement and duration of period; determination of Commission*]. Within sixty days after the enactment of this Act [Aug. 30, 1962], or of legislation appropriating for administration expenses incurred in carrying out this Act, whichever is later, the Commission shall prescribe and publish in the Federal Register and give appropriate publicity in the Republic of the Philippines concerning the period, not in excess of twelve additional months, within which application must be filed under this Act. The Commission shall complete its determination and take final action with respect to applications filed under this Act not later than one year after the last date on which applications may be filed.

''SEC. 3. [*Publicity to payments provisions; notice to claimants*]. The Commission shall give maximum publicity in the Republic of the Philippines to the provisions of this Act, and through utilization of the records of the former Philippine War Damage Commission shall attempt to notify individual claimants of their right to file applications for payment under this Act, by mailing notice thereof to the last known address of such claimants as shown by such records.

''SEC. 4. [*Notice of approval or denial of applications; hearings; finality of determinations*]. The Commission shall notify all applicants of the approval or denial of their applications and, if approved, shall notify such applicants of the amount for which such applications are approved. Any applicant whose application is denied, or is approved for less than the amount of such application, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission or its representative with respect to such application. Upon such hearing, the Commission may affirm, modify, or reverse its former action with respect to such application, including a denial or reduction in the amount of award theretofore approved. All findings of the Commission concerning the persons to whom compensation pursuant to this Act is payable, and the amounts thereof, shall be conclusive and not be reviewable by any court.

''SEC. 5. [*Payments; exchange rate; medium; extraterritorial claimants; purchasers of claims; Educational Programs Fund; reversion of funds to United States Treasury*]. (a) Each award made under this Act shall be certified to the Secretary of the Treasury in terms of United States currency on the basis of the rate of exchange (that is, P/2 equals $1) which was applied in the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix], for payment out of sums appropriated pursuant to section 8 of this Act. Such payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe. Payments authorized under this Act shall be made in United States dollars or in Philippine pesos at the option of the Secretary of the Treasury; however, notwithstanding the last sentence of the first section of this Act, payment shall not be made outside of the Republic of the Philippines to any claimant residing outside the Republic of the Philippines unless he establishes to the satisfaction of the Commission that since the date of the loss or damage on account of which the original award was made he has heretofore invested in such manner as furthered the rehabilitation or economic development of the Philippines an amount not less than the claims approved in his favor after reduction under the last proviso of section 102(a) of the Philippine Rehabilitation Act of 1946 [section 1752(a) of this Appendix]. Any balance of the appropriation made pursuant to section 8 remaining after the payments authorized by the first section of this Act have been made and after any administrative expenses incurred by the Commission in connection with such payments have been paid shall be paid into a special fund in the United States Treasury to be used for the purpose of furthering educational exchange and other educational programs to the mutual advantage of the Republic of the Philippines and the United States in such manner as the Presidents of those two Republics shall from time to time determine. There shall be withheld from the payment authorized by the preceding sentence a sum equal to the difference between $73,000,000 (less administrative expenses) and the total amount which would have been paid to the claimants under the provisions of Public Law 87–616, which sum shall revert to the general funds in the United States Treasury. The acceptance by any claimant of a payment under this Act shall be considered to be in full satisfaction and final settlement of all claims of such claimant arising out of awards for war damage compensation made by the Philippine War Damage Commission. Payment shall not be made under this Act on any claim filed under the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix] or under this Act which was acquired from a predecessor in interest by purchase, except where such purchase was in the ordinary course of business in connection with the acquisition of all assets of a business firm.

''(b) Such of the records of the Philippine War Damage Commission as the Foreign Claims Settlement Commission may deem necessary for carrying out its functions under this Act shall be transferred to the Foreign Claims Settlement Commission.

''SEC. 6. [*Remuneration for services to applicants; prohibition against certain payments; penalties; forfeitures; recovery of payments*]. (a) The total remuneration on account of services rendered or to be rendered to or on behalf of any applicant in connection with any application filed under this Act shall not exceed 5 per centum of the amount paid by the Commission on account of such application. Any agreement to the contrary shall be unlawful and void. Whoever, subject to the jurisdiction of the United States, violates this subsection shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Where any payment is made in violation of this subsection, the Commission shall take such action as may be appropriate to recover the same.

''(b) Notwithstanding the provisions of subsection (a), no sum shall be paid by any claimant directly or indirectly to, or received or accepted by, any former commissioner or employee of the Philippine War Damage Commission or their assigns, or any person employed by or associated with any such former commissioner or employee in connection with the preparation, filing, allowance, or collection of any claim under this Act, as compensation on account of services rendered or as reimbursement on account of expenses incurred in connection with any application filed under this Act. Whoever, subject to the jurisdiction of the United States, makes a payment in violation of the provisions of this subsection shall be fined not more than $5,000 or imprisoned for not more than one year or both. Whoever, subject to the jurisdiction of the United States, receives or accepts a payment in violation of this subsection, shall be fined not more than $5,000 or imprisoned for not more than five years or both. Whoever, subject to the jurisdiction of the United States, receives or accepts a payment in violation of this subsection, shall forfeit to the Government of the United States a sum equal to three times the amount of such payment, and the Commission shall take action to recover such sum from the person receiving the payment.

''SEC. 7. [*Application of International Claims Settlement Act of 1949*]. For the purposes of carrying out this Act, the following provisions of the International Claims Settlement Act of 1949 [section 1621 et seq. of Title 22, Foreign Relations and Intercourse] shall, to the extent not inconsistent with this Act, be applicable in the administration of this Act: Subsections (c), (d), (e), and (i) of section 4 [section 1623 of Title 22]; subsections (d) and (e) of section 7 [section 1626 of Title 22]; and subsection (c) of section 7 [section 1626 of Title 22] except that with respect to applicants not subject to the jurisdiction of the United States, references in such subsection (c) to the Comptroller General of the United States shall be deemed to refer to the Secretary of the Treasury.

''SEC. 8. [*Appropriations for payment of awards and administrative expenses*]. There is authorized to be appropriated not more than $73,000,000 to make payments on awards certified pursuant to this Act, plus such additional sums as may be necessary for the administrative expenses of the Commission and of the Secretary of the Treasury in carrying out this Act.''

CODIFICATION

Sections 1751 to 1763 terminated Apr. 30, 1951, pursuant to section 1751 of this Appendix.

Section 1751, acts Apr. 30, 1946, ch. 243, title I, § 101, 60 Stat. 128; Jan. 26, 1948, ch. 16, §§ 1, 2, 62 Stat. 4; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, established the Philippine War Damage Commission and provided for the winding up of its affairs not later than two years after expiration of time for filing claims under sections 1751 to 1763 of this Appendix if possible but in no event later than Apr. 30, 1951. Acts Apr. 30, 1946, ch. 243, title I, § 101, 60 Stat. 128; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 653, 655.

Section 1752, act Apr. 30, 1946, ch. 243, title I, § 102, 60 Stat. 129, related to payment for destruction and damage to property, perils and persons covered, claim limitations and definitions.

Section 1753, act Apr. 30, 1946, ch. 243, title I, § 103, 60 Stat. 130, excluded from payment certain enumerated claims.

Section 1754, acts Apr. 30, 1946, ch. 243, title I, § 104, 60 Stat. 130; Aug. 2, 1946, ch. 741, § 1, 60 Stat. 805, related to claim payments.

Section 1755, acts Apr. 30, 1946, ch. 243, title I, § 105, 60 Stat. 131; Aug. 2, 1946, ch. 741, § 2, 60 Stat. 805, required Philippine War Damage Commission to make reports to Congress at intervals of six months.

Section 1756, acts Apr. 30, 1946, ch. 243, title I, § 106, 60 Stat. 131; Jan. 26, 1948, ch. 16, § 3, 62 Stat. 5, authorized to be appropriated the amount of $400,000,000 for compensation payments under sections 1751 to 1763 of this Appendix, including the sum of $12,000,000 for expenses of Philippine War Damage Commission, all appropriations under the sections remaining available until Apr. 30, 1951, and provided for disposition of Japanese reparations, including individual reparations.

Section 1757, act Apr. 30, 1946, ch. 243, title I, § 107, 60 Stat. 132, provided penalties for false and fraudulent claims.

Section 1758, act Apr. 30, 1946, ch. 243, title I, § 108, 60 Stat. 132, set limitation on fees for claim services and provided penalties for violations thereof.

Section 1759, act Apr. 30, 1946, ch. 243, title I, § 109, 60 Stat. 132, related to the authority of the Philippine War Damage Commission and the prohibition on War Damage Corporation payments.

Section 1760, act Apr. 30, 1946, ch. 243, title I, § 110, 60 Stat. 133, excluded from coverage certain enumerated classes of property.

Section 1761, act Apr. 30, 1946, ch. 243, title I, § 111, 60 Stat. 133, related to transfer of surplus property, valuation of property and payment.

Section 1762, act Apr. 30, 1946, ch. 243, title I, § 112, 60 Stat. 133, provided for cooperation between the Philippine War Damage Commission and the War Damage Corporation.

Section 1763, act Apr. 30, 1946, ch. 243, title I, § 113, 60 Stat. 134, provided for notification of disposal and amount of claim, hearings and conclusiveness of findings.

§§ 1771 to 1776. Omitted

CODIFICATION

Section 1771, acts Apr. 30, 1946, ch. 243, title II, § 201, 60 Stat. 134; Aug. 2, 1946, ch. 741, § 3, 60 Stat. 805, related to transfer and disposal of surplus property, by Department of State acting through a Foreign Liquidation Commissioner, and terms and conditions thereof.

Section 1772, act Apr. 30, 1946, ch. 243, title II, § 202, 60 Stat. 134, required recordation of number, condition and value of transferred items and quarterly reports thereof to the President and Congress.

Section 1773, act Apr. 30, 1946, ch. 243, title II, § 203, 60 Stat. 134, related to law governing disposal.

Section 1774, act Apr. 30, 1946, ch. 243, title II, § 204, 60 Stat. 134, prohibited transfer of military equipment and toxic gas.

Section 1775, act Apr. 30, 1946, ch. 243, title II, § 205, 60 Stat. 134, limited gross amount transferable to Commonwealth of Philippines, provincial governments, and chartered cities or municipalities to $100,000,000.

Section 1776, act Apr. 30, 1946, ch. 243, title II, § 206, 60 Stat. 135, authorized Foreign Liquidation Commissioner to prescribe rules and regulations necessary for performance of his functions under sections 1771 to 1776 of this Appendix and to delegate any authority conferred upon him by the sections.

§§ 1781 to 1791. Omitted

CODIFICATION

Section 1781, act Apr. 30, 1946, ch. 243, title III, § 301, 60 Stat. 135, authorized to be appropriated the sum of $120,000,000 for allocation, but not later than the fiscal year 1950, among the programs set forth in sections 1782 to 1785 of this Appendix and such additional sums as might be necessary for the purposes of sections 1786 to 1791 of this Appendix. Appropriations remained available for the purposes of sections 1782(a) and 1783(a) of this Appendix until June 30, 1951 under the provisions of section 1791(e) of this Appendix.

Section 1782, acts Apr. 30, 1946, ch. 243, title III, § 302, 60 Stat. 135; July 2, 1948, ch. 810, § 1, 62 Stat. 1224, related to restoration and construction of roads and bridges and training of Filipino engineers. Section 1782(a) authority continued in effect until June 30, 1951, under the provisions of section 1791(e) of this Appendix.

Section 1783, act Apr. 30, 1946, ch. 243, title III, § 303, 60 Stat. 135, related to rehabilitation and construction of port and harbor facilities and training of Filipino engineers. Section 1783(a) authority continued in effect until June 30, 1951, under the provisions of section 1791(e) of this Appendix.

Section 1784, act Apr. 30, 1946, ch. 243, title III, § 304, 60 Stat. 136, related to compensation for damage and destruction of public property, repairs and replacement and powers of the Philippine War Damage Commission.

Section 1785, acts Apr. 30, 1946, ch. 243, title III, § 305, 60 Stat. 136; July 2, 1948, ch. 810, § 2, 62 Stat. 1224, related to rehabilitation and improvement of public health services, training of Filipinos and replacement of equipment.

Section 1786, act Apr. 30, 1946, ch. 243, title III, § 306, 60 Stat. 137, related to restoration and improvement of inter-island commerce and training of Filipino merchant marine personnel.

Section 1787, act Apr. 30, 1946, ch. 243, title III, § 307, 60 Stat. 137, related to establishment and operation of inter-island air facilities and training of Filipino personnel.

Section 1788, act Apr. 30, 1946, ch. 243, title III, § 308, 60 Stat. 138, related to establishment of metrological facilities and training of Filipino personnel.

Section 1789, act Apr. 30, 1946, ch. 243, title III, § 309, 60 Stat. 138, related to rehabilitation and development of fisheries, training of Filipino personnel, operation of research and experimental stations and vessels and transfer of vessels.

Section 1790, act Apr. 30, 1946, ch. 243, title III, § 310, 60 Stat. 139, provided for continuation of Coast and Geodetic surveys and training of Filipino personnel.

Section 1791, acts Apr. 30, 1946, ch. 243, title III, § 311, 60 Stat. 139; July 2, 1948, ch. 810, § 3, 62 Stat. 1225; Sept. 7, 1949, ch. 545, 63 Stat. 692, related to acquisition of lands and easements, cooperation between Governments, rules and regulations governing training courses, admission to United States, and conditions for carrying out training and termination date. Section 1791(e) provided for the expiration of sections 1781, 1782(b), 1783(b), 1784 to 1791 on June 30, 1950 with the following exceptions. Appropriations under section 1781 for the purposes of sections 1782(a) and 1783(a) of this Appendix and the authority contained in sections 1782(a) and 1783(a) continued available and in effect, respectively, until June 30, 1951. Section 1791(d) last proviso, relating to the deportation of Filipinos designated for training or instruction in the United States for failure to depart within reasonable time fixed by regulation.

EXTENSION OF CHARTERS; TERMINATION DATE

Joint Res. July 1, 1954, ch. 454, 68 Stat. 396, provided that: ''Notwithstanding any other provisions of existing law, the Secretary of Commerce is authorized to extend and continue the present charters of vessels to citizens of the Republic of the Philippines, which charters were made and entered into under the terms of section 306(a) of the Act of April 30, 1946 (Public Law 370, Seventy-ninth Congress) [section 1786(a) of this Appendix], and which charters were extended by the Secretary of Commerce under the terms of a joint resolution, approved June 30, 1953 (ch. 163, 67 Stat. 110). Such charters may be further extended for such periods of time and under such terms and conditions as the Secretary may, from time to time, determine to be required in the interest of the economy of the Philippines, but any such charter shall contain a provision requiring that the vessel shall be operated only in the inter-island commerce in the Philippines. No such vessel shall be continued under charter, as authorized herein, beyond the completion of the first voyage terminating after June 30, 1955.''

Similar provisions were contained in the following acts:

Joint Res. June 30, 1953, ch. 163, 67 Stat. 110.

Joint Res. Apr. 30, 1952, ch. 242, 66 Stat. 65.

LIMITATION ON EXPENDITURES

Act July 23, 1946, ch. 591, title I, § 101, 60 Stat. 622, provided in part that the total expenditure under subsec. (a) of section 1787 of this Appendix should not exceed $8,000,000.

§§ 1796, 1797. Omitted

CODIFICATION

Section 1796, act Apr. 30, 1946, ch. 243, title IV, § 401, 60 Stat. 140, providing for the supervision of functions, powers and duties of Federal agencies and employees in carrying out the provisions of act Apr. 30, 1946, as amended, by the United States High Commissioner to the Philippines, until the Philippines attained their independence, was omitted, independence having been granted to the Philippine Islands by 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, which was issued under the authority of section 1394 of Title 22, Foreign Relations and Intercourse, and is set out as a note under section 1394 of Title 22.

Section 1797, act Apr. 30, 1946, ch. 243, title IV, § 402, 60 Stat. 140, provided for the transfer of functions under act Apr. 30, 1946, as amended, from the High Commissioner to the Philippines to such United States representative or representatives as the President might appoint on and after the date the Philippines attained their independence.

§ 1801. Omitted

CODIFICATION

Section, act Apr. 30, 1946, ch. 243, title V, § 501, 60 Stat. 140, authorized $5,000,000 to be appropriated for the restoration, repair of damage to and improvement of lands and buildings referred to in section 1394(c)(3) of Title 22, Foreign Relations and Intercourse, and for the acquisition or construction of additional buildings to house the civil agencies, including the diplomatic and consular establishments of the United States operating in the Philippine Islands.

§ 1806. Omitted

CODIFICATION

Section, act Apr. 30, 1946, ch. 243, title VI, § 601, 60 Stat. 140, required an executive agreement to be entered into between the Presidents of the United States and the Philippines as a condition precedent for certain private-aid payments under sections 1751 to 1763 of this Appendix which have been omitted from the Code.

RETURN AND INTERMENT OF PERSONS BURIED OUTSIDE UNITED STATES

ACT MAY 16, 1946, CH. 261, 60 STAT. 182

§§ 1811 to 1820. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 653, 654

Sections 1811 to 1820 of this Appendix terminated Dec. 31, 1951, pursuant to section 1818 of this Appendix. The

sections remained in force as to any application under sections 1813 and 1814 of this Appendix filed prior to Dec. 31, 1951.

Section 1811, acts May 16, 1946, ch. 261, § 1, 60 Stat. 182; Aug. 5, 1947, ch. 497, 61 Stat. 779, contained the Congressional declaration of purpose for sections 1811 to 1820 of this Appendix.

Section 1812, acts May 16, 1946, ch. 261, § 2, 60 Stat. 183; Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, provided for administration by Secretary of the Army of sections 1811 to 1820 of this Appendix with exception of activities reserved for American Battle Monuments Commission by section 1819 of this Appendix.

Section 1813, acts May 16, 1946, ch. 261, § 3, 60 Stat. 183; Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, related to remains returnable and place of interment.

Section 1814, acts May 16, 1946, ch. 261, § 4, 60 Stat. 183; Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, related to interment in military cemeteries outside United States.

Section 1815, acts May 16, 1946, ch. 261, § 5, 60 Stat. 183; Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, provided for acquisition of land in foreign countries for establishment of cemeteries.

Section 1816, acts May 16, 1946, ch. 261, § 6, 60 Stat. 183; Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, authorized Secretary of the Army to prescribe rules and regulations to carry out sections 1811 to 1820 of this Appendix.

Section 1817, acts May 16, 1946, ch. 261, § 7, as added Aug. 5, 1947, ch. 497, 61 Stat. 779, and amended May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, related to appropriations.

Section 1818, act May 16, 1946, ch. 261, § 8, as added Aug. 5, 1947, ch. 497, 61 Stat. 779, provided for termination of sections 1811 to 1820 of this Appendix on Dec. 31, 1951. The sections remained in force as to any applications under sections 1813 and 1814 of this Appendix filed prior to Dec. 31, 1951.

Section 1819, act May 16, 1946, ch. 261, § 9, as added Aug. 5, 1947, ch. 497, 61 Stat. 779, and amended May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334, related to duties and responsibilities of American Battle Monuments Commission and transfer to Commission of temporary administrative functions of Secretary of the Army.

Section 1820, act May 16, 1946, ch. 261, § 10, as added June 3, 1948, ch. 402, 62 Stat. 334, related to allowances for escort personnel.

VETERANS' EMERGENCY HOUSING PROGRAM

ACT MAY 22, 1946, CH. 268, 60 STAT. 207

§ 1821. Repealed. June 30, 1947, ch. 163, title I, § 1(a), 61 Stat. 193

Section, act May 22, 1946, ch. 268, § 1, 60 Stat. 207, related to purpose, termination date, and applicability of the Veterans' Emergency Housing Act of 1946.

Effect of repeal on existing allocations and priorities, see section 1881 of this Appendix.

§ 1822. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 653

Section, acts May 22, 1946, ch. 268, § 2, 60 Stat. 208; June 30, 1947, ch. 163, title I, § 1(a), 61 Stat. 193; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, related to appointment, compensation, and functions of Housing Expediter.

ACT JUNE 30, 1948, CH. 775, 62 STAT. 1197

§ 1822a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 654

Section, act June 30, 1948, ch. 775, § 101, 62 Stat. 1197, related to administration of oaths by employees of Office of Housing Expediter.

ACT MAY 22, 1946, CH. 268, 60 STAT. 207

§§ 1823 to 1829. Repealed. June 30, 1947, ch. 163, title I, § 1(a), 61 Stat. 193

Section 1823, act May 22, 1946, ch. 268, § 3, 60 Stat. 209, related to establishment of maximum sales prices for housing accommodations.

Section 1824, act May 22, 1946, ch. 268, § 4, 60 Stat. 210, related to establishment of material priorities.

Section 1825, act May 22, 1946, ch. 268, § 5, 60 Stat. 210, related to prohibited practices.

Section 1826, act May 22, 1946, ch. 268, § 6, 60 Stat. 211, related to review of action taken pursuant to any regulation or order issued under act May 22, 1946.

Section 1827, act May 22, 1946, ch. 268, § 7, 60 Stat. 211, related to penalties for violation of section 1825 of this Appendix.

Section 1828, act May 22, 1946, ch. 268, § 8, 60 Stat. 211, related to definitions.

Section 1829, act May 22, 1946, ch. 268, § 9, 60 Stat. 212, related to authorization of appropriations.

§ 1830. Omitted

CODIFICATION

Section, act May 22, 1946, ch. 268, § 10, 60 Stat. 212, amended sections 603(a), 603(b)(2), 603(b)(5), 603(c), 604(b), 608(b)(2), (3)(C) and 608(c) of the National Housing Act, as amended, sections 1738(a), 1738(b)(2), 1738(b)(5), 1738(c), 1739(b), 1743(b)(2), (3)(C) and 1743(c) of Title 12, Banks and Banking, respectively. The amendments are incorporated in the latter sections.

§§ 1831, 1832. Repealed. June 30, 1947, ch. 163, title I, § 1(a), 61 Stat. 193

Section 1831, act May 22, 1946, ch. 268, § 11, 60 Stat. 214, related to subsidies for prefabricated houses.

Section 1832, act May 22, 1946, ch. 268, § 12, 60 Stat. 215, related to guaranty of markets for prefabricated houses.

Effect of repeal on existing allocations and priorities, see section 1881 of this Appendix.

§ 1833. Omitted

CODIFICATION

Section, act May 22, 1946, ch. 268, § 13, 60 Stat. 215, contained a saving clause.

NAVAL VESSELS AS ATOMIC TARGETS

ACT JUNE 25, 1946, CH. 487, 60 STAT. 308

§§ 1841 to 1845. Omitted

CODIFICATION

Sections 1841 to 1845 terminated June 25, 1948, pursuant to section 5 of act June 25, 1946.

Section 1841, act June 25, 1946, ch. 487, § 1, 60 Stat. 308, related to use of vessels as targets for atomic weapons.

Section 1842, act June 25, 1946, ch. 487, § 2, 60 Stat. 308, related to disposal of vessels after experiments.

Section 1843, act June 25, 1946, ch. 487, § 3, 60 Stat. 308, related to number of combatant vessels to be employed.

Section 1844, act June 25, 1946, ch. 487, § 4, 60 Stat. 309, related to safeguarding of information on results of tests.

Section 1845, act June 25, 1946, ch. 487, § 4A, 60 Stat. 309, related to appointment and compensation of an advisory board.

ADMISSION OF ALIEN FIANCEES INTO UNITED STATES

ACT JUNE 29, 1946, CH. 520, 60 STAT. 339

§§ 1851 to 1855. Omitted

CODIFICATION

Sections 1851 to 1855 were omitted as terminated pursuant to section 1851 of this Appendix.

Section 1851, acts June 29, 1946, ch. 520, §1, 60 Stat. 339; June 28, 1947, ch. 160, 61 Stat. 190; Mar. 24, 1948, ch. 141, §§1, 2, 62 Stat. 84, related to the admission of alien fiancees or fiances of members of the armed forces, on or before Dec. 31, 1948.

Section 1852, act June 29, 1946, ch. 520, §2, 60 Stat. 340, related to deportation upon nonoccurrence of marriage.

Section 1853, act June 29, 1946, ch. 520, §3, 60 Stat. 340, related to regulations governing functions of diplomatic or consular officers.

Section 1854, act June 29, 1946, ch. 520, §4, 60 Stat. 340, related to regulations governing functions of the Immigration and Naturalization Service.

Section 1855, act June 29, 1946, ch. 520, §5, 60 Stat. 340, defined the period of World War II.

COMPLETION OF PROCESSING OF VISA CASES

Act Apr. 21, 1949, ch. 85, 63 Stat. 56, provided for the completion of processing of cases of the alien fiances or fiancees of citizens of the United States pending on Dec. 31, 1948 under sections 1851 to 1855 of this Appendix.

MILITARY ASSISTANCE TO PHILIPPINE REPUBLIC

ACT JUNE 26, 1946, CH. 500, 60 STAT. 315

§§ 1861 to 1866. Omitted

CODIFICATION

Sections 1861 to 1866 of this Appendix terminated July 4, 1951, under the provisions of act June 26, 1946, ch. 500, §8, 60 Stat. 316.

Section 1861, act June 26, 1946, ch. 500, §2, 60 Stat. 315, authorized the President to provide military assistance upon application by the Philippines.

Section 1862, act June 26, 1946, ch. 500, §3, 60 Stat. 315, related to terms and conditions for military assistance to the Philippines.

Section 1863, act June 26, 1946, ch. 500, §4, 60 Stat. 315, set forth condition precedent to receipt of assistance.

Section 1864, act June 26, 1946, ch. 500, §5, 60 Stat. 315, related to detail of personnel of United States armed forces to Philippine Government and their compensation and emoluments.

Section 1865, act June 26, 1946, ch. 500, §6, 60 Stat. 316, related to appropriations and limitation on amount of assistance.

Section 1866, act June 26, 1946, ch. 500, §7, 60 Stat. 316, related to authority to promulgate rules and regulations, delegation of authority by President and transfer of property.

NAVAL AID TO CHINA

ACT JULY 16, 1946, CH. 580, 60 STAT. 539

§§ 1871, 1872. Omitted

CODIFICATION

Sections 1871 and 1872 terminated July 16, 1951, pursuant to section 3 of act July 16, 1946.

Section 1871, act July 16, 1946, ch. 580, §1, 60 Stat. 539, related to furnishing of naval services, training and vessels to Republic of China and to restrictions on vessel disposals.

Section 1872, act July 16, 1946, ch. 580, §2, 60 Stat. 539, related to detail of Naval and Marine Corps personnel and restrictions on service.

NAVAL AID TO FOREIGN NATIONS

ACT JULY 8, 1952, CH. 591, 66 STAT. 443

§ 1876. Omitted

CODIFICATION

Section, act July 8, 1952, ch. 591, 66 Stat. 443, authorized loan to Japanese Government of eighteen patrol frigates and fifty landing craft suitable for patrol purposes for an initial five year period and for an additional requested five year period and provided for return of the vessels in substantially the original condition.

ACT AUG. 5, 1953, CH. 321, 67 STAT. 363

§§ 1878 to 1878d. Omitted

CODIFICATION

Section 1878, act Aug. 5, 1953, ch. 321, §1, 67 Stat. 363, authorized loan of two submarines to Italian Government for five year period to provide training for Italian units in antisubmarine warfare.

Section 1878a, acts Aug. 5, 1953, ch. 321, §2, 67 Stat. 363; July 26, 1955, ch. 376, 69 Stat. 373, authorized loan of a small aircraft carrier to French Government until June 30, 1958.

Section 1878b, act Aug. 5, 1953, ch. 321, §3, 67 Stat. 363, conditioned loan of submarines and aircraft carrier to return of the vessels in substantially the original condition unless damaged or lost through enemy action.

Section 1878c, acts Aug. 5, 1953, ch. 321, §4, 67 Stat. 363; Aug. 3, 1956, ch. 914, §1(a), (b), 70 Stat. 967, made available to friendly foreign nations in the Far Eastern or European area naval vessels not larger than destroyers, twenty-five in number, and assorted minor miscellaneous craft, naval services, training, technical advice, facilities and equipment, with or without reimbursement and subject to appropriate terms and conditions; required the Secretary of Defense to determine the transfers to be in the best interests of the United States and to report the transfers to Congress; authorized promulgation of rules and regulations; prohibited communication of secret or top secret classifications; and prescribed Dec. 31, 1957, as termination date for executive exercise of naval vessel transfer authority under this section.

Section 1878d, acts Aug. 5, 1953, ch. 321, §5, 67 Stat. 363; Aug. 3, 1956, ch. 914, §1(c), 70 Stat. 967, provided for the charging of activation expenses (submarines, air carrier, and other vessels) to funds programed for recipient Governments under Mutual Security Act of 1954, or to funds provided by recipient Governments under reimbursable provisions of such Act.

PUB. L. 85–532, JULY 18, 1958, 72 STAT. 376

§§ 1878e to 1878i. Omitted

CODIFICATION

Section 1878e, Pub. L. 85–532, §1, July 18, 1958, 72 Stat. 376, authorized extension of loan of aircraft carrier to French Government until June 30, 1960 [originally until June 30, 1958, under section 1878a of this Appendix], and made available to friendly foreign nations destroyers, destroyer escorts, and submarines from the reserve fleet, as follows: North Atlantic Treaty Organization and European area, nineteen ships; Latin American area, eighteen ships; Far Eastern area, four ships; emergency loans, two ships, and authorized promulgation of rules and regulations.

Section 1878f, Pub. L. 85–532, §2, July 18, 1958, 72 Stat. 376, limited the loans to five year periods terminable earlier because of defense requirements of United States.

Section 1878g, Pub. L. 85–532, §3, July 18, 1958, 72 Stat. 376, provided for the charging of activation, rehabilitation, and outfitting expenses to funds programed for re-

cipient government under Mutual Security Act of 1954, or to funds provided by recipient government under reimbursable provisions of such Act and for reimbursement of recipient government by Secretary of Defense on a pro rata basis for funds provided by it under the reimbursable provisions where loan was terminated prior to the expiration date.

Section 1878h, Pub. L. 85–532, § 4, July 18, 1958, 72 Stat. 376, required Secretary of Defense to determine transfers to be in best interests of United States and to report transfers to Congress.

Section 1878i, Pub. L. 85–532, § 5, July 18, 1958, 72 Stat. 376, prescribed Dec. 31, 1960, as termination date for executive exercise of naval vessel transfer authority under sections 1878e to 1878i of this Appendix.

PUB. L. 86–57, JUNE 23, 1959, 73 STAT. 90

§§ 1878j to 1878*l*. Omitted

CODIFICATION

Section 1878j, Pub. L. 86–57, §§ 1, 2, June 23, 1959, 73 Stat. 90, authorized extension of loans of: two submarines to Italian Government (originally authorized by sections 1878 to 1878d of this Appendix), two submarines to Turkish Government (originally authorized by section 1879 of this Appendix), and two destroyers to Government of Republic of China (originally authorized by sections 1878 to 1878d of this Appendix), subject to appropriate terms and conditions, and authorized promulgation of rules and regulations.

Section 1878k, Pub. L. 86–57, § 3, June 23, 1959, 73 Stat. 90, limited extension of loans to a five year period terminable earlier because of defense requirements of United States.

Section 1878*l*, Pub. L. 86–57, § 4, June 23, 1959, 73 Stat. 90, required Secretary of Defense to determine extension of loans to be in best interest of United States and to report extensions to Congress.

PUB. L. 86–482, JUNE 1, 1960, 74 STAT. 153

§§ 1878m to 1878p. Omitted

CODIFICATION

Section 1878m, Pub. L. 86–482, §§ 1, 2, June 1, 1960, 74 Stat. 153, authorized extension of loan of one destroyer to Government of Republic of China (originally authorized by sections 1878 to 1878d of this Appendix), subject to appropriate terms and conditions, and authorized promulgation of rules and regulations.

Section 1878n, Pub. L. 86–482, § 3, June 1, 1960, 74 Stat. 153, limited extension of loans to a five year period terminable earlier because of defense requirements of United States.

Section 1878*o*, Pub. L. 86–482, § 4, June 1, 1960, 74 Stat. 153, required Secretary of Defense to determine extension of loans to be in best interest of United States and to report extensions to Congress.

Section 1878p, Pub. L. 86–482, § 5, June 1, 1960, 74 Stat. 153, authorized loan of one submarine to Canadian Government for a five year period and extension of the loan for a similar period, required the Canadian Government to pay for activation expenses, and prescribed Dec. 31, 1961, as termination date for executive exercise of submarine transfer authority under this section.

PUB. L. 87–387, OCT. 4, 1961, 75 STAT. 815

§§ 1878q to 1878x. Omitted

CODIFICATION

Sections 1878q to 1878x terminated pursuant to section 1878x of this Appendix.

Section 1878q, Pub. L. 87–387, §§ 1, 2, Oct. 4, 1961, 75 Stat. 815, authorized extension of loans of two destroyer escorts to Portuguese Government and two destroyers to Spanish Government (originally authorized by sections 1878 to 1878d of this Appendix), subject to appropriate terms and conditions.

Section 1878r, Pub. L. 87–387, § 3, Oct. 4, 1961, 75 Stat. 815, limited extension of existing loans to a five year period terminable earlier because of defense requirements of United States.

Section 1878s, Pub. L. 87–387, § 4, Oct. 4, 1961, 75 Stat. 815, made available to friendly foreign nations destroyers, destroyer escorts, and submarines from the Reserve Fleet, as follows: North Atlantic Treaty Organization and European area, six ships; Southern Asia, two ships; Far Eastern area, six ships; emergency loans, two ships, for replacement of loaned vessels lost by enemy action or by an act of God.

Section 1878t, Pub. L. 87–387, § 5, Oct. 4, 1961, 75 Stat. 815, limited new loans to five year periods terminable earlier because of defense requirements of United States.

Section 1878u, Pub. L. 87–387, § 6, Oct. 4, 1961, 75 Stat. 815, provided for the charging of activation, rehabilitation, and outfitting expenses to funds programed for recipient government under Mutual Security Act of 1954, or successor legislation, or to funds provided by recipient government.

Section 1878v, Pub. L. 87–387, § 7, Oct. 4, 1961, 75 Stat. 815, required Secretary of Defense to determine loans or extension of loans to be in best interest of United States and to report loans or extensions to Congress.

Section 1878w, Pub. L. 87–387, § 8, Oct. 4, 1961, 75 Stat. 815, authorized promulgation of rules and regulations.

Section 1878x, Pub. L. 87–387, § 9, Oct. 4, 1961, 75 Stat. 815, prescribed Dec. 31, 1963, as termination date for executive exercise of naval vessel transfer authority under sections 1878q to 1878x of this Appendix.

PUB. L. 88–437, AUG. 14, 1964, 78 STAT. 444

§§ 1878y to 1878bb. Omitted

CODIFICATION

Section 1878y, Pub. L. 88–437, § 1, Aug. 14, 1964, 78 Stat. 444, authorized extension of loan of ships, subject to appropriate terms and conditions, as follows: Argentina, two submarines, and Brazil, two destroyers (authorized by sections 1878e to 1878i of this Appendix); China, four destroyers (authorized by sections 1878 to 1878d of this Appendix); Germany, five destroyers, and Greece, four destroyers (authorized by sections 1878e to 1878i of this Appendix); Italy, three submarines, and Japan, one submarine, four destroyers, two destroyer escorts (authorized by sections 1878 to 1878i of this Appendix); Netherlands, two submarines (authorized by Act July 11, 1952, 66 Stat. 587, as amended); Peru, one destroyer, Spain, one submarine, three destroyers, and Thailand, one destroyer escort (authorized by sections 1878e to 1878i of this Appendix); and Turkey, five submarines (authorized by sections 1878e to 1878i and 1879 of this Appendix).

Section 1878z, Pub. L. 88–437, § 2, Aug. 14, 1964, 78 Stat. 444, limited extension of loans to a five year period and to an additional five year period, terminable earlier because of defense requirements of United States.

Section 1878aa, Pub. L. 88–437, § 3, Aug. 14, 1964, 78 Stat. 444, required Secretary of Defense to determine extension of loans to be in best interest of United States and to report extensions to Congress.

Section 1878bb, Pub. L. 88–437, § 4, Aug. 14, 1964, 78 Stat. 444, authorized promulgation of rules and regulations.

PUB. L. 89–324, NOV. 5, 1965, 79 STAT. 1214

§§ 1878cc to 1878mm. Omitted

CODIFICATION

Sections 1878cc to 1878mm terminated pursuant to section 1878mm of this Appendix.

Section 1878cc, Pub. L. 89–324, title I, § 101, Nov, 5, 1965, 79 Stat. 1214, authorized loan of two submarines to Italy and one helicopter carrier to Spain from reserve fleet, subject to appropriate terms and conditions.

Section 1878dd, Pub. L. 89–324, title I, §102, Nov. 5, 1965, 79 Stat. 1214, provided for charging of activation, rehabilitation, and outfitting expenses to funds provided by recipient government under reimbursable provisions of the Foreign Assistance Act of 1961, or successor legislation, for vessels transferred under section 1878cc of this Appendix.

Section 1878ee, Pub. L. 89–324, title II, §201, Nov. 5, 1965, 79 Stat. 1214, authorized sale or loan of two and three destroyers to Argentina and Brazil from reserve fleet, subject to appropriate terms and conditions.

Section 1878ff, Pub. L. 89–324, title II, §202, Nov. 5, 1965, 79 Stat. 1214, provided for charging of activation, rehabilitation, and outfitting expenses to funds provided by recipient government under reimbursable provisions of Foreign Assistance Act of 1961, or successor legislation for vessels transferred under section 1878ee of this Appendix.

Section 1878gg, Pub. L. 89–324, title II, §203, Nov. 5, 1965, 79 Stat. 1214, required stricken from the Naval Vessel Register vessels up for sale and sold for not less than $1,000,000 each plus cost of activation, overhaul, or modification under Foreign Assistance Act of 1961, or successor legislation.

Section 1878hh, Pub. L. 89–324, title III, §301, Nov. 5, 1965, 79 Stat. 1214, authorized loan of two destroyers to Turkey and one destroyer escort to Philippines from reserve fleet, subject to appropriate terms and conditions.

Section 1878ii, Pub. L. 89–324, title III, §302, Nov. 5, 1965m, 79 Stat. 1214, provided for charging of activation, rehabilitation, and outfitting expenses to funds programed for recipient government as grant military assistance, or as reimbursable, under provisions of Foreign Assistance Act of 1961, or successor legislation for vessels transferred under section 1878hh of this Appendix.

Section 1878jj, Pub. L. 89–324, title IV, §401, Nov. 5, 1965, 79 Stat. 1215, limited loans to five year periods and an additional five year extension, terminable earlier because of defense requirements of United States.

Section 1878kk, Pub. L. 89–324, title IV, §402, Nov. 5, 1965, 79 Stat. 1215, required Secretary of Defense to determine sales or loans to be in best interest of United States and to report sales or loans to Congress.

Section 1878*ll*, Pub. L. 89–324, title IV, §403, Nov. 5, 1965, 79 Stat. 1215, authorized promulgation of rules and regulations.

Section 1878mm, Pub. L. 89–324, title IV, §404, Nov. 5, 1965, 79 Stat. 1215, prescribed Dec. 31, 1967, as termination for executive exercise of naval vessel sale or loan authority under sections 1878cc to 1878mm of this Appendix.

PUB. L. 89–398, APR. 16, 1966, 80 STAT. 121

§§ 1878nn to 1878ss. Omitted

CODIFICATION

Sections 1878nn to 1878ss terminated Dec. 31, 1967, pursuant to section 1878ss of this Appendix.

Section 1878nn, Pub. L. 89–398, §1, Apr. 16, 1966, 80 Stat. 121, authorized loan to Republic of China of one destroyer and one destroyer escort from reserve fleet subject to appropriate terms and conditions.

Section 1878*oo*, Pub. L. 89–398, §2, Apr. 16, 1966, 80 Stat. 121, which provided for charging of activation, rehabilitation, and outfitting expense to funds programed for recipient government as grant military assistance, or as reimbursable, under provisions of Foreign Assistance Act of 1961, or successor legislation.

Section 1878pp, Pub. L. 89–398, §3, Apr. 16, 1966, 80 Stat. 121, limited loans to five year periods with provision for a five year extension, terminable earlier because of defense requirements of United States.

Section 1878qq, Pub. L. 89–398, §4, Apr. 16, 1966, 80 Stat. 121, required Secretary of Defense to determine loans to be in best interest of United States and to report extensions or loans to Congress.

Section 1878rr, Pub. L. 89–398, §5, Apr. 16, 1966, 80 Stat. 121, authorized promulgation of rules and regulations.

Section 1878ss, Pub. L. 89–398, §6, Apr. 16, 1966, 80 Stat. 121, prescribed Dec. 31, 1967, as termination date for executive exercise of naval vessel loan authority under sections 1878nn to 1878ss of this Appendix.

PUB. L. 90–224, DEC. 26, 1967, 81 STAT. 729

§§ 1878tt to 1878xx. Omitted

CODIFICATION

Section 1878tt, Pub. L. 90–224, §1, Dec. 26, 1967, 81 Stat. 729, authorized extension of loan of ships subject to appropriate terms and conditions, as follows: Argentina, three destroyers, Brazil, two destroyers and two submarines, Chile, two submarines and two destroyers, and Columbia, one destroyer (authorized by sections 1878e to 1878i of this Appendix); Federal Republic of Germany, one destroyer (authorized by sections 1878 to 1878d of this Appendix): Greece, one submarine, and two destroyers (authorized by sections 1878 to 1878d and 1878q to 1878x of this Appendix); Korea, two destroyer escorts and one destroyer and one destroyer escort (authorized by sections 1878 to 1878d and 1878q to 1878x of this Appendix); Portugal, two destroyer escorts, and Spain, two destroyers (authorized by sections 1878 to 1878d of this Appendix); and Peru, one destroyer (authorized by sections 1878e to 1878i of this Appendix).

Section 1878uu, Pub. L. 90–224, §2, Dec. 26, 1967, 81 Stat. 729, authorized additional loan of two destroyers to Korean Government and one destroyer to Republic of China, with or without reimbursement, subject to appropriate terms and conditions; provided for charging activation, rehabilitation, and outfitting expenses to funds programed for recipient government as grant military assistance, or as reimbursable, under provision of Foreign Assistance Act of 1961, or successor legislation; and prescribed Dec. 31, 1969, as termination date for executive exercise of naval vessel loan authority under this section.

Section 1878vv, Pub. L. 90–224, §3, Dec. 26, 1967, 81 Stat. 729, authorized new loans and loan extensions for five year periods, and an additional five year extension, terminable: for acts of warfare by armed forces of borrowing country against a country party to a mutual defense treaty ratified by the United States; upon an executive finding of seizure of United States fishing vessels on account of fishing activities in international waters by country party to the agreement, except in cases governed by international agreement to which United States is a party; and earlier because of defense requirements of the United States.

Section 1878ww, Pub. L. 90–224, §4, Dec. 26, 1967, 81 Stat. 730, required Secretary of Defense to determine loans or extension of loans to be in best interest of United States and to report loans or extensions to Congress.

Section 1878xx, Pub. L. 90–224, §5, Dec. 26, 1967, 81 Stat. 730, authorized promulgation of rules and regulations.

PUB. L. 91–682, JAN. 12, 1971, 84 STAT. 2066

§§ 1878yy to 1878zz–3. Omitted

CODIFICATION

Section 1878yy, Pub. L. 91–682, §1, Jan. 12, 1971, 84 Stat. 2066, authorized extension of loans, subject to appropriate terms and conditions, of one submarine to Greece and Pakistan (authorized under sections 1878q to 1878x of this Appendix).

Section 1878zz, Pub. L. 91–682, §2, Jan. 12, 1971, 84 Stat. 2066, authorized additional loans of two destroyer escorts to Republic of Vietnam and two destroyers and two submarines to Turkish Government, with or without reimbursement, subject to appropriate terms and conditions, provided for the charging of activation, rehabilitation, and outfitting expenses to funds programed for recipient government as grant military assistance under provisions of Foreign Assistance Act of

1961, or successor legislation, or to funds provided by the recipient government, and prescribed Dec. 31, 1971, as termination date for executive exercise of naval vessel loan authority under this section.

Section 1878zz–1, Pub. L. 91–682, § 3, Jan. 12, 1971, 84 Stat. 2066, authorized new loans and loan extensions for five year periods, and additional five year extensions, terminable for acts of warfare by armed forces of borrowing country against a country party to a mutual defense treaty ratified by the United States and earlier because of defense requirements of the United States.

Section 1878zz–2, Pub. L. 91–682, § 4, Jan. 12, 1971, 84 Stat. 2067, required Secretary of Defense to determine loans or extension of loans to be in best interest of United States and to report loans or extensions to Congress.

Section 1878zz–3, Pub. L. 91–682, § 5, Jan. 12, 1971, 84 Stat. 2067, authorized promulgation of rules and regulations.

PUB. L. 92–270, APR. 6, 1972, 86 STAT. 118

§§ 1878zz–4 to 1878zz–8. Omitted

CODIFICATION

Section 1878zz–4, Pub. L. 92–270, § 1, Apr. 6, 1972, 86 Stat. 118, authorized loan of additional naval vessels, with or without reimbursement, and subject to appropriate terms and conditions, as follows: five destroyers and two submarines, Spanish Government; one destroyer and two submarines, Turkish Government; two destroyers, Greek Government; two destroyers, Republic of Korea; and two submarines, Italian Government; provided for the charging of activation, rehabilitation, and outfitting expenses to funds programed for recipient government as grant military assistance under provisions of Foreign Assistance Act of 1961, or successor legislation, or to funds provided by recipient government; and prescribed Dec. 31, 1974, as termination date for executive exercise of naval vessel loan authority under this section.

Section 1878zz–5, Pub. L. 92–270, § 2, Apr. 6, 1972, 86 Stat. 118, limited loan of ships to five-year period, required designation by Secretary of Defense of place of return, and made loans terminable for acts of warfare by armed forces of borrowing country against a country party to a mutual defense treaty ratified by United States and earlier where no longer contributory to defense requirements of United States.

Section 1878zz–6, Pub. L. 92–270, § 3, Apr. 6, 1972, 86 Stat. 118, required Secretary of Defense to determine loans to be in best interest of United States and to report loans and loan extensions to Congress.

Section 1878zz–7, Pub. L. 92–270, § 4, Apr. 6, 1972, 86 Stat. 118, authorized promulgation of rules and regulations.

Section 1878zz–8, Pub. L. 92–270, § 5, Apr. 6, 1972, 86 Stat. 118, prohibited construction of a loan as a commitment to defense of borrowing country.

ACT AUG. 7, 1953, CH. 347, 67 STAT. 471

§ 1879. Omitted

CODIFICATION

Section, act Aug. 7, 1953, ch. 347, 67 Stat. 471, provided for loan of two submarines to Turkish Government for a five year period, subject to agreement for their return in substantially the original condition, and for charging activation expenses to funds programed for Turkish Government under Mutual Security Act.

HOUSING AND RENT ACTS

ACTS JUNE 30, 1947, CH. 163, 61 STAT. 193; MAR. 30, 1948, CH. 161, 62 STAT. 93; MAR. 30, 1949, CH. 42, 63 STAT. 18; JUNE 23, 1950, CH. 354, 64 STAT. 255

TITLE I—AMENDMENTS TO EXISTING LAW

Sec.
1881 to 1884. Omitted.

TITLE II—MAXIMUM RENTS

1891 to 1894. Omitted.
1894a. Defense Areas Advisory Committee; creation; composition; duties.
1895 to 1910. Omitted or Repealed.

TITLE I—AMENDMENTS TO EXISTING LAW

§§ 1881 to 1884. Omitted

CODIFICATION

Section 1881, acts June 30, 1947, ch. 163, title I, § 1, 61 Stat. 193; Mar. 30, 1948, ch. 161, title I, § 2, 62 Stat. 93, repealed in part Veterans' Emergency Housing Act of 1946, sections 1821, 1822(b)–(d), 1823 to 1829, 1831, and 1832 of this Appendix, and provided continuing allocations made or priorities granted for delivery of housing materials or facilities under regulation issued under the Act and before June 30, 1947.

Section 1882, act June 30, 1947, ch. 163, title I, § 2, 61 Stat. 193, extended the limitation date of the mortgage insurance provisions of section 1738(a) of Title 12, Banks and Banking, from June 30, 1947 to Mar. 31, 1948.

Section 1883, act June 30, 1947, ch. 163, title I, § 3, 61 Stat. 193, amended title VI of the National Housing Act, as amended, sections 1736 to 1743 of Title 12, Banks and Banking, by adding section 609, relating to insurance of loans for manufacture of houses, the provisions of which are classified to section 1744 of Title 12.

Section 1884, acts June 30, 1947, ch. 163, title I, § 4, 61 Stat. 195; Feb. 27, 1948, ch. 77, § 1, 62 Stat. 37; Mar. 30, 1948, ch. 161, title I, § 3, 62 Stat. 93; Mar. 30, 1949, ch. 42, title I, § 2, 63 Stat. 18; June 23, 1950, ch. 354, § 2, 64 Stat. 255; June 30, 1951, ch. 198, § 2(a), 65 Stat. 110; July 31, 1951, ch. 275, title II, §§ 202(a), 211, 65 Stat. 145; June 30, 1952, ch. 530, title II, § 201(a), 66 Stat. 306; Apr. 30, 1953, ch. 31, § 2, 67 Stat. 24, which provided for a priority in sale or rental of housing accommodations for veterans of World War II and the Korean conflict, terminated by its own terms.

SHORT TITLE OF 1953 AMENDMENT

Act Apr. 30, 1953, ch. 31, § 1, 67 Stat. 23, provided that act Apr. 30, 1953, be cited as the Housing and Rent Act of 1953.

SHORT TITLE OF 1950 AMENDMENT

Act June 23, 1950, ch. 354, § 1, 64 Stat. 255, provided that act June 23, 1950, be cited as the Housing and Rent Act of 1950.

SHORT TITLE OF 1949 AMENDMENT

Act Mar. 30, 1949, ch. 42, title I, § 1, 63 Stat. 18, provided that act Mar. 30, 1949, be cited as the Housing and Rent Act of 1949.

SHORT TITLE OF 1948 AMENDMENT

Act Mar. 30, 1948, ch. 161, title I, § 1, 62 Stat. 93, provided that act Mar. 30, 1948 be cited as the Housing and Rent Act of 1948.

SHORT TITLE

Act June 30, 1947, ch. 163, title II, § 213, 61 Stat. 201, provided that act June 30, 1947, be cited as the Housing and Rent Act of 1947.

SEPARABILITY

Act Mar. 30, 1948, ch. 161, title III, § 305, 62 Stat. 100, provided that if provisions of act Mar. 30, 1948, or the application of such provisions to any person or circumstances be held invalid, the validity of the remainder of the Act, and the applicability of such provision to other persons or circumstances, shall not be affected thereby.

Act June 30, 1947, ch. 163, title III, § 301, 61 Stat. 201, provided that if any provision of act June 30, 1947, or the application of such provisions to any person or cir-

cumstances be held invalid, the validity of the remainder of the Act, and the applicability of such provision to other persons or circumstances, shall not be affected thereby.

TITLE II—MAXIMUM RENTS

§§ 1891 to 1894. Omitted

CODIFICATION

Sections 1891 to 1894 terminated Sept. 30, 1952, with certain exceptions, pursuant to section 1894 of this Appendix.

Section 1891, act June 30, 1947, ch. 163, title II, § 201, 61 Stat. 196, stated the congressional declaration of policy for controls for rental housing accommodations in defense-rental areas.

Section 1892, acts June 30, 1947, ch. 163, title II, § 202, 61 Stat. 196; Mar. 10, 1948, ch. 161, title II, § 201, 62 Stat. 93; Mar. 30, 1949, ch. 42, title II, § 201, 63 Stat. 19; July 31, 1951, ch. 275, title II, §§ 202(a), 206, 207(a), (b), 208, 65 Stat. 145, 148, defined terms used in sections 1891 to 1894 and 1895 to 1902 of this Appendix.

Section 1893, acts June 30, 1947, ch. 163, title II, § 203, 61 Stat. 197; Mar. 30, 1949, ch. 42, title II, § 202, 63 Stat. 21; July 31, 1951, ch. 275, title II, § 202(a), 65 Stat. 145, terminated rent control under the Emergency Price Control Act of 1942 after July 1, 1947.

Section 1894, acts June 30, 1947, ch. 163, title II, § 204, 61 Stat. 197; Feb. 27, 1948, ch. 77, § 2, 62 Stat. 37; Mar. 30, 1948, ch. 161, title II, § 202, 62 Stat. 94; Mar. 30, 1949, ch. 42, title II, § 203, 63 Stat. 21; June 23, 1950, ch. 354, §§ 3–5, 64 Stat. 255; Dec. 20, 1950, ch. 1139, §§ 1, 2, 64 Stat. 1113; Mar. 23, 1951, ch. 14, 65 Stat. 7; June 30, 1951, ch. 198, § 2(b), (c), 65 Stat. 111; July 31, 1951, ch. 275, title II, §§ 201, 203(a), (b), 205, 207(c), 209, 65 Stat. 144, 145, 148, 149; June 30, 1952, ch. 530, title II, §§ 201(b), 202, 66 Stat. 306; July 15, 1952, ch. 758, ch. XII, § 1201, 66 Stat. 657; Apr. 30, 1953, ch. 31, §§ 3–7, 67 Stat. 24, provided for rent control under sections 1891 to 1894 and 1895 to 1902 of this Appendix, prescribed procedures, empowered the President to remove controls, to promulgate rules and regulations and to create local advisory boards, and declared that the provisions of such sections shall cease to be in effect at the close of Sept. 30, 1952, except for certain areas where they ceased to be in effect at the close of Apr. 30, 1953.

§ 1894a. Defense Areas Advisory Committee; creation; composition; duties

The Director of Defense Mobilization[1] is authorized to appoint a Defense Areas Advisory Committee to advise him in connection with the exercise of any function or authority vested in him by section 204(*l*) of the Housing and Rent Act of 1947, as amended [section 1894(*l*) of this Appendix], or section 101 of the Defense Housing and Community Facilities and Services Act of 1951, as amended [42 U.S.C. 1591], or by delegation thereunder, with respect to determining any area to be a critical defense housing area. Any committee so appointed shall consist, in addition to a chairman, of representatives of the Department of Defense and the Housing and Home Finance Agency.[1] Any Federal agency shall, to the fullest practicable extent, furnish such information in its possession to the Defense Areas Advisory Committee as such Committee may request from time to time relevant to its operations.

(June 30, 1952, ch. 530, title II, § 203, 66 Stat. 307; Apr. 30, 1953, ch. 31, § 10, 67 Stat. 25.)

[1] See Transfer of Functions note below.

REFERENCES IN TEXT

Section 204(*l*) of the Housing and Rent Act of 1947, as amended [section 1894(*l*) of this Appendix], referred to in text, was omitted from the Code.

AMENDMENTS

1953—Act Apr. 30, 1953, amended last sentence generally, eliminating reference to Office of Rent Stabilization.

TRANSFER OF FUNCTIONS

Functions vested by any statute in Director of Defense Mobilization or Office of Defense Mobilization provided for in Executive Order No. 10193, eff. Dec. 16, 1950, 15 F.R. 9031, transferred to Director of Office of Defense Mobilization by Reorg. Plan No. 3 of 1953, § 2(d), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out in the Appendix to Title 5, Government Organization and Employees.

Functions vested in Office of Defense Mobilization or Director of Office of Defense Mobilization transferred to Office of Emergency Planning by section 2 of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, set out under section 5195 of Title 42, The Public Health and Welfare.

Office of Emergency Planning changed to Office of Emergency Preparedness pursuant to section 402 of Pub. L. 90–608, Oct. 21, 1968, 82 Stat. 1194, which provided that references in laws to Office of Emergency Planning after Oct. 21, 1968, should be deemed references to Office of Emergency Preparedness.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out under section 5195 of Title 42, The Public Health and Welfare.

Functions vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order, proclamation, or other directive issued by or on behalf of President or otherwise, with certain exceptions, transferred to Administrator of General Services, effective July 1, 1973, by Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, formerly set out under section 2271 of this Appendix.

Housing and Home Finance Agency lapsed and functions, powers, and duties transferred to Secretary of Housing and Urban Development who was authorized to delegate such functions, powers, and duties to such officers and employees of Department of Housing and Urban Development as Secretary may delegate, see sections 3531 note, 3534, and 3535 of Title 42, The Public Health and Welfare.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 1895 to 1903. Omitted

CODIFICATION

Sections 1895 to 1903 terminated Sept. 30, 1952, with certain exceptions, pursuant to section 1894 of this Appendix.

Section 1895, acts June 30, 1947, ch. 163, title II, §205, 61 Stat. 199; Mar. 30, 1949, ch. 42, title II, §204, 63 Stat. 27; July 31, 1951, ch. 275, title II, §204, 65 Stat. 147, authorized suits for damages for violations of sections 1891 to 1894 and 1895 to 1902 of this Appendix.

Section 1896, acts June 30, 1947, ch. 163, title II, §206, 61 Stat. 199; Mar. 30, 1948, ch. 161, title II, §203, 62 Stat. 98; Mar. 30, 1949, ch. 42, title II, §205, 63 Stat. 27; July 31, 1951, ch. 275, title II, §§202(a), (c), 205, 65 Stat. 144, 148, related to prohibitions and enforcement.

Section 1897, act June 30, 1947, ch. 163, title II, §207, 61 Stat. 200, prohibited maintenance of actions for certain past violations.

Section 1898, acts June 30, 1947, ch. 163, title II, §208, 61 Stat. 200; July 31, 1951, ch. 275, title II, §202(2), (d), 65 Stat. 145; Apr. 30, 1953, ch. 31, §8, 67 Stat. 25, related to property, personnel, and appropriations.

Section 1899, acts June 30, 1947, ch. 163, title II, §209, 61 Stat. 200; Mar. 30, 1948, ch. 161, title II, §204, 62 Stat. 98; Mar. 30, 1949, ch. 42, title II, §206, 63 Stat. 29; July 13, 1951, ch. 275, title II, §202(a), 65 Stat. 145, empowered the President to regulate speculative or manipulative renting or leasing practices.

Section 1900, acts June 30, 1947, ch. 163, title II, §210, 61 Stat. 201; Mar. 30, 1948, ch. 161, title II, §301, 62 Stat. 99, amended section 2(a) of the Administrative Procedure Act.

Section 1901, act June 30, 1947, ch. 163, title II, §211, 61 Stat. 201, stated the territorial applicability of sections 1891 to 1894 and 1895 to 1902 of this Appendix.

Section 1902, act June 30, 1947, ch. 163, title II, §212, 61 Stat. 201, prescribed the effective date of sections 1891 to 1894 and 1895 to 1902 of this Appendix.

Section 1903, act Mar. 30, 1948, ch. 161, title III, §302, 62 Stat. 99, provided that nothing in act Mar. 30, 1948, shall be construed to require any person to offer any housing accommodations for rent.

§1904. Repealed. Mar. 30, 1949, ch. 42, title III, §302, 63 Stat. 29

Section, act Mar. 30, 1948, ch. 161, title III, §303, 62 Stat. 100, related to reimposition of rent ceilings after decontrol.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1949, see section 305 of act Mar. 30, 1949.

§§ 1905 to 1910. Omitted

CODIFICATION

Section 1905, act Mar. 30, 1948, ch. 161, title III, §304, 62 Stat. 100, amended section 1413a of Title 42, The Public Health and Welfare, relating to recovery of possession of housing accommodations.

Section 1906, act Mar. 30, 1948, ch. 161, title III, §306, 62 Stat. 100, prescribed effective date of Housing and Rent Act of 1948.

Section 1907, act Mar. 30, 1949, ch. 42, title III, §301, 63 Stat. 29, related to non-offer of housing accommodations.

Section 1908, act Mar. 30, 1949, ch. 42, title III, §303, 63 Stat. 29, related to separability of provisions.

Section 1909, act Mar. 30, 1949, ch. 42, title III, §304, 63 Stat. 29, amended section 1738(a) of Title 12, Banks and Banking.

Section 1910, act Mar. 30, 1949, ch. 42, title III, §305, 63 Stat. 29, prescribed effective date of Housing and Rent Act of 1949.

STABILIZATION OF ECONOMY AND COMMODITY PRICES

ACT DEC. 30, 1947, CH. 526, 61 STAT. 945

Sec.
1911. Declaration of purpose.
1912 to 1915. Omitted.
1916. Critical shortages; recommendations by President; public hearings.
1917. Repealed.
1918. Food and conservation program; appropriations; administrative expenses.
1919. Authorizations for appropriations.

§1911. Declaration of purpose

The purposes of this joint resolution [sections 1911 to 1919 of this Appendix] are to aid in stabilizing the economy of the United States, to aid in curbing inflationary tendencies, to promote the orderly and equitable distribution of goods and facilities, and to aid in preventing maldistribution of goods and facilities which basically affect the cost of living or industrial production.

(Dec. 30, 1947, ch. 526, §1, 61 Stat. 945.)

EX. ORD. NO. 9919. DELEGATION OF AUTHORITY AND ESTABLISHMENT OF PROCEDURES UNDER SECTIONS 1911 TO 1919 OF THIS APPENDIX

Ex. Ord. No. 9919, Jan. 3, 1948, 13 F.R. 59, provided:

By virtue of the authority vested in me by the joint resolution approved December 30, 1947 (Public Law 395, 80th Congress) [sections 1911 to 1919 of this Appendix], and as President of the United States, it is hereby ordered as follows:

1. The authority to consult with representatives of industry, business, and agriculture with a view to encouraging the making of voluntary agreements or plans provided for in section 2 of the said joint resolution of December 30, 1947 [former section 1912 of this Appendix] (hereinafter referred to as the joint resolution), and the authority to approve any such agreements or plans and to make written requests for compliance with any such agreements or plans is delegated severally to the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Director of the Office of Defense Transportation as provided in paragraphs 2, 3, 4, and 5 hereof: *Provided, however*, that no such agreement or plan shall be approved by any of such officers unless it is first submitted to and approved by the Attorney General. The consultation above referred to may be through advisory committees approved by the appropriate governmental officer or agency as representative of the various segments of the industry involved. Prior to submitting any such proposed agreement or plan to the Attorney General the appropriate governmental officer or agency shall give industry, labor, and the public generally an opportunity to present their views with respect to the agreement or plan. The submission of the proposed agreement or plan to the Attorney General shall be accompanied by the favorable recommendation of the head of the appropriate department or agency and by a statement of (a) the circumstances which require the proposed agreement or plan, (b) the means by which the agreement or plan will be carried out, (c) the effect of the agreement or plan on persons and industries affected, including where appropriate the proposed degree of curtailment in amount and prospective use of any material, commodity, or product by any processor or user thereof, and the formulae for such curtailment, (d) the criteria used in the establishment of such formulae, and (e) the factual evidence on which the recommendation for approval is made, showing which information, if any, is subject to restrictions for reasons of military security.

2 (a). The authority delegated to the Secretary of the Interior by paragraph 1 hereof shall be exercised by him

with respect to priority, allocation, and inventory control of fuels.

(b). For the purposes of this order the term ''fuels'' means coal, coke, petroleum and petroleum products, and natural and manufactured gas.

3 (a). The authority delegated to the Secretary of Agriculture by paragraph 1 hereof shall be exercised by him with respect to priority, allocation, and inventory control of agricultural commodities and with respect to speculative trading on commodity exchanges.

(b). For the purposes of this order, the term ''agricultural commodities'' means all commodities and products, simple, mixed, or compound, or complements to such commodities or products that are or may be eaten or drunk by human beings or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, but exclusive of such commodities and products as the Secretary of Agriculture shall determine. For the purposes of this order, the term ''agricultural commodities'' shall also include all starches, sugars, fats and oils of animal, vegetable, or marine origin (including oil seeds and other oil bearing materials, fatty acids, soap and soap powder), cotton, tobacco, wool, hemp, flax, fiber, and alcohol, and also such other commodities and products as the President may designate.

4 (a). The authority delegated to the Director of the Office of Defense Transportation by paragraph 1 hereof shall be exercised by him with respect to allocation of transportation facilities and equipment.

(b). The powers, authority, and discretion conferred on the President by section 4(a) of the joint resolution [section 1914(a) of this Appendix] with respect to the use of transportation equipment and facilities by rail carriers are hereby included within the powers, authority, and discretion delegated to the Director of the Office of Defense Transportation under Executive Order No. 8989 of December 18, 1941 (6 F.R. 6725), as amended by Executive Order No. 9389 of October 18, 1943 (8 F.R. 14183), Executive Order No. 9156 of May 2, 1942 (7 F.R. 3349), Executive Order No. 9214 of August 5, 1942 (7 F.R. 6097), and Executive Order No. 9729 of May 23, 1946 (11 F.R. 5641). The said Executive orders are amended accordingly.

5. The authority delegated to the Secretary of Commerce by paragraph 1 hereof shall be exercised by him with respect to priority, allocation, and inventory control of scarce commodities which basically affect the cost of living or industrial production, other than fuels as provided in paragraph 2, agricultural commodities as provided in paragraph 3, and transportation facilities and equipment as provided in paragraph 4.

6. The Secretary of Agriculture is hereby authorized to carry out a program for the conservation of food and feed and for that purpose to exercise the authority conferred upon the President by section 8 of the joint resolution [section 1918 of this Appendix].

7. The Secretary of Commerce is hereby authorized to continue exercising the powers, authority, and discretion conferred upon the President by section 6 of the act of July 2, 1940, 54 Stat. 714, as amended [section 701 of this Appendix]. Such powers, authority, and discretion, and the powers, authority, and discretion vested in the President by section 3 of the joint resolution [section 1913 of this Appendix] are hereby included within the delegation made to the Secretary of Commerce by Executive Order No. 9630 of September 27, 1945 (10 F.R. 12245), and the said Executive order is modified accordingly.

8. Each governmental officer or agency exercising authority delegated under this order shall, in exercising such authority, consult with other agencies or committees having special information or sources of such information about the supply of or demand for the materials, commodities, or facilities involved and with other agencies or committees having responsibilities related to such authority. Each agency shall establish such committees and other working groups as may be appropriate to consult with and obtain the advice of other agencies.

9. Nothing in this order shall be deemed to affect the powers, authority, or discretion delegated to the Secretary of Agriculture by Executive Order No. 9915 of December 30, 1947.

HARRY S TRUMAN.

§§ 1912 to 1915. Omitted

CODIFICATION

Section 1912, acts Dec. 30, 1947, ch. 526, § 2, 61 Stat. 945; Feb. 9, 1949, ch. 6, 63 Stat. 5, relating to voluntary agreements, expired by its own terms on Sept. 30, 1949.

Section 1913, act Dec. 30, 1947, ch. 526, § 3, 61 Stat. 946, amending section 701 of this Appendix, expired on Feb. 28, 1949, when section 701 expired.

Section 1914, act Dec. 30, 1947, ch. 526, § 4, 61 Stat. 946, relating to allocation of transportation facilities and grain, expired on Feb. 28, 1949, as to transportation facilities and on Jan. 31, 1948, as to grain.

Section 1915, act Dec. 30, 1947, ch. 526, § 5, 61 Stat. 946, relating to delegation of President's authority under sections 701 and 1912 of this Appendix, expired with the expiration of those sections.

§ 1916. Critical shortages; recommendations by President; public hearings

(a) Whenever the President shall determine that there is or threatens to be a critical shortage of any raw material, commodity, or product which jeopardizes the health or safety of the people of the United States or its national security or welfare and that there is no prospect that such critical shortage may soon be remedied by an increase in the available supply without additional governmental action and that the situation cannot be solved by voluntary agreement under the provisions of this Act [sections 1911 to 1919 of this Appendix], he may prepare proposed measures for conserving such raw material, commodity, or product which he shall submit to the Congress in the following form:

(1) A statement of the circumstances which, in the President's judgment, require the proposed conservation measures.

(2) A detailed procedure for the administration of the proposed measures including the additional budget and additional personnel required for their enforcement.

(3) The proposed degree of curtailment in current and prospective use of each such raw material, commodity, or product by each processor and/or user thereof, including the specific formulae proposed for such curtailment with respect to each class or classes of processors or users and the criteria used in the establishment of such formulae.

(4) A complete record of the factual evidence upon which his recommendations are based, including all information provided by any agency of the Federal Government which may have been made available to him in the course of his consideration of the matter.

(b) Within fifteen days after the submission of such proposed conservation measures, the Joint Economic Committee shall conduct public hearings thereon and shall make such recommendations to the Congress for legislative action as in its judgment the recommendations of the President and any additional information disclosed at the public hearings may require.

(Dec. 30, 1947, ch. 526, § 6, 61 Stat. 947; June 18, 1956, ch. 399, § 2, 70 Stat. 290.)

AMENDMENTS

1956—Subsec. (b). Act June 18, 1956, changed ''Joint Committee on the Economic Report'' to ''Joint Economic Committee''.

§ 1917. Repealed. Pub. L. 104–127, title II, § 229, Apr. 4, 1996, 110 Stat. 963

Section, act Dec. 30, 1947, ch. 526, § 7, 61 Stat. 947, authorized Commodity Credit Corporation to carry out projects to stimulate and increase production of foods, agricultural commodities, and products thereof, in non-European foreign countries.

§ 1918. Food and conservation program; appropriations; administrative expenses

(a) In order to alleviate shortages in foods and feeds, and to assist in stabilizing prices, the President shall carry out a program for the conservation of food and feed. In carrying out such program, the President is authorized, through the dissemination of information, educational and other campaigns, the furnishing of assistance, and such other voluntary and cooperative measures as he deems necessary or appropriate, to encourage and promote the efficient utilization, care, and preservation of food and feed, the elimination of practices which waste food and feed, the control and eradication of insects and rodents, the consumption of less of these foods and feeds which are in short supply and more of those foods and feeds which are in abundant supply, and other conservation practices. The authority herein conferred may be exercised by the President through such departments, agencies, independent establishments, and officials of the Federal Government and such State, local, and private agencies as he may determine.

(b) There is hereby authorized to be appropriated to the President such sums as may be necessary to carry out this section. To enable the President to carry out this section for the remainder of the fiscal year ending June 30, 1948, there is made available not to exceed $1,000,000 from any funds made available by the Congress for carrying out Public Law 84, Eightieth Congress, or from any funds made available by the Congress for interim foreign aid. Funds made available for the purpose of this section may be used for necessary administrative expenses, including personal services in the District of Columbia and elsewhere, purchase or hire of motor vehicles, temporary or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, without regard to the civil service and classification laws (the compensation of any such individual not to exceed $50 per day). Funds made available for the purposes of this section may be allotted for any of the purposes of this section to any department, agency, or independent establishment of the Government, or transferred to any other agency requested to assist in carrying out this section. Funds allotted to any department, agency, or independent establishment of the Government shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of the department, agency, or independent establishment, or organizational unit thereof concerned, and without regard to sections 3709 and 3648 of the Revised Statutes, as amended [41 U.S.C. 5; 31 U.S.C. 3324(a), (b)].

(Dec. 30, 1947, ch. 526, § 8, 61 Stat. 947.)

REFERENCES IN TEXT

Public Law 84, Eightieth Congress, referred to in subsec. (b), is act May 31, 1947, ch. 90, 61 Stat. 125, which was classified generally to chapter 17 (§ 1411 et seq.) of Title 22, Foreign Relations and Intercourse, and which was repealed by act Aug. 26, 1954, ch. 937, title V, § 542(a)(2), 68 Stat. 861. For complete classification of this Act to the Code, see Tables.

The civil service laws, referred to in subsec. (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (b), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

Section 3648 of the Revised Statutes, as amended, referred to in subsec. (b), which was classified to section 529 of former Title 31, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as section 3324(a) and (b) of Title 31, Money and Finance.

§ 1919. Authorizations for appropriations

There is authorized to be appropriated such amounts as may be necessary for purposes of carrying out the provisions of this joint resolution [sections 1911 to 1919 of this Appendix].

(Dec. 30, 1947, ch. 526, § 9, 61 Stat. 948.)

DOMESTIC RUBBER-PRODUCING INDUSTRY

ACT MAR. 31, 1948, CH. 166, 62 STAT. 101

§§ 1921 to 1938. Omitted

CODIFICATION

Sections 1921 to 1938 terminated May 1, 1955, pursuant to section 1938 of this Appendix.

Section 1921, act Mar. 31, 1948, ch. 166, § 2, 62 Stat. 102, related to Congressional declaration of policy.

Section 1922, act Mar. 31, 1948, ch. 166, § 3, 62 Stat. 102, authorized certain controls over natural and synthetic rubber and rubber products.

Section 1923, act Mar. 31, 1948, ch. 166, § 4, 62 Stat. 102, related to importation and exportation of rubber products.

Section 1924, act Mar. 31, 1948, ch. 166, § 5, 62 Stat. 103, related to maintenance of domestic rubber-producing capacity.

Section 1925, act Mar. 31, 1948, ch. 166, § 6, 62 Stat. 103, related to rubber research and development.

Section 1926, act Mar. 31, 1948, ch. 166, § 7, 62 Stat. 103, related to operation of rubber-producing facilities by the Government.

Section 1927, act Mar. 31, 1948, ch. 166, § 8, 62 Stat. 104, related to placing in adequate stand-by condition rubber-producing facilities and their maintenance.

Section 1928, acts Mar. 31, 1948, ch. 166, § 9, 62 Stat. 105; June 24, 1950, ch. 357, § 1(a), 64 Stat. 256; June 23, 1952, ch. 453, § 1(a), 66 Stat. 154, related to disposal of Government-owned rubber-producing facilities.

Section 1929, act Mar. 31, 1948, ch. 166, § 10, 62 Stat. 1929, provided administrative provisions respecting rules and regulations; delegation of powers and duties by President; consolidation of powers and functions, creation of corporation, powers, subscription to capital stock; transfer of facilities, personnel, funds, etc.; and annual report.

Section 1930, act Mar. 31, 1948, ch. 166, § 11, 62 Stat. 106, related to patent pooling and use of technical information.

Section 1931, act Mar. 31, 1948, ch. 166, § 12, 62 Stat. 106, related to information, records, etc., for enforcement or administrative purposes; oaths, affidavits, subpenas, etc.; witnesses; testimony; publication of information; and penalties.

Section 1932, act Mar. 31, 1948, ch. 166, § 13, 62 Stat. 107, related to penalties.

Section 1933, act Mar. 31, 1948, ch. 166, § 14, 62 Stat. 107, related to jurisdiction of courts, venue, process and costs.

Section 1934, act Mar. 31, 1948, ch. 166, § 15, 62 Stat. 107, was an exculpatory clause.

Section 1935, act Mar. 31, 1948, ch. 166, § 16, 62 Stat. 108, related to exemption from Administrative Procedure Act. Act Mar. 31, 1948, ch. 166, § 16, 62 Stat. 108, formerly classified to section 1935 of this Appendix, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 654.

Section 1936, act Mar. 31, 1948, ch. 166, § 18, 62 Stat. 1936, defined the terms ''natural rubber'', ''synthetic rubber'', ''general-purpose synthetic rubber'', ''special-purpose synthetic rubber'', ''rubber-producing facilities'', ''rated production capacity'', ''component materials'', ''stand-by condition'', ''person'' and ''United States''.

Section 1937, act Mar. 31, 1948, ch. 166, § 19, 62 Stat. 109, related to appropriations.

Section 1938, acts Mar. 31, 1948, ch. 166, § 20, 62 Stat. 109; June 24, 1950, ch. 357, § 1(b), 64 Stat. 256; June 23, 1952, ch. 453, § 1(b), 66 Stat. 154; Aug. 7, 1953, ch. 338, § 22, 67 Stat. 415, provided that sections 1921 to 1938 of this Appendix should become effective on Apr. 1, 1948, and should remain in effect until May 1, 1955.

TRANSFER OF FUNCTIONS

Ex. Ord. No. 9942, Apr. 1, 1948, 13 F.R. 1823, as amended by Ex. Ord. No. 10539, June 22, 1954, 19 F.R. 3827, which provided for the performance of certain functions under sections 1921 to 1938 of this Appendix by the Secretary of Commerce and by the Federal Facilities Corporation as successor of the Reconstruction Finance Corporation, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

Act July 30, 1953, ch. 282, title I, § 107(a)(1), (b), 67 Stat. 231, provided for Presidential transfer of all functions, powers, duties, and authority of the Reconstruction Finance Corporation under sections 1921 to 1938 of this Appendix not later than June 30, 1954, and for the transfer of all assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records of the Reconstruction Finance Corporation which the Director of the Bureau of the Budget shall determine to be primarily related to, and necessary for, the exercise of such functions, powers, duties, and authority, to the officer or agency of the Government to which such functions, powers, duties, and authority are transferred.

EXTENSION WITH RESPECT TO DISPOSAL OF COPOLYMER PLANT AT INSTITUTE, WEST VIRGINIA

Act Aug. 9, 1955, ch. 696, § 3, 69 Stat. 629, provided that: ''Notwithstanding the provisions of sections 14 and 22 of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941*l* and 1941t of this Appendix], the Rubber Act of 1948, as amended [sections 1921 to 1938 of this Appendix], is hereby extended with respect to the rubber-producing facilities covered by this Act [section 1941x of this Appendix], to the close of the day of transfer of possession of Plancor Numbered 980 to a purchaser in accordance with the provisions of section 26 of the Rubber Producing Facilities Disposal Act [section 1941x of this Appendix].''

EXTENSION WITH RESPECT TO DISPOSAL OF COPOLYMER PLANT AT BAYTOWN, TEXAS

Act Mar. 31, 1955, ch. 19, § 3, 69 Stat. 16, provided that: ''Notwithstanding the provisions of sections 14 and 22 of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941*l* and 1941t of this Appendix], the Rubber Act of 1948, as amended [sections 1921 to 1938 of this Appendix], is hereby extended with respect to the rubber-producing facilities covered by this Act [section 1941w of this Appendix], to the close of the day of transfer of possession of Plancor Numbered 877 to a purchaser in accordance with the provisions of section 25 of the Rubber Producing Facilities Disposal Act [section 1941w of this Appendix]: *Provided*, That if no such transfer is made, the Rubber Act of 1948, as amended [sections 1921 to 1938 of this Appendix], is hereby extended to the close of the day upon which Plancor Numbered 877 is placed in standby condition pursuant to the provisions of this Act.''

DISSOLUTION OF FEDERAL FACILITIES CORPORATION

Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, provided:

''[SEC. 1. *Administration of sales of rubber producing facilities by Administrator of General Services; exercise of authority of Rubber Producing Facilities Disposal Commission by Administrator; transfer of contracts from Federal Facilities Corporation to Administrator*]. That, subject to the provisions of section 2 of this Act, the Administrator of General Services is hereby designated to administer the contracts of sale of the Government-owned rubber producing facilities made pursuant to the Rubber Producing Facilities Disposal Act of 1953 (67 Stat. 414) [section 1941 et seq. of this Appendix], as amended, and to administer other matters involving the Rubber Producing Facilities Disposal Commission, including the exercise of all powers and authority conferred upon the said Commission by section 6 of the Act of March 21, 1956 (70 Stat. 51, 53) [set out as a note under section 1941f of this Appendix], and also including the winding up of the affairs of the Commission. The said contracts are hereby transferred from Federal Facilities Corporation to the Administrator of General Services.

''SEC. 2. [*National defense as guide for execution of national security clause in rubber producing facilities' contracts of sale*]. The administration of the national security clause contained in the contracts of sale referred to in section 1 of this Act shall be carried out in accordance with the needs and requirements of the national defense as determined by the Secretary of Defense.

''SEC. 3. [*Transfer of records, assets and liabilities of Rubber Producing Facilities Disposal Commission*]. The records and the remaining assets and liabilities of the Rubber Producing Facilities Disposal Commission are hereby transferred from the Federal Facilities Corporation to the Administrator of General Services for use of the Administrator in connection with the administration or performance of his functions and duties under sections 1 and 2 of this Act, or for other disposition as may be determined, consonant with law, by the Administrator.

''SEC. 4. [*Transfer of property, assets and liabilities of Federal Facilities Corporation to Administrator for liquidation; transfer of functions; assumption of liabilities; deposits into Treasury; cancellation of obligations*].

''(a) Notwithstanding any other provision of law, the books of account, records, documents, property, assets and liabilities of every kind and nature, including, but not limited to, all funds, notes (and accrued interest thereon), mortgages, deeds of trust, contracts, commitments, claims, and causes of action, of Federal Facilities Corporation are transferred to the Administrator of General Services for liquidation and, in connection therewith, there are also transferred to the Administrator, notwithstanding the provisions of section 6 of this Act, all functions, powers, duties, authority, rights, and immunities now vested in, or available or applicable to, the Corporation which shall be performed, exercised, and administered by the Administrator in the same manner and to the same extent as if the same were performed, exercised, and administered by the Corporation. The Administrator shall assume and be subject, in his official capacity, to all liabilities and commitments, whether arising out of contract or otherwise, of the corporation but he shall pay into the Treasury, as miscellaneous receipts, all future receipts and all remaining funds of the Corporation transferred to, or received by, him pursuant to this Act.

''(b) Any obligation of General Services Administration to Federal Facilities Corporation existing by vir-

tue of the provisions of section 5(b) of the joint resolution, 'To authorize the disposal of the Government-owned tin smelter at Texas City, Texas, and for other purposes', approved June 22, 1956 (Public Law 608, Eighty-fourth Congress, chapter 426, second session (70 Stat. 329)) [set out as a note under section 98 of Title 50], is canceled.

''SEC. 5. [*Delegation of powers*]. The Administrator of General Services is authorized to delegate, from time to time as he may deem to be appropriate, to any officer, employee, or administrative unit under his jurisdiction the performance of any function and the exercise of the related authority transferred to the Administrator by this Act.

''SEC. 6. [*Termination of succession and dissolution of Corporation; repeal of charter*]. The succession of Federal Facilities Corporation is terminated and the Corporation is dissolved. The charter of the Corporation, as amended, is repealed.

''SEC. 7. [*Suits against corporation before dissolution; United States as party*]. No suit, action, or other proceeding lawfully commenced by or against Federal Facilities Corporation before the dissolution of the Corporation shall abate by reason of such dissolution; but the court may, on motion or supplemental petition filed at any time within twelve months after such dissolution and showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the United States in such court. After the dissolution of the Corporation, any suit, action, or other proceeding which, but for such dissolution, would be commenced by or against the Corporation, shall be commenced by or against the United States in a Federal court of competent jurisdiction.

''SEC. 8. [*Special assessments and taxes*]. In the event that title to any real property which was sold by the Rubber Producing Facilities Disposal Commission or by the Federal Facilities Corporation to private industry on credit, under mortgage, deed of trust, or similar arrangement, is acquired by the United States by reason of default by, or failure of performance of, the purchaser, or its successor in interest, of any of its obligations, such real property shall continue to be subject to special assessments for local improvements and to State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed and the Administrator of General Services is authorized and directed to pay such special assessments and taxes.

''SEC. 9. [*Effective date*]. This Act shall take effect at the close of September 30, 1961.''

DISPOSAL OF GOVERNMENT-OWNED RUBBER-PRODUCING FACILITIES

ACT AUG. 7, 1953, CH. 338, 67 STAT. 408

Sec.
1941. Congressional declaration of policy.
1941a. Rubber Producing Facilities Disposal Commission.
1941b. Furnishing of information concerning facilities to Commission on request.
1941c. Prompt disposal of facilities by Commission; hearings.
1941d. Restriction on activities of members and employees after leaving Commission; penalty.
1941e. Disposal procedure.
1941f. Disposition of unsold facilities; transfer to General Services Administration; lease of alcohol-butadiene facilities; advice of Attorney General; standby funds.
1941g. Report of recommended disposal by Commission to Congress.
1941h. President's report to Congress on Nation's rubber requirements and resources.
1941i. Exclusion from term ''rubber-producing facilities''.
1941j. Disposition of proceeds from disposal of facilities.
1941k. Prior disposal of facilities as unaffected.
1941*l*. Conditional termination dates for Rubber Act of 1948.
1941m. Monthly reports by Commission to Congress of expenditures and obligations.
1941n. Basis for negotiating sale of a facility.
1941*o*. Criteria for disposal recommendations.
1941p. Authorization of disposal of facilities notwithstanding Rubber Act of 1948.
1941q. Payment of costs of disposal from operating income.
1941r. Termination of Commission; administration after termination.
1941s. Definitions.
1941t. Omitted.
1941u. Congressional resolutions respecting facilities.
1941v. Rejection of recommended sales contract; right to review of purchaser of other facilities; minimum annual production necessary to sustain disposal report.
1941w. Disposal of rubber-producing facility at Baytown, Texas.
1941x. Disposal of rubber-producing facility at Institute, West Virginia.
1941y. Disposal of rubber-producing facility at Louisville, Kentucky.

§ 1941. Congressional declaration of policy

It is declared that disposal of the Government-owned rubber-producing facilities pursuant to the provisions of this Act [sections 1941 to 1941y of this Appendix] is consistent with the national security and will further effectuate the policy set forth in section 2 of the Rubber Act of 1948, as amended (62 Stat. 101, 50 U.S.C. App. 1921), with respect to the development within the United States of a free, competitive, synthetic rubber industry.

(Aug. 7, 1953, ch. 338, § 2, 67 Stat. 408.)

SHORT TITLE

Section 1 of act Aug. 7, 1953, provided that: ''This Act [enacting sections 1941 to 1941y of this Appendix] shall be known as the 'Rubber Producing Facilities Disposal Act of 1953'.''

§ 1941a. Rubber Producing Facilities Disposal Commission [1]

(a) Repealed. Pub. L. 89–554 § 8(a), Sept. 6, 1966, 80 Stat. 657

(b) Duties; sales contracts, instruments of conveyance, leases and additional powers

With respect to the Government-owned rubber-producing facilities it shall be the duty of the Commission, and it is authorized in accordance with the provisions of this Act [sections 1941 to 1941y of this Appendix] (1) to invite and receive proposals for the purchase of the facilities; to negotiate for their sale and make recommendations therefor to the Congress; to enter into appropriate contracts for their sale, which contracts shall be binding upon the Government and the prospective purchasers upon their execution subject only to the further provisions of this Act [said sections]; and in the performance of such contracts to execute and deliver such deeds or other instruments appropriate to effectively transfer to the purchaser thereof title to

[1] See Transfer of Functions note below.

the facilities, no matter by what officer, agent, department, Government corporation, or instrumentality of the United States the same is held; (2) to lease and thereunder deliver possession of the alcohol butadiene facilities, if practicable; and (3) to take such action and exercise such powers as may be necessary or appropriate to effectuate the purposes of this Act [said sections].

(c) Consultation with Attorney General

From the time of its appointment and throughout the course of the performance of its duties, the Commission shall consult and advise with the Attorney General in order (1) to secure guidance as to the type of disposal program which would best foster the development of a free competitive synthetic rubber industry, and (2) to supply the Attorney General with such information as he may deem requisite to enable him to provide the advice contemplated by this section and sections 9(a)(4) and 9 (f) of this Act [section 1941g(a)(4), (f) of this Appendix].

(d) Submission of disposal report to Attorney General

Before submission of its proposed disposal report to the Congress, as provided for in section 9 of this Act [section 1941g of this Appendix], the Commission shall submit it to the Attorney General, who shall within a reasonable time, in no event to exceed ninety days, after receiving such report, advise the Commission whether, in his opinion, the proposed disposition will violate the antitrust laws.

(e) Antitrust laws as unaffected

Nothing in this Act [sections 1941 to 1941y of this Appendix] shall impair, amend, or modify the antitrust laws or limit and prevent their application to persons who acquire property under the provisions of this Act [said sections]. As used in this section, the term ''antitrust laws'' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended [15 U.S.C. 1 to 7]; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act [15 U.S.C. 41 et seq.]; and the Act of August 27, 1894 (ch. 349, secs. 73, 74, 28 Stat. 570), as amended [15 U.S.C. 8, 9].

(Aug. 7, 1953, ch. 338, § 3, 67 Stat. 408; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 657.)

REFERENCES IN TEXT

Act of July 2, 1890, referred to in subsec. (e), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, as amended, referred to in subsec. (e), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15 and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (e), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–554 repealed subsec. (a) which established the Rubber Producing Facilities Disposal Commission and provided for appointment, qualifications, and pay of the Commissioners.

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941b. Furnishing of information concerning facilities to Commission on request

The Commission shall be furnished upon its request all available information concerning the Government-owned rubber-producing facilities in the possession of any department, agency, officer, Government corporation, or instrumentality of the United States concerned with Government-owned rubber-producing facilities.

(Aug. 7, 1953, ch. 338, § 4, 67 Stat. 409.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to the Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941c. Prompt disposal of facilities by Commission; hearings

The Commission shall proceed as promptly as practicable, conducting such hearings as may be necessary, with the disposal of the rubber-producing facilities in compliance with the provisions of this Act [sections 1941 to 1941y of this Appendix].

(Aug. 7, 1953, ch. 338, § 5, 67 Stat. 409.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941d. Restriction on activities of members and employees after leaving Commission; penalty

(a) Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 657.

(b) No member of the Commission and no person employed by the Commission as an attorney, agent, or employee in activities involving discretion with respect to negotiations or contracts of sale of the Government-owned rubber-producing facilities, shall, during the period of

such employment, or for a period of two years thereafter, be employed in any capacity by any purchaser, or affiliate thereof. No purchaser or affiliate thereof shall employ in any capacity any person, who has served as a member of the Commission or who was employed by the Commission and served the Commission as an attorney, agent, or employee in activities involving discretion with respect to negotiations or contracts of sale of the Government-owned rubber-producing facilities, while any such person is serving as a member or employee of the Commission or for a period of two years thereafter. Any person violating the provisions of this subsection shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(Aug. 7, 1953, ch. 338, §6, 67 Stat. 409; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 657.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–554 repealed subsec. (a) which authorized the Commission to employ persons and fix their compensation.

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§1941e. Disposal procedure

(a) Invitation of purchase proposals; notice and advertisement; period for receipt of proposals; data to accompany proposals

The Commission shall invite, upon adequate notice and advertisement, proposals for the purchase of the Government-owned rubber-producing facilities, hereafter referred to as the ''facilities''. The period for the receipt of proposals shall be determined and publicly announced by the Commission, and in no event shall be less than six months after the first day on which proposals may be received pursuant to the advertisement. The advertisement shall be in such form, contain such specifications and reservations, and be published in such manner as the Commission in its discretion determines will best effectuate the purposes of this Act [sections 1941 to 1941y of this Appendix]. All data concerning such facilities which in the judgment of the Commission may be reasonably required for the submission of a bona fide proposal shall be furnished by the Commission upon request by any prospective purchaser unless the Commission has reason to believe that such prospective purchaser has not identified his principal, or is not financially responsible, or is a poor security risk.

(b) Form and contents of proposals

Proposals shall be in writing, and shall contain, among other things—

(1) identification of the person in whose behalf the proposal is submitted, including the business affiliation of such person;

(2) the facility or facilities which are proposed to be purchased, and the order of preference if more than one facility is proposed to be purchased; or the order of preference if proposals are submitted on more than one facility, if only one facility is proposed to be purchased;

(3) the arrangements or plans, if any, formal or informal, for the supply of feedstock to, and the disposition of the end products of, the respective facilities proposed to be purchased;

(4) the amount proposed to be paid for each of the facilities, and, if such amount is not to be paid in cash, then the principal terms of the financing arrangement proposed;

(5) the general terms and conditions which the prospective purchaser of a copolymer facility would be willing to accept in order to make the end product of such facility available for sale to small business enterprises, and the general terms and conditions which the prospective purchaser of a butadiene or styrene facility would be willing to accept in order to make the end product of such facility available for sale to purchasers of copolymer facilities; and

(6) such other information as the Commission in its notice and advertisement for proposals shall require be set forth in proposals including the prospective purchaser's acceptance of the terms, conditions, restrictions and reservations contained in subsection (h) of this section, and the interest rate to be charged on the purchase-money mortgage referred to in subsection (e) of this section.

(c) Disclosure of contents of proposals

Should it become necessary to the effective prosecution of the disposal program, the Commission may, after the termination of the period for the submission of proposals provided for in subsection (a) of this section, disclose the contents of the proposals at such time, in such manner, and to such extent as it deems appropriate.

(d) Deposit of cash or Government bonds to accompany proposals

Proposals shall be accompanied by a deposit of cash or United States Government bonds of face amount equal to 2½ per centum of the gross amount proposed to be paid but not exceeding $250,000 for each facility: *Provided, however*, That the deposit required in the case of a proposal for one of a number of facilities on an alternative basis shall be the same as would be required if such proposal were for only the facility for which the particular prospective purchaser proposed to pay the highest amount. Except in the case of purchasers, deposits made hereunder shall be refunded without interest and not later than upon the termination of the period for congressional review as provided in section 9 of this Act [section 1941g of this Appendix]. In the case of purchasers, deposits made hereunder shall be applied without interest to the purchase price: *Provided, however*, That upon the closing of the contract of sale the purchaser shall be required to substitute cash equal to the face amount of the Government bonds then held in connection with such purchaser's proposal.

(e) Payment of purchase price; amount and terms of mortgages

Payment of the purchase price may be made in part by a first lien purchase-money mortgage, in

an amount not to exceed 75 per centum of the purchase price. The terms of any such mortgage obligation, to be determined by negotiation, shall provide among other things for a maturity of not more than ten years, periodic amortization, and a uniform interest rate of not less than 3 per centum per annum.

(f) Negotiation with those submitting proposals

Promptly after the termination of the period for the receipt of proposals, pursuant to subsection (a) of this section, and for such period thereafter not less than seven months as may be determined and publicly announced by the Commission, it shall negotiate with those submitting proposals for the purpose of entering into definitive contracts of sale.

(g) Securing of additional information from those submitting proposals

Nothing contained in this Act [sections 1941 to 1941y of this Appendix] shall be construed to prevent the Commission from securing such additional information from those submitting proposals at any time as the Commission may deem necessary or appropriate to fulfill its responsibilities under this Act [said sections].

(h) National security clause in contracts of sale

All contracts of sale and instruments in execution thereof shall contain a national security clause having terms, conditions, restrictions and reservations which will assure the prompt availability of the rubber-producing facilities, or facilities of equivalent capacity, for the production of synthetic rubber and the component materials thereof for a period of ten years from the date of the contract.

(i) Effective date of contracts of sale; time for transfer of possession of facilities; failure to complete transfer prior to termination date

Subject to the conditions prescribed in section 24 of this Act [section 1941v of this Appendix], any contract of sale shall become fully effective upon the expiration of the period for congressional review provided for in section 9 of this Act [section 1941g of this Appendix] unless the Congress within such period has disapproved such sale. The transfer of possession of all of the rubber-producing facilities to be sold shall be made as promptly as is practicable after the effective date, in accordance with the terms of the contracts, but in any event within a period terminating sixty days after the expiration of the period for congressional review as provided in section 9(b) of this Act [section 1941g(b) of this Appendix]. The failure to complete transfer of possession prior to said termination date shall not give rise to or be the basis of rescission of the contract of sale.

(j) Limitation on Government rubber sales

Upon termination of the transfer period, as provided in subsection (i) of this section, the operating agency last designated by the President shall make no further sales of synthetic rubber and its component materials except as otherwise provided in this Act [sections 1941 to 1941y of this Appendix].

(k) Offer of Government rubber for sale to purchasers of facilities after termination of transfer period

During the period of one year following the termination of the transfer period, the operating agency last designated by the President shall offer for sale to the purchasers of the facilities the synthetic rubber and its component materials held by it at a price determined in accordance with its pricing policy prevailing at the close of the transfer period, in amounts prorated in accordance with the ratio of the capacity of each such facility purchased to the total capacity of all facilities of the same type sold. Any synthetic rubber or component materials not purchased by an eligible purchaser during periodic intervals, as determined by the operating agency, shall be made available to other eligible purchasers on a like equitable basis. Any synthetic rubber or component materials not sold during such one-year period shall thereafter be disposed of in such manner as said agency deems advisable.

(Aug. 7, 1953, ch. 338, § 7, 67 Stat. 409.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941f. Disposition of unsold facilities; transfer to General Services Administration; lease of alcohol-butadiene facilities; advice of Attorney General; standby funds

(a) Upon the termination of the transfer period, the operating agency last designated by the President, shall, as promptly as possible consistent with sound operating procedures, take out of production and place in adequate standby condition the rubber-producing facilities which shall not have been sold. At any time after the termination of production, such facilities may be transferred without reimbursement or transfer of funds to the General Services Administration and administered in accordance with the provisions of sections 6, 7, and 8 of the National Industrial Reserve Act of 1948, as amended (62 Stat. 1227, 50 U.S.C. 456–458) [50 U.S.C. 455 to 457], or to such other agency as the President may designate for administration in such manner as he may direct. In such event (1) no such facility shall thereafter be operated as a rubber-producing facility for the account of, or by, the Government except pursuant to further Act of Congress; (2) no such facility, other than alcohol-butadiene facilities, shall be leased for operation as a rubber-producing facility at any time: *Provided*, That nothing contained in this Act [sections 1941 to 1941y of this Appendix] shall preclude the leasing of alcohol-butadiene facilities for purposes other than the manufacture of alcohol butadiene so long as such leases are in accordance with the provisions of section 8(a) or section 9(f) of this Act [subsection (a) of

this section or section 1941g (f) of this Appendix]; and (3) no such facility shall be disposed of by sale within a period of three years from the termination of the transfer period, and in any subsequent lease or sale, the Government agency acting under authority of this section shall within a reasonable time and in no event less than sixty days prior to the lease or sale, request the advice of the Attorney General as to whether the proposed lease or sale would tend to create or maintain a situation inconsistent with the antitrust laws. The Attorney General shall give his advice within forty-five days of the receipt of such request. Upon the request of the Attorney General, the Government agency shall furnish, or cause to be furnished, such information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the advice called for by this section.

(b) Whenever any transfer to any Government agency is made pursuant to this section, all unexpended funds budgeted as provided in section 9(e) [section 1941g(e) of this Appendix] for standby and maintenance in such condition shall also be transferred.

(Aug. 7, 1953, ch. 338, §8, 67 Stat. 411.)

REFERENCES IN TEXT

Sections 7 and 8 of the National Industrial Reserve Act of 1948, referred to in subsec. (a), were classified to sections 456 and 457 of Title 50, War and National Defense, and were omitted from the Code.

SALE OF LEASE OF CATALYST EQUIPMENT; TERMS AND CONDITIONS; SECURITY CLAUSE; PRICE; STANDBY CONDITION; AUTHORITY

Administration by Administrator of General Services of matters involving the Rubber Producing Facilities Disposal Commission, including the exercise of authority conferred upon the Commission by section 6 of Act Mar. 21, 1956, set out below, see Dissolution of Federal Facilities Corporation note set out under section 1938 of this Appendix.

Section 6 of act Mar. 21, 1956, ch. 89, 70 Stat. 53, provided that:

''(a) Notwithstanding any provision of the Rubber Producing Facilities Disposal Act of 1953, as amended [sections 1941 to 1941x of this Appendix], or of this Act [enacting section 1941y and provisions set out as notes under sections 1941r and 1941y of this Appendix], the Rubber Producing Facilities Disposal Commission may enter into contracts of sale and may from time to time enter into leases for all or any part of the catalyst manufacturing equipment now situated in Baltimore, Maryland, and generally described in the Commission's brochure M–2 dated March 1954.

''(b) Except as provided in this paragraph, each such lease or contract may be made on such terms and conditions, including type of use and duration (up to fifteen years) of any lease, as the Commission deems advisable in the public interest. Before making such sale or lease, the Commission shall secure the advice of the Attorney General as to whether the proposed sale or lease would tend to create or maintain a situation inconsistent with the antitrust laws. Each such lease or contract of sale shall contain a national security clause, containing such terms and for such duration (ten years or less) as the Commission deems desirable in the public interest, and any such lease shall provide for the recapture of the equipment thereby leased and the termination of the lease, if the President determines that the national interest so requires.

''The price for any part or all of such equipment shall be an amount which the Commission determines to be the maximum amount obtainable in the public interest, but not less than fair value as determined by the Commission.

''(c) Any of such equipment not sold or leased under subsection (a) shall be placed and maintained in adequate standby condition pursuant to, and be otherwise subject to, the provisions of section 8 of the Rubber Producing Facilities Disposal Act of 1953 [this section] (other than the provision prohibiting leases).

''(d) All the powers and authority conferred by this section upon the Commission may, after the termination of the existence of the Commission, be exercised by such agency of the Government as the President may designate for the purpose, and for this purpose such successor agency may exercise all the authority conferred in the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] upon the Commission.''

§1941g. Report of recommended disposal by Commission to Congress

(a) Contents and requirements

Not later than thirty days after the termination of the negotiating period provided in section 7 of this Act [section 1941e of this Appendix], and in no event later than January 31, 1955, the Commission shall prepare and submit to the Congress a report setting forth—

(1) the steps taken to elicit proposals and the proposals which have been received;

(2) the principal terms of all sales contracted for and the Commission's recommendations in respect thereto;

(3) in the event that there may have been a financially more advantageous proposal for any rubber-producing facility than the sale recommended, a statement of the reasons why such sale is nevertheless proposed;

(4) the statement from the Attorney General setting forth findings approving the proposed disposals in accordance with the standards set forth in section 3(c) of this Act [section 1941a(c) of this Appendix];

(5) the program to be followed to place in standby condition the rubber-producing facilities not sold;

(6) an inventory report concerning the Government's current stocks of synthetic rubber and its component materials;

(7) a program for the continuance, to the extent it deems necessary, during the fiscal year following the fiscal year in which the transfer period terminates, of the research program on synthetic rubber and its component materials then being carried on by the operating agency; and

(8) the names of persons who have represented the Government or the purchasers in conducting negotiations or in making contracts for disposal of the rubber-producing facilities.

(b) Time of submission of report; period for action by Congress

The report shall be submitted to both Houses of Congress on the same day. Upon the expiration of sixty days of continuous session of the Congress following the date upon which the report is submitted to it, the Commission shall proceed to carry out the contracts and proposals, as outlined in its report, to the extent that such contracts and proposals are not disapproved by either House of Congress by a resolution within the sixty-day period.

(c) Computation of period for Congressional action

For the purposes of subsection (b) of this section—

(1) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but

(2) in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(d) Restriction on sale or lease of rubber-producing facilities

No rubber-producing facility shall be sold or leased except in accordance with this Act [sections 1941 to 1941y of this Appendix] or in accordance with section 7(d)(4) of the Rubber Act of 1948, as amended [section 1926(d)(4) of this Appendix].

(e) Funds for expenses; annual budget

Such sums as may be required for the foregoing purposes may be provided out of the proceeds of disposal, and annual budgets for the expenses necessary for such purposes shall be submitted in accordance with the Government Corporation Control Act of 1945, as amended (59 Stat. 597, 31 U.S.C. 841) [31 U.S.C. 9101 et seq.].

(f) Leases of alcohol-butadiene facilities; requirements; advice of Attorney General

Notwithstanding any other provisions of this Act [sections 1941 to 1941y of this Appendix], the Commission may, after securing the advice of the Attorney General as to whether the proposed lease would tend to create or maintain a situation inconsistent with the antitrust laws, enter into leases for the alcohol-butadiene facilities for a period of not less than one year, nor more than three years: *Provided*, That any such lease shall contain among other things (1) a national security clause, and (2) provisions for the recapture of such facilities by the Government and the termination of the lease, if the President determines that the national interest so requires. Not less than sixty days prior to said lease the Commission shall request such advice from the Attorney General who shall give the same within forty-five days of the receipt of such request.

(Aug. 7, 1953, ch. 338, § 9, 67 Stat. 412.)

REFERENCES IN TEXT

The Government Corporation Control Act of 1945, as amended, referred to in subsec. (e), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which was classified to chapter 14 (§ 841 et seq.) of former Title 31, and which was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as chapter 91 (§ 9101 et seq.) of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941h. President's report to Congress on Nation's rubber requirements and resources

At the expiration of one year after the transfer period or as soon thereafter as the Congress is in session, the President shall report to the Congress concerning the Nation's rubber requirements and resources, and the need, if any, for further research by the Government relative to the production or use of synthetic rubber and its component materials.

(Aug. 7, 1953, ch. 338, § 10, 67 Stat. 413.)

§ 1941i. Exclusion from term "rubber-producing facilities"

The term ''rubber-producing facilities'' as used in this Act [sections 1941 to 1941y of this Appendix] shall not include the Government-owned evaluation laboratory at Akron, Ohio.

(Aug. 7, 1953, ch. 338, § 11, 67 Stat. 413.)

DISPOSAL OF RESEARCH LABORATORIES AT AKRON, OHIO

Act July 26, 1956, ch. 738, 70 Stat. 657, provided: ''That the Government laboratories at Akron, Ohio, now under control of the National Science Foundation are hereby transferred to the General Services Administration for disposal in accordance with the Federal Property and Administrative Services Act of 1949 [now chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and title III of the Act of June 30, 1949 (41 U.S.C. 251 et seq.)], except that the Administrator of General Services shall first offer the laboratories for public sale before seeking to dispose of them by transfer or assignment to any Federal agency. The Administrator of General Services, before he offers the laboratories to the public for sale, shall ascertain what the value of the laboratories would be to Government agencies which would make substantial use thereof, and the Administrator shall not sell the laboratories to the public unless he finds, after consultation with the Director of the Budget Bureau, that such sale to the public would be in the best interests of the United States, taking into consideration among other relevant factors the value of the laboratories to any interested agency and the amounts offered by public bidders. The National Science Foundation is authorized to reimburse the General Services Administration in advance for expenses necessary for the protection and maintenance of the laboratories up to June 30, 1957.''

§ 1941j. Disposition of proceeds from disposal of facilities

All final net proceeds from disposal of the rubber-producing facilities shall be covered into the Treasury as miscellaneous receipts except as otherwise provided by this Act [sections 1941 to 1941y of this Appendix].

(Aug. 7, 1953, ch. 338, § 12, 67 Stat. 413.)

§ 1941k. Prior disposal of facilities as unaffected

The sales, leases, or other dispositions made prior to the enactment of this Act [Aug. 7, 1953], pursuant to section 9(b) of the Rubber Act of 1948, as amended [section 1928(b) of this Appendix], shall not be affected by this Act [sections 1941 to 1941y of this Appendix].

(Aug. 7, 1953, ch. 338, § 13, 67 Stat. 413.)

§ 1941*l*. Conditional termination dates for Rubber Act of 1948

Notwithstanding the provisions of section 20 of the Rubber Act of 1948, as amended [section 1938 of this Appendix], (1) if no report is submitted by the Commission, or if the report submitted by the Commission pursuant to section 9 of this Act [section 1941g of this Appendix] is disapproved in its entirety, then the Rubber Act of 1948, as amended [sections 1921 to 1938 of this Appendix] shall be extended until March 31, 1956; and (2) if the Commission submits a report and it is not disapproved in its entirety, the Rubber Act of 1948, as amended [said sections], shall terminate at the termination of the transfer period as provided in section 7(i) of this Act [section 1941e(i) of this Appendix].

(Aug. 7, 1953, ch. 338, § 14, 67 Stat. 413.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941m. Monthly reports by Commission to Congress of expenditures and obligations

Thirty days following the receipt of proposals, as provided in section 7 of this Act [section 1941e of this Appendix] the Commission shall submit to the Congress a report stating the amount of funds expended by or obligated by the operating agency for the repair, replacement, additions, improvements, or maintenance of each synthetic rubber-producing facility for which proposals have been submitted. Thereafter reports shall be made monthly until such time as the Congress shall have permitted or disapproved in whole or in part the disposal recommended by the Commission.

(Aug. 7, 1953, ch. 338, § 15, 67 Stat. 413.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941n. Basis for negotiating sale of a facility

In arriving at its recommendations for the disposal of the facilities, the Commission shall use, as the basis for negotiating the sale of each facility the highest amount proposed to be paid for each facility, if, in the opinion of the Commission, the highest amount proposed to be paid was a bona fide proposal and was submitted by a person competent to operate a rubber-producing facility: *Provided*, That the words ''competent to operate a rubber-producing facility'' shall not be interpreted so as to require prior experience in the operation of a rubber-producing facility: *Provided further*, That in using such highest proposed amount as a basis for negotiations the Commission may negotiate with respect to any facility with any person who submitted a proposal on that or any similar facility and may recommend sale of any facility to any person who submitted a proposal on that or any similar facility at a price which is equal to, higher than, or lower than the highest amount proposed to be paid for each facility as the Commission determines will best effectuate the purposes of this Act [sections 1941 to 1941y of this Appendix].

(Aug. 7, 1953, ch. 338, § 16, 67 Stat. 413.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941*o*. Criteria for disposal recommendations

The following criteria, together with such other criteria as the Commission deems necessary or desirable to best effectuate the purposes of this Act [sections 1941 to 1941y of this Appendix], shall be used by the Commission in arriving at its recommendations for disposal:

(1) That the disposal program be designed best to afford small-business enterprises and users, other than the purchser[1] of a facility, the opportunity to obtain a fair share of the end products of the facilities sold and at fair prices;

(2) That the prospective purchaser has the technical competence necessary to operate a rubber-producing facility, except that prior experience in operating a rubber-producing facility shall not be required as a basis for determining whether a prospective purchaser has the technical competence necessary to operate a rubber-producing facility;

(3) That the recommended sales shall provide for the development within the United States of a free, competitive, synthetic rubber industry, and do not permit any person to possess unreasonable control over the manufacture of synthetic rubber or its component materials;

(4) That the prospective purchaser is acting in good faith, and actually intends to operate the facility or facilities for the purpose of manufacturing synthetic rubber or its component materials;

(5) That full fair value for the facility or facilities will be received by the Government, taking into consideration the policy set forth in section 2 of this Act [section 1941 of this Appendix];

(6) That disposal of the facility or facilities to the purchasers is consistent with national security; and

[1] So in original. Probably should be ''purchaser''.

(7) That the facilities recommended for sale will in the aggregate be capable of annually producing not less than five hundred thousand long tons of general-purpose synthetic rubber, and not less than forty-three thousand long tons annually of butyl rubber.

(Aug. 7, 1953, ch. 338, § 17, 67 Stat. 414.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941p. Authorization of disposal of facilities notwithstanding Rubber Act of 1948

Unless otherwise provided in this Act [sections 1941 to 1941y of this Appendix], the disposal of the Government-owned rubber-producing facilities shall be authorized notwithstanding the provisions of the Rubber Act of 1948, as amended [sections 1921 to 1938 of this Appendix].

(Aug. 7, 1953, ch. 338, § 18, 67 Stat. 414.)

§ 1941q. Payment of costs of disposal from operating income

Unless otherwise provided in this Act [sections 1941 to 1941y of this Appendix], all costs incurred by the Commission or any other department, agency, officer, Government corporation, or instrumentality of the United States pursuant to the provisions of this Act [said sections] shall, so long as synthetic rubber is produced for the account of the Government in the Government-owned rubber-producing facilities, be paid from and charged against the operating income of the Government-owned synthetic rubber program, administered by the operating agency.

(Aug. 7, 1953, ch. 338, § 19, 67 Stat. 414.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941r. Termination of Commission; administration after termination

The Commission shall cease to exist thirty days after the termination of the transfer period as provided by section 7(i) of this Act [section 1941e(i) of this Appendix], but nothing contained in this section shall be construed in any way so as to abrogate, modify, or adversely affect any contract of sale or lease of the Government-owned rubber-producing facilities pursuant to this Act [sections 1941 to 1941y of this Appendix]. After the Commission ceases to exist, such contracts and leases and other matters involving the Commission shall be administered by such agency of the Government as the President may designate.

(Aug. 7, 1953, ch. 338, § 20, 67 Stat. 414.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under this section.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

TERMINATION OF COMMISSION

Section 3 of act Mar. 21, 1956, ch. 89, 70 Stat. 52, provided that: "Notwithstanding the provisions of section 4 of Public Law 336, Eighty-fourth Congress, approved August 9, 1955 [set out as a note below], of section 4 of Public Law 19, Eighty-fourth Congress, approved March 31, 1955 [set out as a note below], and section 20 of the Rubber Producing Facilities Disposal Act of 1953 [this section], the Commission established by the last-mentioned Act shall cease to exist at the close of the ninetieth day following the termination of the review period provided for in section 27(c) of that Act [section 1941y(c) of this Appendix], unless no sale of the Louisville plant is recommended by the Commission pursuant to section 27(c) of that Act [section 1941y(c) of this Appendix], in which event the Commission shall cease to exist at the close of the ninetieth day following the termination of the maximum period allowed for negotiation in section 27(b) [section 1941y(b) of this Appendix]."

Act Aug. 9, 1955, ch. 696, § 4, 69 Stat. 629, provided that: "Notwithstanding the provisions of section 4 of Public Law 19 [set out as a note below], approved March 31, 1955, and notwithstanding the provisions of section 20 of the Rubber Producing Facilities Disposal Act of 1953 [this section], the Commission established by the latter Act [sections 1941 to 1941y of this Appendix] shall cease to exist at the close of the thirtieth day following the termination of the transfer period provided for in section 26(c) of that Act [section 1941x(c) of this Appendix], unless no sale of Plancor Numbered 980 is recommended by the Commission pursuant to section 26(c) of that Act [section 1941x(c) of this Appendix], in which event the Commission shall cease to exist at the close of the one hundred and thirtieth day following the date of the enactment of this Act [Aug. 9, 1955]."

Act Mar. 31, 1955, ch. 19, § 4, 69 Stat. 16, provided that: "Notwithstanding the provisions of section 20 of the Rubber Producing Facilities Disposal Act of 1953 [this section], the Commission established by that Act [sections 1941 to 1941y of this Appendix] shall cease to exist at the close of the thirtieth day following the termination of the transfer period provided for in section 25(c) of that Act [section 1941w(c) of this Appendix], unless no sale of Plancor Numbered 877 is recommended by the Commission pursuant to section 25(c) of that Act [section 1941w(c) of this Appendix], in which event the Commission shall cease to exist at the close of the one hundred and thirtieth day following the date of enactment of this Act [March 31, 1955]."

EX. ORD. NO. 10678. ADMINISTRATION OF FUNCTIONS OF COMMISSION

Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, as amended by Ex. Ord. No. 10720, July 11, 1957, 22 F.R. 5521, provided:

By virtue of the authority vested in me by section 20 of the Rubber Producing Facilities Disposal Act of 1953 67 Stat. 414, as amended or modified (50 U.S.C. App. 1941r), and by section 6(d) of the act of March 21, 1956, 70 Stat. 53 [set out as a note under section 1941f of this Appendix], and as President of the United States, it is ordered as follows:

SECTION 1. Subject to the provisions of section 2 of this order, the Federal Facilities Corporation (hereinafter referred to as the Corporation) is hereby designated as the agency to administer the contracts of sale or lease of the Government-owned rubber producing facilities made pursuant to the Rubber Producing Facilities Disposal Act of 1953, as amended [sections 1941 to 1941y of this Appendix], and to administer other matters involving the Rubber Producing Facilities Disposal Commission, including all powers and authority conferred upon the said Commission by sections 4, 5, and 6 of the said act of March 21, 1956 [set out as notes under sections 1941f and 1941y of this Appendix], and also including the winding up of the affairs of the Commission. The said contracts are hereby transferred to the Corporation.

SEC. 2. The administration of the national-security clause contained in such contracts of sale, including any contract of sale made under the act of March 31, 1955 69 Stat. 15 [enacting section 1941w and provisions set out under section 1938 and sections 1941w and 1941r of this Appendix], or under the said act of March 21, 1956 [set out as notes under sections 1941f and 1941y of this Appendix], and the administration of the national-security clause (including the recapture clause) contained in any lease of the unsold facilities made under any of the aforesaid acts shall be carried out in accordance with the needs and requirements of the national defense as determined by the Secretary of Defense.

SEC. 3. The records, property, liabilities, employees and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of the Rubber Producing Facilities Disposal Commission are hereby transferred to the Corporation, for use or employment by the Corporation in connection with the administration or performance of its functions and duties under section 1 of this order, or for other disposition as determined, consonant with law, by the Corporation.

SEC. 4. All matters placed under the administration or jurisdiction of the Corporation by sections 1 and 3 of this order shall be subject to direction and control by the Administrator of General Services.

SEC. 5. This order shall become effective on September 24, 1956.

DWIGHT D. EISENHOWER.

ADMINISTRATION AFTER TERMINATION

Administration by Administrator of General Services of matters involving the Rubber Producing Facilities Disposal Commission, including the winding up of the affairs of the Commission, see Dissolution of Federal Facilities Corporation note set out under section 1938 of this Appendix.

§ 1941s. Definitions

(a) The term ''synthetic rubber'' means any product of chemical synthesis similar in general properties and applications to natural rubber, and specifically capable of vulcanization, produced in the United States, not including reclaimed synthetic rubber.

(b) The term ''general-purpose synthetic rubber'' means a synthetic rubber of the butadiene-styrene type generally suitable for use in the manufacture of transportation items such as tires or camelback, as well as any other type of synthetic rubber equally or better suited for use in the manufacture of transportation items such as tires or camelback as determined from time to time by the President.

(c) The term ''rubber-producing facilities'' means facilities, in whole or in part, for the manufacture of synthetic rubber, and the component materials thereof, including, but not limited to, buildings and land in which or on which such facilities may be located and all machinery and utilities associated therewith.

(d) The term ''component materials'' means the material, raw, semifinished, and finished, necessary for the manufacture of synthetic rubber.

(e) The term ''standby condition'' means the condition in which rubber-producing facilities, in whole or in part, are placed if not sold or leased in accordance with this Act [sections 1941 to 1941y of this Appendix], but are maintained so as to be readily available for the production of synthetic rubber or component materials.

(f) The term ''person'' means any individual, firm, copartnership, business trust, corporation, or any organized group of persons whether incorporated or not.

(g) The term ''operating agency'' means the Department, agency, officer, Government corporation, or instrumentality of the United States designated from time to time by the President pursuant to section 7(a) of the Rubber Act of 1948, as amended [section 1926(a) of this Appendix].

(h) The term ''small business enterprise'' means an enterprise independently owned and operated which is not dominant in its field of operation, due regard being given to the number of its employees and dollar volume of business.

(Aug. 7, 1953, ch. 338, § 21, 67 Stat. 415.)

§ 1941t. Omitted

CODIFICATION

Section, act Aug. 7, 1953, ch. 338, § 22, 67 Stat. 415, amended section 20 of the Rubber Act of 1949, as amended (50 U.S.C. App. 1938), which was omitted from the Code.

§ 1941u. Congressional resolutions respecting facilities

(a) Resolutions as rules of Congress; changes

The provisions of this section are enacted by the Congress:

(1) As an exercise of the rule-making power of the Senate and the house of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (b)); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) Form of resolution

As used in this section, the term ''resolution'' means only a resolution of either of the two Houses of Congress, the matter after the resolving clause of which is as follows: (1) ''That the _____ does not favor sale of the facilities as recommended in the report of the Rubber Producing Facilities Disposal Commission.'', the blank therein being filled with the name of the resolving House; or (2) ''That the

_____ does not favor the sale of the _____ as recommended in the report of the Rubber Producing Facilities Disposal Commission.'', the first blank therein being filled with the name of the resolving House and the other blank being filled with a description of the facility or facilities proposed to be sold.

(c) Reference to committee

A resolution with respect to a facility or facilities shall be referred to a committee (and all such resolutions shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) Report by committee; motion to discharge

(1) If the committee to which has been referred a resolution with respect to a facility or facilities has not reported it before the expiration of ten calendar days after its introduction, it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such facility or facilities which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same facility or facilities), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same facility or facilities.

(e) Motion to consider resolution; amendment

(1) Where the committee has reported, or has been discharged from further consideration of, a resolution with respect to a facility or facilities, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) Motions and appeals from decisions on rules to be decided without debate

(1) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a facility or facilities, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a facility or facilities, shall be decided without debate.

(Aug. 7, 1953, ch. 338, § 23, 67 Stat. 415.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941v. Rejection of recommended sales contract; right to review of purchaser of other facilities; minimum annual production necessary to sustain disposal report

Notwithstanding any provisions of this Act [sections 1941 to 1941y of this Appendix], in the event that the recommended sale of any facility is disapproved by either House of the Congress, any prospective purchaser of any other facility shall have a period of thirty days after the termination of the period for review by the Congress in which to reject the recommended sales contract with regard to the facility or facilities which he has agreed to purchase: *Provided*, That if as a result of the disapproval by either House of the Congress of the sale of any facility or facilities, or as a result of the rejection of one or more sales contracts by any prospective purchaser as provided in this section, the remaining facilities to be sold will in the aggregate not be capable of annually producing at least 500,000 long tons of general purpose synthetic rubber and at least 43,000 long tons of butyl rubber, then no facility shall be sold under this Act [said sections], and for the purposes of this Act [said sections] the report of the Commission shall be deemed to have been disapproved in its entirety.

(Aug. 7, 1953, ch. 338, § 24, 67 Stat. 416.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

§ 1941w. Disposal of rubber-producing facility at Baytown, Texas

(a) Receipt of proposal

Notwithstanding the second sentence of section 7(a) [section 1941e(a) of this Appendix], the

period for receipt of proposals for the purchase of the Government-owned rubber-producing facility at Baytown, Texas, known as Plancor Numbered 877, shall not expire until the end of the thirty-day period which begins on the date of the enactment of this section [Mar. 31, 1955].

(b) Negotiation period

If one or more proposals are received for the purchase of Plancor Numbered 877 within the time period specified in subsection (a), the Commission, notwithstanding the expiration of the period for negotiation specified in section 7 (f) [section 1941e(f) of this Appendix], shall negotiate with those submitting the proposals for a period of not to exceed sixty days for the purpose of entering into a definite contract of sale.

(c) Report to Congress; transfer period

Within ten days after the termination of the actual negotiation period referred to in subsection (b), the Commission shall prepare and submit to the Congress a report containing, with respect to the disposal under this section of Plancor Numbered 877, the information described in paragraphs (1) to (5), inclusive, and paragraph (8) of section 9(a) [section 1941g(a) of this Appendix]. Unless the contract is disapproved by either House of the Congress by a resolution prior to the expiration of thirty days of continuous session (as defined in section 9(c) [section 1941g(c) of this Appendix]) of the Congress following the date upon which the report is submitted to it, upon the expiration of such thirty-day period the contract shall become fully effective and the Commission shall proceed to carry it out, and transfer of possession of the facility sold shall be made as soon as practicable but in any event within thirty days after the expiration of such thirty-day period. The failure to complete transfer of possession within thirty days after the expiration of the period for congressional review shall not give rise to or be the basis of rescission of the contract of sale.

(d) Standby condition

If, upon termination of the transfer period provided for in subsection (c), no contract for the sale of Plancor Numbered 877 has become effective, the operating agency last designated by the President shall, as promptly as possible consistent with sound operating procedures, take said Plancor out of production and place it in adequate standby condition under the provisions of section 8 of the Rubber Producing Facilities Disposal Act of 1953 [section 1941f of this Appendix]: *Provided*, That the provisions in said section relating to the time for placing facilities in standby condition shall not apply to Plancor Numbered 877.

(Aug. 7, 1953, ch. 338, § 25, as added Mar. 31, 1955, ch. 19, § 1, 69 Stat. 15.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

SUBMISSION OF DISPOSAL REPORT TO ATTORNEY GENERAL

Section 2 of act Mar. 31, 1955, provided that: ''Notwithstanding the provisions of section 3(d) of the Rubber Producing Facilities Disposal Act of 1953 [section 1941a(d) of this Appendix], the Rubber Producing Facilities Disposal Commission (hereinafter referred to as the 'Commission') before submission to the Congress of its report relative to Plancor Numbered 877, shall submit it to the Attorney General, who shall, within seven days after receiving the report, advise the Commission whether, in his opinion, the proposed disposition, if carried out, will violate the antitrust laws.''

DISPOSAL CRITERIA

Section 5 of act Mar. 31, 1955, provided that: ''Except as otherwise provided in this Act [enacting this section and provisions set out as notes under sections 1938, 1941r, and 1941w of this Appendix], disposal of Plancor Numbered 877 shall be fully subject to all the provisions of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] and such criteria as have been established by the Commission in handling disposal of other Government-owned rubber producing facilities under that Act: *Provided*, That the provisions of sections 7(j), 7 (k), 9(d), 9(f), 10, 11, 15, and 24 of that Act [sections 1941e(j), 1941e(k), 1941g(d), 1941g(f), 1941h, 1941i, 1941m, and 1941v of this Appendix] shall not apply to the disposal of Plancor Numbered 877. As promptly as practicable following the date of transfer of possession of Plancor Numbered 877 to a purchaser under this Act, the operating agency last designated by the President shall offer for sale to such purchaser the end products produced at such plant and held in inventory for Government account on the day of such transfer of possession, together with the feedstocks then located at such plant or purchased by the operating agency for use at such plant. Sale of such end products shall be made at the Government sales price prevailing on the business day next preceding the date of transfer of possession of such plant. Sale of such feedstocks shall be made at not less than their cost to the Government. In the event the purchaser declines to purchase such end products or feedstocks when first offered to it by the operating agency, they may be thereafter disposed of in such manner as the operating agency deems advisable. In the event Plancor Numbered 877 is not sold under the provisions of this Act, any end products produced at such plant and held in inventory for Government account on the day such plant is placed in standby condition pursuant to section 25(d) of the Rubber Producing Facilities Disposal Act of 1953, as added by this Act [subsec. (d) of this section], and any feedstocks then located at such plant or purchased by the operating agency for use at such plant shall be disposed of in such manner as the operating agency deems advisable, at the prevailing market price for such end products and feedstocks.''

LEASE OR SALE OF TANK CARS

Section 6 of act Mar. 31, 1955, provided that: ''Notwithstanding any provision of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] and notwithstanding any other provision of this Act [enacting this section and provisions set out as notes under sections 1938, 1941r, and 1941w of this Appendix], the Commission or, after it ceases to exist, such agency of the Government as the President may designate, may, after securing the advice of the Attorney General as to whether the proposed lease or sale would tend to create or maintain a situation inconsistent with the antitrust laws, enter into leases or contracts of sale for all or any number of 448 pressure tank cars (ICC Classification ICC–104AW) for which the Commission invited proposals to purchase pursuant to that Act. Each such lease may be for such duration and

each such lease or contract of sale may be made on such terms (including type of use) as the Commission or such other agency deems advisable in the public interest: *Provided*, That each such lease or contract of sale shall contain, among other provisions, a national security clause, and each such lease shall contain provisions for the recapture of the tank cars leased by the Government and the termination of the lease, if the President determines that the national interest so requires. The rental or price for any such tank car or cars shall be an amount which the Commission or such agency determines to be the maximum amount obtainable in the public interest, but not less than fair value as determined by the Commission. Any of such tank cars not under lease or contract of sale to non-Federal lessees or purchasers may be transferred without charge by the Commission or such agency to any Government department or agency upon request, for such use as the Commission or such agency deems advisable and subject to national security and recapture provisions of the type hereinabove provided for in this section running in favor of the Commission or other agency transferring the tank car or cars. Any of such tank cars not sold or under lease or transferred as hereinabove provided shall be placed and maintained in adequate standby condition pursuant to the provisions of section 8 of the Rubber Producing Facilities Disposal Act of 1953 [section 1941f of this Appendix].''

LIMITATION

Section 7 of act Mar. 31, 1955, provided that: ''The provisions of this Act [enacting this section and provisions set out as notes under sections 1938, 1941r, and 1941w of this Appendix] shall not be applicable to the disposal of any Government-owned rubber-producing facilities other than Plancor Numbered 877 and 448 pressure tank cars (ICC Classification–ICC 104AW); and all action taken pursuant to the provisions of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] prior to the enactment of this Act [Mar. 31, 1955] shall be governed by the provisions of that Act [sections 1941 to 1941y of this Appendix] as it existed prior to the enactment of this Act and shall have the same force and effect as if this Act had not been enacted.''

§ 1941x. Disposal of rubber-producing facility at Institute, West Virginia

(a) Receipt of proposal

Notwithstanding the second sentence of section 7(a) [section 1941e(a) of this Appendix], the period for receipt of proposals for the purchase of the Government-owned rubber-producing facility at Institute, West Virginia, known as Plancor Numbered 980, shall not expire until the end of the sixty-day period which begins on the date of the enactment of this section [Aug. 9, 1955].

(b) Negotiation period

If one or more proposals are received for the purchase of Plancor Numbered 980 within the time period specified in subsection (a), the Commission, notwithstanding the expiration of the period for negotiation specified in section 7 (f) [section 1941e(f) of this Appendix], shall negotiate with those submitting the proposals for a period of not to exceed seventy-five days for the purpose of entering into a definite contract of sale.

(c) Report to Congress; transfer period

Within ten days after the termination of the actual negotiation period referred to in subsection (b), or, if Congress is not then in session, within ten days after Congress next convenes, the Commission shall prepare and submit to the Congress a report containing with respect to the disposal under this section of Plancor Numbered 980, the information described in paragraphs (1) to (5), inclusive, and paragraph (8) of section 9(a) [section 1941g(a) of this Appendix]. Unless the contract is disapproved by either House of the Congress by a resolution prior to the expiration of thirty days of continuous session (as defined in section 9(c) [section 1941g(c) of this Appendix]) of the Congress following the date upon which the report is submitted to it, upon the expiration of such thirty-day period the contract shall become fully effective and the Commission shall proceed to carry it out, and transfer of possession of the facility sold shall be made as soon as practicable but in any event within thirty days after the expiration of such thirty-day period. The failure to complete transfer of possession within thirty days after the expiration of the period for congressional review shall not give rise to or be the basis of rescission of the contract of sale.

(d) Standby condition

If, upon termination of the transfer period provided for in subsection (c), no contract for the sale of Plancor Numbered 980 has become effective, the operating agency last designated by the President shall continue to maintain said Plancor in adequate standby condition under the provisions of section 8 of the Rubber Producing Facilities Disposal Act of 1953 [section 1941f of this Appendix].

(Aug. 7, 1953, ch. 338, § 26, as added Aug. 9, 1955, ch. 696, § 1, 69 Stat. 628.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

SUBMISSION OF DISPOSAL REPORT TO ATTORNEY GENERAL

Section 2 of act Aug. 9, 1955, provided that: ''Notwithstanding the provisions of section 3(d) of the Rubber Producing Facilities Disposal Act of 1953 [section 1941a(d) of this Appendix], the Rubber Producing Facilities Disposal Commission (hereinafter referred to as the 'Commission') before submission to the Congress of its report relative to Plancor Numbered 980, shall submit it to the Attorney General, who shall, within seven days after receiving the report, advise the Commission whether, in his opinion, the proposed disposition, if carried out, will violate the antitrust laws.''

DISPOSAL CRITERIA

Section 5 of act Aug. 9, 1955, provided that: ''Except as otherwise provided in this Act [enacting this section and provisions set out as notes under sections 1938, 1941r, and 1941x of this Appendix], disposal of Plancor Numbered 980 shall be fully subject to all the provisions of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] and such criteria as have been established by the Commission in handling disposal of other Government-owned rubber producing facilities under that Act: *Provided*, That the

provisions of sections 7(j), 7(k), 9(d), 9(f), 10, 11, 15, and 24 of that Act [sections 1941e(j), 1941e(k), 1941g(d), 1941g(f), 1941h, 1941i, 1941m, and 1941v of this Appendix] shall not apply to the disposal of Plancor Numbered 980. As promptly as practicable following the date of transfer of possession of Plancor Numbered 980 to a purchaser under this Act, the operating agency last designated by the President shall offer for sale to such purchaser the end products at such plant and held in inventory for Government account on the day of such transfer of possession, together with the feedstocks then located at such plant or purchased by the operating agency for use at such plant. Sale of such end products shall be made at the Government sales price prevailing on the business day next preceding the date of transfer of possession of such plant. Sale of such feedstocks shall be made at not less than their cost to the Government. In the event the purchaser declines to purchase such end products or feedstocks when first offered to it by the operating agency, they may be thereafter disposed of in such manner as the operating agency deems advisable. In the event Plancor Numbered 980 is not sold under the provisions of this Act, any end products at such plant and held in inventory for Government account and any feedstocks located at such plant or purchased by the operating agency for use at such plant shall be disposed of in such manner as the operating agency deems advisable, at the prevailing market price for such end products and feedstocks.''

LIMITATION

Section 6 of act Aug. 9, 1955, provided that: ''The provisions of this Act [enacting this section and provisions set out as notes under sections 1938, 1941r, and 1941x of this Appendix] shall not be applicable to the disposal of any Government-owned rubber-producing facilities other than Plancor Numbered 980; and all action taken pursuant to the provisions of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix], or the amendment thereto known as Public Law 19 [section 1941w of this Appendix], enacted March 31, 1955, prior to the enactment of this Act [Aug. 9, 1955] shall be governed by the provisions of that Act as it existed prior to the enactment of this Act and shall have the same force and effect as if this Act had not been enacted.''

§1941y. Disposal of rubber-producing facility at Louisville, Kentucky

(a) Receipt of proposal

Notwithstanding the second sentence of section 7(a) [section 1941e(a) of this Appendix], the period for receipt of proposals for the purchase of the Government-owned rubber-producing facility at Louisville, Kentucky, known as Plancor Numbered 1207 and hereinafter referred to as the ''Louisville plant'', shall not expire until the end of the thirty-day period which begins on the date of the enactment of this section [Mar. 21, 1956].

(b) Negotiation period

If one or more proposals are received for the purchase of the Louisville plant within the time period specified in subsection (a), the Commission, notwithstanding the expiration of the period for negotiation specified in section 7(f) [section 1941e(f) of this Appendix], shall negotiate with those submitting the proposals for a period of not to exceed thirty days for the purpose of entering into a contract of sale.

(c) Report to Congress; transfer period

Within ten days after the termination of the actual negotiation period referred to in subsection (b), or, if Congress is not then in session, within ten days after Congress next convenes, the Commission shall prepare and submit to the Congress a report containing, with respect to the disposal under this section of the Louisville plant, the information described in paragraphs 1, 2, 3, 4, and 8 of section 9(a) [section 1941g(a) of this Appendix]. Unless the contract is disapproved by either House of the Congress by a resolution prior to the expiration of thirty days of continuous session (as defined in section 9(c) [section 1941g(c) of this Appendix]) of the Congress following the date upon which the report is submitted to it, upon the expiration of such thirty-day period the contract shall become fully effective and the Commission shall proceed to carry it out, and transfer of possession of the facility sold shall be made as soon as practicable but in any event within thirty days after the expiration or termination of the existing lease on the Louisville plant. The failure to complete transfer of possession within thirty days after expiration or termination of the existing lease shall not give rise to or be the basis of rescission of the contract of sale.

(Aug. 7, 1953, ch. 338, §27, as added Mar. 21, 1956, ch. 89, §1, 70 Stat. 51.)

TRANSFER OF FUNCTIONS

Functions, property, records, etc., of Rubber Producing Facilities Disposal Commission transferred to Federal Facilities Corporation by Ex. Ord. No. 10678, Sept. 20, 1956, 21 F.R. 7199, set out under section 1941r of this Appendix.

Federal Facilities Corporation dissolved and functions, property, records, etc., transferred to Administrator of General Services by Pub. L. 87–190, Aug. 30, 1961, 75 Stat. 418, set out as a note under section 1938 of this Appendix.

SUBMISSION OF DISPOSAL REPORT TO ATTORNEY GENERAL

Section 2 of act Mar. 21, 1956, provided that: ''Notwithstanding the provisions of section 3(d) of the Rubber Producing Facilities Disposal Act of 1953 [section 1941a(d) of this Appendix], the Rubber Producing Facilities Disposal Commission (hereinafter referred to as the 'Commission'), before submission to the Congress of its report relative to the Louisville plant shall submit it to the Attorney General, who shall, within seven days after receiving the report, advise the Commission whether, in his opinion, the proposed disposition, if carried out, will violate the antitrust laws.''

LEASE; TRANSMITTAL TO ATTORNEY GENERAL; CONGRESSIONAL REVIEW

Section 4 of act Mar. 21, 1956, provided that:

''(a) Notwithstanding the provisions of section 9(d) [section 1941g(d) of this Appendix] and notwithstanding the period of lease limitation in section 9(f) [section 1941g(f) of this Appendix] of the Rubber Producing Facilities Disposal Act of 1953, the Commission or its successor may, provided the period for receipt of proposals for the purchase of the Louisville plant has expired as provided in section 27(a) of that Act [subsection (a) of this section] and no proposal or contract for the purchase of the Louisville plant is then pending or in effect, extend the existing lease or enter into a new lease on the Louisville plant for a term of not less than five years nor more than fifteen years from the date of termination of said existing lease.

''(b) Notwithstanding the provisions of sections 8(a)(3) and 9(f) of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941f(a)(3) and 1941g(f) of this Appendix] relating to the period for review by the Attorney General, the Commission, before submission to

the Congress of a lease or lease extension relative to the Louisville plant, shall submit it to the Attorney General, who shall, within seven days after receiving the lease or lease extension, advise the Commission whether the proposed lease or lease extension would tend to create or maintain a situation inconsistent with the antitrust laws.

''(c) Within ten days after the termination of the lease negotiations authorized in subsection (a) of this section, or, if Congress is not then in session, within ten days after Congress next convenes, the Commission shall report to the Congress the lease or lease extension negotiated pursuant to this section. The Commission shall submit at the same time the statement of the Attorney General approving the proposed lease or lease extension in accordance with the standard set forth in subsection (b) of this section, and the names of the persons who have represented the Government or lessee in conducting negotiations for the lease or lease extension on the Louisville plant. Unless the lease or lease extension is disapproved by either House of the Congress by resolution prior to the expiration of thirty days of continuous session (as defined in section 9(c) of the Rubber Producing Facilities Disposal Act of 1953 [section 1941g(c) of this Appendix]) of the Congress following the date upon which the lease or lease extension is submitted to it, upon the expiration of such thirty-day period the lease or lease extension shall become fully effective and the Commission shall proceed to carry it out in accordance with its terms.''

DISPOSAL CRITERIA

Section 5 of act Mar. 21, 1956, provided that: ''Except as otherwise provided in this Act [enacting this section and provisions set out as notes under sections 1941f, 1941r, and 1941y of this Appendix], the disposal or lease of the Louisville plant shall be fully subject to all the provisions of the Rubber Producing Facilities Disposal Act of 1953 [sections 1941 to 1941y of this Appendix] and such criteria as have been established by the Commission in handling disposal of other Government-owned rubber producing facilities under this Act: *Provided*, That the provisions of sections 7(j), 7(k), 10, 15 and 24 of that Act [sections 1941e(j), 1941e(k), 1941h, 1941m and 1941v of this Appendix] shall not apply to the disposal or lease of the Louisville plants.''

DISPLACED PERSONS, REFUGEES AND ORPHANS

ADMISSION OF DISPLACED PERSONS

ACT JUNE 25, 1948, CH. 647, 62 STAT. 1009

§§ 1951 to 1965. Omitted

CODIFICATION

Sections 1951 to 1965 authorized admission of displaced persons and permitted the issuance of immigration visas without regard to quota limitations prior to June 30, 1952.

Section 1951, acts June 25, 1948, ch. 647, §2, 62 Stat. 1009; June 16, 1950, ch. 262, §§1 to 3, 64 Stat. 219; June 28, 1951, ch. 167, §2, 65 Stat. 96, defined terms used in sections 1951 to 1965 of this Appendix.

Section 1952, acts June 25, 1948, ch. 647, §3, 62 Stat. 1010; June 16, 1950, ch. 262, §4, 64 Stat. 221; June 28, 1951, ch. 167, §1, 65 Stat. 96; June 27, 1952, ch. 477, title IV, §402(h)(1), (2), 66 Stat. 277, authorized issuance of visas prior to June 30, 1952, and provided for use of quota numbers.

Section 1953, acts June 25, 1948, ch. 647, §4, 62 Stat. 1011; June 16, 1950, ch. 262, §5, 64 Stat. 224; June 27, 1952, ch. 477, title IV, §402(h)(3), 66 Stat. 277, provided for adjustment of immigration status of aliens who entered prior to Apr. 30, 1949, if application for adjustment was made within two years after June 25, 1948.

Section 1954, acts June 25, 1948, ch. 647, §5, 62 Stat. 1011; June 28, 1951, ch. 167, §3, 65 Stat. 96; June 27, 1952, ch. 477, title IV, §402(h)(4), 66 Stat. 277, related to determination of quota nationality.

Section 1955, acts June 25, 1948, ch. 647, §6, 62 Stat. 1012; June 16, 1950, ch. 262, §6, 64 Stat. 224; June 27, 1952, ch. 477, title IV, §402(h)(5), 66 Stat. 277, related to preferences and priorities and authorized a ''good faith'' oath.

Section 1956, acts June 25, 1948, ch. 647, §7, 62 Stat. 1012; June 12, 1950, ch. 262, §7, 64 Stat. 225, required priority to be given to persons who bore arms against enemies of the United States or who served in labor service or guard units of the U.S. Army.

Section 1957, acts June 25, 1948, ch. 647, §8, 62 Stat. 1012; Oct. 15, 1949, ch. 695, §6(a), 63 Stat. 881; June 16, 1950, ch. 262, §8, 64 Stat. 225, created a Displaced Persons Commission of three members appointed for a term ending August 31, 1952 and provided for appropriations, employment of personnel, issuance of rules and regulations and reports to the President and the Congress, including a final report at the end of the Commission's term. Acts June 25, 1948, ch. 647, §8, 62 Stat. 1012; Oct. 15, 1949, ch. 695, §6(a), 63 Stat. 881, were subsequently repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 654, 655.

Section 1958, act June 25, 1948, ch. 647, §9, 62 Stat. 1013, related to reporting to Displaced Persons Commission by admitted persons.

Section 1959, acts June 25, 1948, ch. 647, §10, 62 Stat. 1013; June 16, 1950, ch. 262, §9, 64 Stat. 225, provided for investigation and report on all persons prior to admittance.

Section 1960, act June 25, 1948, ch. 647, §11, 62 Stat. 1013, prohibited preference or priority for visas under other laws after June 30, 1948.

Section 1961, acts June 25, 1948, ch. 647, §12, 62 Stat. 1013; June 16, 1950, ch. 262, §10, 64 Stat. 226; June 27, 1952, ch. 477, title IV, §402(h)(6), 66 Stat. 278, related to admission of persons of German ethnic origin.

Section 1962, acts June 25, 1948, ch. 647, §13, 62 Stat. 1014; June 16, 1950, ch. 262, §11, 64 Stat. 227, enumerated persons excluded from provisions authorizing visas.

Section 1962a, act June 25, 1948, ch. 647, §14, as added June 16, 1950, ch. 262, §12, 64 Stat. 227, authorized the Reconstruction Finance Corporation to make advances to the Displaced Persons Commission.

Section 1963, act June 25, 1948, ch. 647, §15, formerly §14, 62 Stat. 1014, renumbered June 16, 1950, ch. 262, §12, 64 Stat. 227, prescribed penalties for violations of sections 1951 to 1965 of this Appendix.

Section 1964, act June 25, 1948, ch. 647, §16, as added June 16, 1950, ch. 262, §13, 64 Stat. 228, related to conferences respecting problems of persons of German ethnic origin.

Section 1965, act June 25, 1948, ch. 647, §17, as added June 16, 1950, ch. 262, §14, 64 Stat. 228, required transportation by American flagships or planes.

ADMISSION OF REFUGEES AND ORPHANS

ACT AUG. 7, 1953, CH. 336, 67 STAT. 400

§§ 1971 to 1971q. Omitted

CODIFICATION

Sections 1971 to 1971q were omitted as terminated Dec. 31, 1956, pursuant to section 1971q of this Appendix.

Section 1971, act Aug. 7, 1953, ch. 336, §2, 67 Stat. 400, defined terms used in sections 1971 to 1971q of this Appendix.

Section 1971a, act Aug. 7, 1953, ch. 336, §3, 67 Stat. 401, authorized issuance of 205,000 special nonquota immigrant visas to aliens and their spouses, unmarried children under 21 years of age, stepchildren, and children adopted prior to July 1, 1953.

Section 1971b, acts Aug. 7, 1953, ch. 336, §4, 67 Stat. 401; Aug. 31, 1954, ch. 1169, §1, 68 Stat. 1044, provided for allocation among classes of visas issued under section 1971a of this Appendix.

Section 1971c, acts Aug. 7, 1953, ch. 336, §5, 67 Stat. 402; Aug. 31, 1954, ch. 1169, §2, 68 Stat. 1044, authorized

not more than 4,000 special nonquota immigrants visas to eligible orphans.

Section 1971d, acts Aug. 7, 1953, ch. 336, § 6, 67 Stat. 403; Aug. 31, 1954, ch. 1169, § 3, 68 Stat. 1044, permitted applications not later than June 30, 1955, to adjust immigrant status of temporary residents.

Section 1971e, acts Aug. 7, 1953, ch. 336, § 7, 67 Stat. 403; Aug. 31, 1954, ch. 1169, § 4, 68 Stat. 1045, related to assurances of citizen sponsors, and deportation for inadmissibility.

Section 1971f, act Aug. 7, 1953, ch. 336, § 8, 67 Stat. 404, related to intergovernmental arrangements for assistance to immigrants and use of American ships and airplanes.

Section 1971g, act Aug. 7, 1953, ch. 336, § 9, 67 Stat. 405, related to determination of eligibility on a nondiscriminatory basis.

Section 1971h, act Aug. 7, 1953, ch. 336, § 10, 67 Stat. 405, related to an exemption from visa fees.

Section 1971i, act Aug. 7, 1953, ch. 336, § 11, 67 Stat. 405, related to safeguards in regards to security-screening.

Section 1971j, act Aug. 7, 1953, ch. 336, § 12, 67 Stat. 405, related to priorities in consideration of visa applications.

Section 1971k, act Aug. 7, 1953, ch. 336, § 13, 67 Stat. 406, related to priorities of persons eligible under the Displaced Persons Act of 1948.

Section 1971*l*, act Aug. 7, 1953, ch. 336, § 14, 67 Stat. 406, related to ineligibility of certain persons.

Section 1971m, act Aug. 7, 1953, ch. 336, § 15, 67 Stat. 406, related to applicability of Immigration and Nationality Act.

Section 1971n, act Aug. 7, 1953, ch. 336, § 16, 67 Stat. 406, related to loans to pay transportation.

Section 1971*o*, act Aug. 7, 1953, ch. 336, § 17, 67 Stat. 407, related to eligible aliens as nonquota immigrants.

Section 1971p, act Aug. 7, 1953, ch. 336, § 19, 67 Stat. 407, related to semi-annual reports to President and Congress.

Section 1971q, act Aug. 7, 1953, ch. 336, § 20, 67 Stat. 407, provided that no immigrant visa would issue under sections 1971 to 1971q of this Appendix after Dec. 31, 1956.

ADMISSION OF ORPHANS ADOPTED BY CITIZENS SERVING ABROAD

ACT JULY 29, 1953, CH. 268, 67 STAT. 229

§§ 1975 to 1975c. Omitted

CODIFICATION

Sections 1975 to 1975c were omitted as terminated pursuant to section 1975 of this Appendix.

Section 1975, act July 29, 1953, ch. 268, § 1, 67 Stat. 229, authorized 500 special quota nonimmigrant visas for certain orphans and provided that the issuance of such visas under sections 1975 to 1975c of this Appendix would terminate no later than Dec. 31, 1954.

Section 1975a, act July 29, 1953, ch. 268, § 2, 67 Stat. 229, defined ''eligible orphan''.

Section 1975b, act July 29, 1953, ch. 268, § 3, 67 Stat. 230, related to rights of natural parents under Immigration and Nationality Act.

Section 1975c, act July 29, 1953, ch. 268, § 4, 67 Stat. 230, related to eligible orphans as nonquota immigrants.

AMERICAN-JAPANESE EVACUATION CLAIMS

ACT JULY 2, 1948, CH. 814, 62 STAT. 1231

Sec.
1981. Attorney General's jurisdiction; uncompensated claims; condition precedent; definitions.
1982. Time limitation on presentation of claims; claims excluded.
1983. Notice; evidence; records.
1984. Compromise of claims by Attorney General; jurisdiction of United States Court of Federal Claims to determine claims timely filed; report to Congress; payment of awards; finality of decisions.
1985. Attorney's fees; penalty for overcharging.
1986. Administration.
1987. Authorization of appropriations.

§ 1981. Attorney General's jurisdiction; uncompensated claims; condition precedent; definitions

(a) The Attorney General shall have jurisdiction to compromise and settle and make an award in an amount not to exceed $100,000 as hereinafter provided on any claim by a person of Japanese ancestry against the United States arising on or after December 7, 1941, when such claim is not compensated for by insurance or otherwise, for damage to or loss of real or personal property (including without limitation as to amount damage to or loss of personal property bailed to or in the custody of the Government or any agent thereof), that is (except as is otherwise provided by subsections 1(b)(2) and (1)(b)(3)) [subsections (b)(2) and (b)(3) of this section] a reasonable and natural consequence of the evacuation or exclusion of such person by the appropriate military commander from a military area in Arizona, California, Oregon, or Washington; or from the Territory of Alaska, or the Territory of Hawaii, under authority of Executive Order Numbered 9066, dated February 19, 1942 (3 C.F.R. Cum. Supp. 1092), section 67 of the Act of April 30, 1900 (48 U.S.C. 532), or Executive Order Numbered 9489, dated October 18, 1944 (3 C.F.R. 1944 Supp. 45).

(b) As used herein—

(1) ''Evacuation'' shall include voluntary departure from a military area prior to but in anticipation of an order of exclusion therefrom.

(2) ''Claims by a person of Japanese ancestry'' shall include claims that were filed by any profit or nonprofit organization, corporate or otherwise, the majority of whose stock was owned by, or the majority of whose stockholders or members were, on December 7, 1941, and on the date of the filing of the claim, persons of Japanese ancestry actually residing within the continental limits of the United States or its Territories: *Provided, however*, That the losses sustained by the particular organization were the result (1) of the evacuation and exclusion of its stockholders or members, or (2) of the evacuation and exclusion of persons of Japanese ancestry upon whom the organization depended for its business or support. Such claims shall not be barred by awards or disallowances heretofore made.

(3) ''Claim by a person of Japanese ancestry'' shall also include claims which have been timely filed for such damage or loss as heretofore defined incurred by persons of Japanese ancestry detained, interned, or paroled, and subsequently released, pursuant to Revised Statutes, sections 4067–70, as amended (relating to alien enemies) [50 U.S.C. 21 to 24]. Such claims shall also include losses due to the exclusion of the families and relatives of such persons during their detention or internment. Any such person shall be deemed to have been excluded from such military areas and territories as of the date he

would have been evacuated had he not been detained or interned. The claim of or on behalf of such person shall not be barred by any award or disallowance heretofore made.

(July 2, 1948, ch. 814, §1, 62 Stat. 1231; July 9, 1956, ch. 531, 70 Stat. 513.)

REFERENCES IN TEXT

Section 67 of the Act of April 30, 1900 (48 U.S.C. 532), referred to in subsec. (a), was omitted from the Code.

AMENDMENTS

1956—Subsec. (a). The former first sentence of section was designated subsec. (a) by act July 9, 1956, which permitted the Attorney General to compromise and settle and make an award in an amount not to exceed $100,000.

Subsec. (b). The former second sentence of section was designated subsec. (b) by act July 9, 1956, which defined ''claims by a person of Japanese ancestry'' and ''claim by a person of Japanese ancestry''.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–451, §1, Nov. 7, 2000, 114 Stat. 1947, provided that: ''This Act [enacting provisions set out as a note under this section] may be cited as the 'Wartime Violation of Italian American Civil Liberties Act'.''

VIOLATION OF CIVIL LIBERTIES OF ITALIAN AMERICANS DURING WORLD WAR II

Pub. L. 106–451, §3, Nov. 7, 2000, 114 Stat. 1947, provided that: ''The Attorney General shall conduct a comprehensive review of the treatment by the United States Government of Italian Americans during World War II, and not later than 1 year after the date of the enactment of this Act [Nov. 7, 2000] shall submit to the Congress a report that documents the findings of such review. The report shall cover the period between September 1, 1939, and December 31, 1945, and shall include the following:

''(1) The names of all Italian Americans who were taken into custody in the initial roundup following the attack on Pearl Harbor, and prior to the United States declaration of war against Italy.

''(2) The names of all Italian Americans who were taken into custody.

''(3) The names of all Italian Americans who were interned and the location where they were interned.

''(4) The names of all Italian Americans who were ordered to move out of designated areas under the United States Army's 'Individual Exclusion Program'.

''(5) The names of all Italian Americans who were arrested for curfew, contraband, or other violations under the authority of Executive Order No. 9066 [not classified to the Code].

''(6) Documentation of Federal Bureau of Investigation raids on the homes of Italian Americans.

''(7) A list of ports from which Italian American fishermen were restricted.

''(8) The names of Italian American fishermen who were prevented from fishing in prohibited zones and therefore unable to pursue their livelihoods.

''(9) The names of Italian Americans whose boats were confiscated.

''(10) The names of Italian American railroad workers who were prevented from working in prohibited zones.

''(11) A list of all civil liberties infringements suffered by Italian Americans during World War II, as a result of Executive Order No. 9066, including internment, hearings without benefit of counsel, illegal searches and seizures, travel restrictions, enemy alien registration requirements, employment restrictions, confiscation of property, and forced evacuation from homes.

''(12) An explanation of whether Italian Americans were subjected to civil liberties infringements, as a result of Executive Order No. 9066, and if so, why other Italian Americans were not.

''(13) A review of the wartime restrictions on Italian Americans to determine how civil liberties can be better protected during national emergencies.''

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

Pub. L. 96–317, July 31, 1980, 94 Stat. 964, as amended by Pub. L. 97–3, Feb. 10, 1981, 95 Stat. 5; Pub. L. 97–152, Mar. 16, 1982, 96 Stat. 11; Pub. L. 97–377, title I, §111A, Dec. 21, 1982, 96 Stat. 1911, provided for establishment of Commission on Wartime Relocation and Internment of Civilians which was to, not later than June 30, 1983, submit to Congress a final report and study concerning facts and circumstances surrounding Ex. Ord. No. 9066, issued Feb. 19, 1942, pursuant to which thousands of American citizens and permanent resident aliens were relocated and detained in internment camps, and which was to further review U.S. military directives requiring relocation and detention of American citizens, including Aleut civilians, and permanent resident aliens of Aleutian and Pribilof Islands, as well as recommend appropriate remedies for such actions, and further provided for establishment of Commission as well as powers, administrative procedures, appropriations, and termination of Commission 90 days after submission of final report to Congress.

§ 1982. Time limitation on presentation of claims; claims excluded

(a) The Attorney General shall receive claims for a period of eighteen months from the date of the original enactment of this Act [July 2, 1948]. All claims not presented within that time shall be forever barred: *Provided, however*, That any claim received by the Attorney General bearing a postmark prior to midnight, January 3, 1950, shall be considered to be timely filed within the said eighteen months. Any claim, timely filed, may be amended at any time prior to its final determination in order to include then compensable items of claim which, by the provisions of this Act [sections 1981 to 1987 of this Appendix] as they existed when the claim was filed, the Attorney General was not authorized to determine or consider.

(b) The Attorney General shall not consider any claim—

(1) by or on behalf of any person who after December 7, 1941, was voluntarily or involuntarily deported from the United States to Japan or by and on behalf of any alien who on December 7, 1941, was not actually residing in the United States;

(2) Except[1] as provided in section 1(b)(3) [section 1981(b)(3) of this Appendix], for damage or loss arising out of action taken by any Federal agency pursuant to sections 4067, 4068, 4069, and 4070 (relating to alien enemies) of the Revised Statutes, as amended (50 U.S.C. 21 to 24), or pursuant to the Trading With the Enemy Act, as amended (50 U.S.C. App., and Supp., 1–31, 616);

(3) for damage or loss to any property, or interest therein, vested in the United States pursuant to said Trading With the Enemy Act, as amended [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix];

(4) for damage or loss on account of death or personal injury, personal inconvenience, physical hardship, or mental suffering; and

[1] So in original. Probably should not be capitalized.

(5) for loss of anticipated profits or loss of anticipated earnings.

(July 2, 1948, ch. 814, § 2, 62 Stat. 1231; July 9, 1956, ch. 531, 70 Stat. 514.)

AMENDMENTS

1956—Subsec. (a). Act July 9, 1956, validated claims received by the Attorney General bearing a postmark prior to midnight, Jan. 3, 1950, and permitted amendment of claims timely filed.

Subsec. (b)(2). Act July 9, 1956, amended par. (2) generally, inserting at beginning ''Except as provided in section 1(b)(3),''.

§ 1983. Notice; evidence; records

(a) The Attorney General shall give reasonable notice to the interested parties and an opportunity for them to present evidence before making a final determination upon any claim.

(b) For the purpose of any investigation authorized under this Act [sections 1981 to 1987 of this Appendix], the provisions of sections 9 and 10 (relating to examination of documentary evidence, attendance of witnesses, and production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (15 U.S.C. 49, 50), are made applicable to the jurisdiction, powers, and duties of the Attorney General. Subpenas may be served personally, by registered mail, by telegraph, or by leaving a copy thereof at the residence or principal place of business of the person required to be served. A verified return by the individual so serving the same, setting forth the manner of service, shall be proof of service. The United States marshals or their deputies shall serve such process in their respective districts.

(c) A record shall be kept of all proceedings under this Act [sections 1981 to 1987 of this Appendix] and shall be open to public inspection.

(July 2, 1948, ch. 814, § 3, 62 Stat. 1231; July 9, 1956, ch. 531, 70 Stat. 515.)

AMENDMENTS

1956—Subsec. (a). Act July 9, 1956, struck out provisions permitting interested parties to be heard.

Subsec. (b). Act July 9, 1956, struck out provisions relating to hearings.

Subsec. (c). Act July 9, 1956, struck out provisions relating to hearings and substituted ''records'' for ''written record''.

§ 1984. Compromise of claims by Attorney General; jurisdiction of United States Court of Federal Claims to determine claims timely filed; report to Congress; payment of awards; finality of decisions

(a) The Attorney General is authorized to compromise and settle and make an award in an amount not to exceed $100,000 on any claim timely filed under this Act, as amended [sections 1981 to 1987 of this Appendix], on the basis of affidavits, available Government records, and other information satisfactory to him.

(b) The United States Court of Federal Claims shall have jurisdiction to determine any claim timely filed under this Act [sections 1981 to 1987 of this Appendix]. A petition for the determination of a claim by the United States Court of Federal Claims shall be filed with the clerk of the said court and a copy of the petition shall be served upon the Attorney General by registered mail. Such a petition may be filed at any time after enactment of this subsection except that it must be filed within ninety days after the date of a notice by the Attorney General served on the claimant by registered mail that no further consideration will be given to the compromise of the claim. Upon the timely filing and serving of such petition, the United States Court of Federal Claims shall have jurisdiction to hear and determine said claim in the same manner and under the same rules as any other cause properly before it and applying rules of equity and justice. Upon being served with a copy of such petition, the Attorney General shall forthwith certify and transmit to the clerk of the United States Court of Federal Claims the original statement of the claim and any requested amendments thereto for filing with the said clerk as a preliminary record in the case.

(c) On the first day of each regular session of Congress the Attorney General shall transmit to Congress a full and complete statement of all compromise settlements effected by the Attorney General under this Act, as amended [sections 1981 to 1987 of this Appendix], during the previous year, stating the name and address of each claimant, the amount claimed, and the amount awarded. All awards shall be paid in like manner as are final judgments of the United States Court of Federal Claims.

(d) Except as herein provided, the payment of an award shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary, and shall be a full discharge of the United States and all of its officers, agents, servants, and employees with respect to all claims arising out of the same subject matter.

(July 2, 1948, ch. 814, § 4, 62 Stat. 1232; Aug. 17, 1951, ch. 327, § 1, 65 Stat. 192; July 9, 1956, ch. 531, 70 Stat. 514; Pub. L. 97–164, title I, § 160(a)(19), Apr. 2, 1982, 96 Stat. 48; Pub. L. 98–620, title IV, § 402(55), Nov. 8, 1984, 98 Stat. 3361; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

Any time after enactment of this subsection, referred to in subsec. (b), probably means any time after July 9, 1956, which was the date of enactment of the 1956 amendment of subsec. (b).

AMENDMENTS

1992—Subsecs. (b), (c). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' wherever appearing.

1984—Subsec. (b). Pub. L. 98–620 struck out provisions that required that such petitions be treated for docketing, hearing and determination, to the fullest practicable extent, as if the petition had been filed with the United States Claims Court on the date the original claim was received by the Attorney General, but that no such petition would have precedence over petitions involving interest-bearing obligations of the United States.

1982—Subsecs. (b), (c). Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims'' wherever appearing.

1956—Subsec. (a). Act July 9, 1956, substituted provisions permitting the Attorney General to compromise and settle and make an award in an amount not to exceed $100,000 for provisions which required him to adju-

dicate, except as to compromised claims, all claims filed, by award or order of dismissal, upon written findings of fact and reasons for the decision.

Subsec. (b). Act July 9, 1956, substituted provisions granting jurisdiction to the Court of Claims to determine timely claims for provisions which authorized the Attorney General to make payment of any award not exceeding $2,500 in amount.

Subsec. (c). Act July 9, 1956, required the Attorney General to report on all compromise settlements effected during the previous year.

Subsec. (d). Act July 9, 1956, inserted ''Except as herein provided'', and struck out provisions which barred any further claim against the United States where there is an order of dismissal against a claimant, unless set aside by the Attorney General.

1951—Subsec. (a). Act Aug. 17, 1951, inserted exception as to claims compromised.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164 set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EXCLUSION FROM GROSS INCOME OF CERTAIN AWARDS MADE PURSUANT TO EVACUATION CLAIMS OF JAPANESE-AMERICAN PERSONS

Pub. L. 87–834, § 27, Oct. 16, 1962, 76 Stat. 1067, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) IN GENERAL.—No amount received as an award under the Act entitled 'An Act to authorize the Attorney General to adjudicate certain claims resulting from evacuation of certain persons of Japanese ancestry under military orders', approved July 2, 1948, as amended by Public Law 116, Eighty-second Congress, and Public Law 673, Eighty-fourth Congress (50 U.S.C. App., secs. 1981–1987), shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1939 or chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

''(b) EFFECTIVE DATE, ETC.—Subsection (a) shall apply with respect to taxable years ending after July 2, 1948. If refund or credit of any overpayment of Federal income tax resulting from the application of subsection (a) (including interest, additions to the tax, additional amounts, and penalties) is prevented on the date of the enactment of this Act [Oct. 16, 1962], or within one year from such date, by the operation of any law or rule of law, the refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within one year after the date of enactment of this Act [Oct. 16, 1962]. In the case of a claim to which the preceding sentence applies, the amount to be refunded or credited as an overpayment shall not be diminished by any credit or setoff based upon any item other than the amount of the award referred to in subsection (a). No interest shall be allowed or paid on any overpayment resulting from the application of this section.''

§ 1985. Attorney's fees; penalty for overcharging

The Attorney General, in rendering an award in favor of any claimant, may as a part of the award determine and allow reasonable attorneys' fees, which shall not exceed 10 per centum of the amount allowed, to be paid out of, but not in addition to, the amount of such award.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both.

(July 2, 1948, ch. 814, § 5, 62 Stat. 1232.)

§ 1986. Administration

For the purposes of this Act [sections 1981 to 1987 of this Appendix] the Attorney General may—

(a) appoint a clerk and such attorneys, examiners, interpreters, appraisers, and other employees as may be necessary;

(b) call upon any Federal department or agency for any information or records necessary;

(c) secure the cooperation of State and local agencies, governmental or otherwise, and reimburse such agencies for services rendered;

(d) utilize such voluntary and uncompensated services as may from time to time be needed and available;

(e) assist needy claimants in the preparation and filing of claims;

(f) make such investigations as may be necessary;

(g) make expenditures for witness fees and mileage and for other administrative expenses;

(h) prescribe such rules and regulations, perform such acts not inconsistent with law, and delegate such authority as he may deem proper in carrying out the provisions of this Act [sections 1981 to 1987 of this Appendix].

(July 2, 1948, ch. 814, § 6, 62 Stat. 1232.)

§ 1987. Authorization of appropriations

There are hereby authorized to be appropriated for the purposes of this Act [sections 1981 to 1987 of this Appendix] such sums as Congress may from time to time determine to be necessary.

(July 2, 1948, ch. 814, § 7, 62 Stat. 1233; Aug. 17, 1951, ch. 327, § 2, 65 Stat. 192; July 9, 1956, ch. 531, 70 Stat. 515.)

AMENDMENTS

1956—Act July 9, 1956, struck out provisions which made funds available for payment of settlement awards.

1951—Act Aug. 17, 1951, inserted provisions giving the Attorney General authority to effect compromise settlement of certain claims, not to exceed $2,500 in amount with respect to each such claim.

RESTITUTION FOR WORLD WAR II INTERNMENT OF JAPANESE-AMERICANS AND ALEUTS

PUB. L. 100–383, AUG. 10, 1988, 102 STAT. 903

Sec.
1989. Purposes.
1989a. Statement of the Congress.

TITLE I—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

1989b. Short title.

Sec.
1989b–1. Remedies with respect to criminal convictions.
1989b–2. Consideration of Commission findings by departments and agencies.
1989b–3. Trust Fund.
1989b–4. Restitution.
1989b–5. Board of Directors of the Fund.
1989b–6. Documents relating to the internment.
1989b–7. Definitions.
1989b–8. Compliance with Budget Act.
1989b–9. Entitlements to eligible individuals.

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

1989c. Short title.
1989c–1. Definitions.
1989c–2. Aleutian and Pribilof Islands Restitution Fund.
1989c–3. Appointment of Administrator.
1989c–4. Compensation for community losses.
1989c–5. Individual compensation of eligible Aleuts.
1989c–6. Attu Island restitution program.
1989c–7. Compliance with Budget Act.
1989c–8. Severability.

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

1989d. Exclusion of claims.

§ 1989. Purposes

The purposes of this Act [sections 1989 to 1989d of this Appendix] are to—

(1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II;

(2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens;

(3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;

(4) make restitution to those individuals of Japanese ancestry who were interned;

(5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—

(A) injustices suffered and unreasonable hardships endured while those Aleut residents were under United States control during World War II;

(B) personal property taken or destroyed by United States forces during World War II;

(C) community property, including community church property, taken or destroyed by United States forces during World War II; and

(D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use;

(6) discourage the occurrence of similar injustices and violations of civil liberties in the future; and

(7) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

(Pub. L. 100–383, § 1, Aug. 10, 1988, 102 Stat. 903.)

§ 1989a. Statement of the Congress

(a) With regard to individuals of Japanese ancestry

The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission, and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

(b) With respect to the Aleuts

The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed. The United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control. The United States has not compensated the Aleuts adequately for the conversion or destruction of personal property, and the conversion or destruction of community property caused by the United States military occupation of Aleut villages during World War II. There is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

(Pub. L. 100–383, § 2, Aug. 10, 1988, 102 Stat. 903.)

TITLE I—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

§ 1989b. Short title

This title [sections 1989b to 1989b–9 of this Appendix] may be cited as the ''Civil Liberties Act of 1988''.

(Pub. L. 100–383, title I, § 101, Aug. 10, 1988, 102 Stat. 904.)

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–371, § 1, Sept. 27, 1992, 106 Stat. 1167, provided that: ''This Act [amending sections 1989b–3, 1989b–4, 1989b–7, and 1989b–9 of this Appendix and enacting provisions set out as a note under section 1989b–4 of this Appendix] may be cited as the 'Civil Liberties Act Amendments of 1992'.''

§ 1989b–1. Remedies with respect to criminal convictions

(a) Review of convictions

The Attorney General is requested to review any case in which an individual living on the date of the enactment of this Act [Aug. 10, 1988] was, while a United States citizen or permanent resident alien of Japanese ancestry, convicted of a violation of—

(1) Executive Order Numbered 9066, dated February 19, 1942;

(2) the Act entitled ''An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones'', approved March 21, 1942 (56 Stat. 173); or

(3) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry;

on account of the refusal by such individual, during the evacuation, relocation, and internment period, to accept treatment which discriminated against the individual on the basis of the individual's Japanese ancestry.

(b) Recommendations for pardons

Based upon any review under subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General considers appropriate.

(c) Action by the President

In consideration of the statement of the Congress set forth in section 2(a) [section 1989a(a) of this Appendix], the President is requested to offer pardons to any individuals recommended by the Attorney General under subsection (b).

(Pub. L. 100–383, title I, § 102, Aug. 10, 1988, 102 Stat. 904.)

REFERENCES IN TEXT

Executive Order Numbered 9066, dated February 19, 1942, referred to in subsec. (a)(1), is not classified to the Code.

The Act entitled ''An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones'', approved March 21, 1942 (56 Stat. 173), referred to in subsec. (a)(2), is act Mar. 21, 1942, ch. 191, 56 Stat. 173, which was classified to section 97a of former Title 18, Criminal Code and Criminal Procedure, and was repealed by act of June 25, 1948, ch. 645, § 21, 62 Stat. 868 and reenacted as section 1383 of Title 18, Crimes and Criminal Procedure. Section 1383 of Title 18 was repealed by Pub. L. 94–412, title V, § 501(e), Sept. 14, 1976, 90 Stat. 1258.

§ 1989b–2. Consideration of Commission findings by departments and agencies

(a) Review of applications by eligible individuals

Each department and agency of the United States Government shall review with liberality, giving full consideration to the findings of the Commission and the statement of the Congress set forth in section 2(a) [section 1989a(a) of this Appendix], any application by an eligible individual for the restitution of any position, status, or entitlement lost in whole or in part because of any discriminatory act of the United States Government against such individual which was based upon the individual's Japanese ancestry and which occurred during the evacuation, relocation, and internment period.

(b) No new authority created

Subsection (a) does not create any authority to grant restitution described in that subsection, or establish any eligibility to apply for such restitution.

(Pub. L. 100–383, title I, § 103, Aug. 10, 1988, 102 Stat. 905.)

§ 1989b–3. Trust Fund

(a) Establishment

There is established in the Treasury of the United States the Civil Liberties Public Education Fund, which shall be administered by the Secretary of the Treasury.

(b) Investment of amounts in the Fund

Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(c) Uses of the Fund

Amounts in the Fund shall be available only for disbursement by the Attorney General under section 105 [section 1989b–4 of this Appendix] and by the Board under section 106 [section 1989b–5 of this Appendix].

(d) Termination

The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 10 years after the date of the enactment of this Act [Aug. 10, 1988]. If all of the amounts in the Fund have not been expended by the end of that 10-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) Authorization of appropriations

There are authorized to be appropriated to the Fund $1,650,000,000, of which not more than $500,000,000 may be appropriated for any fiscal year. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

(Pub. L. 100–383, title I, § 104, Aug. 10, 1988, 102 Stat. 905; Pub. L. 102–371, § 2, Sept. 27, 1992, 106 Stat. 1167.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–371 substituted ''$1,650,000,000'' for ''$1,250,000,000''.

MAXIMUM AMOUNT AUTHORIZED FOR FUND

Pub. L. 101–162, title II, Nov. 21, 1989, 103 Stat. 996, provided that: ''Subject to the provisions of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100–383; 50 U.S.C. App. 1989(b-3(e)) [subsec. (e) of this section], the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act [50 U.S.C. App. 1989b–4].''

§ 1989b–4. Restitution

(a) Location and payment of eligible individuals

(1) In general

Subject to paragraph (7), the Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, pay out of the Fund to each eligible individual the sum of $20,000, unless such individual refuses, in the manner described in paragraph (5), to accept the payment.

(2) Location of eligible individuals

The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual. The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 12 months after the date of the enactment of this Act [Aug. 10, 1988]. Any eligible individual may notify the Attorney General that such individual is an eligible individual, and may provide documentation therefor. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation, and shall, subject to the availability of funds appropriated for such purpose, encourage, through a public awareness campaign, each eligible individual to submit his or her current address to such officer or employee. To the extent that resources referred to in the second sentence of this paragraph are not sufficient to complete the identification and location of all eligible individuals, there are authorized to be appropriated such sums as may be necessary for such purpose. In any case, the identification and location of all eligible individuals shall be completed within 12 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 12-month period specified in the preceding sentence shall not preclude an eligible individual from receiving payment under this section.

(3) Benefit of the doubt

When, after consideration of all evidence and relevant material for determining whether an individual is an eligible individual, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of eligibility, the benefit of the doubt in resolving each such issue shall be given to such individual.

(4) Notice from the Attorney General

The Attorney General shall, when funds are appropriated to the Fund for payments to an eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that—

(A) acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B) [section 1989b–7(2)(B) of this Appendix], and

(B) each eligible individual who does not refuse, in the manner described in paragraph (5), to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph (6).

(5) Effect of refusal to accept payment

If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

(6) Payment in full settlement of claims against the United States

The acceptance of payment by an eligible individual under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B) [section 1989b–7(2)(B) of this Appendix]. This paragraph shall apply to any eligible individual who does not refuse, in the manner described in paragraph (5), to accept payment under this section within 18 months after receiving the notification from the Attorney General referred to in paragraph (4).

(7) Exclusion of certain individuals

No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in section 108(2)(B) [section 1989b–7(2)(B) of this Appendix], or to any surviving spouse, child, or parent of such individual to whom paragraph (8) applies.

(8) Payments in the case of deceased persons

(A) In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(i) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment.

If there is no surviving spouse, children, or parents described in clauses (i), (ii), and (iii), the amount of such payment shall remain in the Fund, and may be used only for the purposes set forth in section 106(b) [section 1989b–5(b) of this Appendix].

(B) After the death of an eligible individual, this subsection and subsections (c) and (f) shall apply to the individual or individuals specified in subparagraph (A) to whom payment under this section will be made, to the same extent as such subsections apply to the eligible individual.

(C) For purposes of this paragraph—

(i) the ''spouse'' of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual;

(ii) a ''child'' of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child; and

(iii) a ''parent'' of an eligible individual includes fathers and mothers through adoption.

(b) Order of payments

The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on the date of the enactment of this Act [Aug. 10, 1988] (or, if applicable, that individual's survivors under paragraph (8)) receiving full payment first), until all eligible individuals have received payment in full.

(c) Resources for locating eligible individuals

In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General.

(d) Administrative costs not paid from the Fund

No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) Termination of duties of Attorney General

The duties of the Attorney General under this section shall cease 180 days after the Fund terminates.

(f) Clarification of treatment of payments under other laws

Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code[1] or available under any other law administered by the Secretary of Veterans Affairs, or for purposes of determining the amount of such benefits.

(g) Liability of United States limited to amount in Fund

(1) General rule

An eligible individual may be paid under this section only from amounts in the Fund.

(2) Coordination with other provisions

Nothing in this title [sections 1989b to 1989b–9 of this Appendix] shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

(3) Order in which unpaid claims to be paid

If at any time the Fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).

(h) Judicial review

(1) Review by the Court of Federal Claims

A claimant may seek judicial review of a denial of compensation under this section solely in the United States Court of Federal Claims, which shall review the denial upon the administrative record and shall hold unlawful and set aside the denial if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Applicability

This subsection shall apply only to any claim filed in court on or after the date of the enactment of this subsection [Sept. 27, 1992].

(Pub. L. 100–383, title I, § 105, Aug. 10, 1988, 102 Stat. 905; Pub. L. 101–162, title II, § 209(b), Nov. 21, 1989, 103 Stat. 1005; Pub. L. 102–371, §§ 4–6(a), Sept. 27, 1992, 106 Stat. 1167, 1168; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–371, § 4(c)(1)(A), substituted ''(7)'' for ''(6)'' and ''(5)'' for ''(4)''.

Subsec. (a)(3). Pub. L. 102–371, § 4(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 102–371, § 4(a)(1), (c)(1)(B), redesignated par. (3) as (4) and in subpar. (B) substituted ''(5)'' for ''(4)'' and ''(6)'' for ''(5)''. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 102–371, § 4(a)(1), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 102–371, § 4(a)(1), (c)(1)(C), redesignated par. (5) as (6) and substituted ''(5)'' for ''(4)'' and ''(4)'' for ''(3)''. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 102–371, § 4(a)(1), (c)(1)(D), redesignated par. (6) as (7) and substituted ''(8)'' for ''(6)''. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 102–371, § 4(a)(1), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 102–371, § 4(c)(2), substituted ''(8)'' for ''(6)''.

Subsec. (e). Pub. L. 102–371, § 5, substituted ''180 days after the Fund terminates'' for ''when the Fund terminates''.

[1] So in original. Probably should be followed by a comma.

Subsec. (f)(2). Pub. L. 102–371, § 6(a), substituted ''or available under any other law administered by the Secretary of Veterans Affairs, or for purposes of determining the'' for '', or the''.

Subsec. (h). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' in par. (1).

Pub. L. 102–371, § 4(b), added subsec. (h).

1989—Subsec. (g). Pub. L. 101–162 added subsec. (g).

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

Section 6(b) of Pub. L. 102–371 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of August 10, 1988.''

§ 1989b–5. Board of Directors of the Fund

(a) Establishment

There is established the Civil Liberties Public Education Fund Board of Directors, which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) Uses of the Fund

The Board may make disbursements from the Fund only—

(1) to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission, so that the events surrounding the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood; and

(2) for reasonable administrative expenses of the Board, including expenses incurred under subsections (c)(3), (d), and (e).

(c) Membership

(1) Appointment

The Board shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate, from individuals who are not officers or employees of the United States Government.

(2) Terms

(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) 5 shall be appointed for terms of 3 years, and

(ii) 4 shall be appointed for terms of 2 years,

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of such member's term until such member's successor has taken office. No individual may be appointed as a member for more than 2 consecutive terms.

(3) Compensation

Members of the Board shall serve without pay, except that members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) Quorum

5 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) Chair

The Chair of the Board shall be elected by the members of the Board.

(d) Director and staff

(1) Director

The Board shall have a Director who shall be appointed by the Board.

(2) Additional staff

The Board may appoint and fix the pay of such additional staff as it may require.

(3) Applicability of civil service laws

The Director and the additional staff of the Board may be appointed without regard to section 5311(b)[1] of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the minimum rate of basic pay payable for GS–18 of the General Schedule under section 5332(a) of such title.

(e) Administrative support services

The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) Gifts and donations

The Board may accept, use, and dispose of gifts or donations of services or property for purposes authorized under subsection (b).

(g) Annual reports

Not later than 12 months after the first meeting of the Board and every 12 months thereafter, the Board shall transmit to the President and to each House of the Congress a report describing the activities of the Board.

(h) Termination

90 days after the termination of the Fund, the Board shall terminate and all obligations of the Board under this section shall cease.

(Pub. L. 100–383, title I, § 106, Aug. 10, 1988, 102 Stat. 908.)

REFERENCES IN TEXT

Section 5311(b) of title 5, referred to in subsec. (d)(3), was repealed by Pub. L. 101–509, title V, § 529 [title I, § 104(c)(1)], Nov. 5, 1990, 104 Stat. 1427, 1447.

[1] See References in Text note below.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (d)(3), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1989b–6. Documents relating to the internment

(a) Preservation of documents in National Archives

All documents, personal testimony, and other records created or received by the Commission during its inquiry shall be kept and maintained by the Archivist of the United States who shall preserve such documents, testimony, and records in the National Archives of the United States. The Archivist shall make such documents, testimony, and records available to the public for research purposes.

(b) Public availability of certain records of the House of Representatives

(1) The Clerk of the House of Representatives is authorized to permit the Archivist of the United States to make available for use records of the House not classified for national security purposes, which have been in existence for not less than thirty years, relating to the evacuation, relocation, and internment of individuals during the evacuation, relocation, and internment period.

(2) This subsection is enacted as an exercise of the rulemaking power of the House of Representatives, but is applicable only with respect to the availability of records to which it applies, and supersedes other rules only to the extent that the time limitation established by this section with respect to such records is specifically inconsistent with such rules, and is enacted with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(Pub. L. 100–383, title I, § 107, Aug. 10, 1988, 102 Stat. 909.)

§ 1989b–7. Definitions

For the purposes of this title [sections 1989b to 1989b–9 of this Appendix]—

(1) the term ''evacuation, relocation, and internment period'' means that period beginning on December 7, 1941, and ending on June 30, 1946;

(2) the term ''eligible individual'' means any individual of Japanese ancestry, or the spouse or a parent of an individual of Japanese ancestry, who is living on the date of the enactment of this Act [Aug. 10, 1988] and who, during the evacuation, relocation, and internment period—

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled ''An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones'', approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone;

except that the term ''eligible individual'' does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country;

(3) the term ''permanent resident alien'' means an alien lawfully admitted into the United States for permanent residence;

(4) the term ''Fund'' means the Civil Liberties Public Education Fund established in section 104 [section 1989b–3 of this Appendix];

(5) the term ''Board'' means the Civil Liberties Public Education Fund Board of Directors established in section 106 [section 1989b–5 of this Appendix]; and

(6) the term ''Commission'' means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act (Public Law 96–317; 50 U.S.C. App. 1981 note).

(Pub. L. 100–383, title I, § 108, Aug. 10, 1988, 102 Stat. 910; Pub. L. 102–371, § 3, Sept. 27, 1992, 106 Stat. 1167.)

REFERENCES IN TEXT

Executive Order Numbered 9066, dated February 19, 1942, referred to in par. (2)(B)(i)(I), is not classified to the Code.

The Act entitled ''An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones'', approved March 21, 1942 (56 Stat. 173), referred to in par. (2)(B)(i)(II), is act Mar. 21, 1942, ch. 191, 56 Stat. 173, which was classified to section 97a of former Title 18, Criminal Code and Criminal Procedure, and was repealed by act of June 25, 1948, ch. 645, § 21, 62 Stat. 868 and reenacted as section 1383 of Title 18, Crimes and Criminal Procedure. Section 1383 of Title 18 was repealed by Pub. L. 94–412, title V, § 501(e), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1992—Par. (2). Pub. L. 102–371 inserted '', or the spouse or a parent of an individual of Japanese ancestry,'' after ''Japanese ancestry'' in introductory provisions.

§ 1989b–8. Compliance with Budget Act

No authority under this title [sections 1989b to 1989b–9 of this Appendix] to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, total benefits conferred by this title shall be limited to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

(Pub. L. 100–383, title I, § 109, Aug. 10, 1988, 102 Stat. 910.)

REFERENCES IN TEXT

The Budget Act, referred to in section catchline, probably means the Congressional Budget Act of 1974, titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

§ 1989b–9. Entitlements to eligible individuals

(a) In general

Subject to sections 104(e) and 105(g) of this title [sections 1989b–3(e) and 1989b–4(g) of this Appendix] and except as provided in subsection (b), beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title [sections 1989b to 1989b–9 of this Appendix] shall be an entitlement.

(b) Payments from discretionary appropriations

(1) Payments

Any such payment made to an individual who is not of Japanese ancestry and who is an eligible individual on the basis of the amendment made by section 3 of the Civil Liberties Act Amendments of 1992 shall not be an entitlement and shall be made from discretionary appropriations.

(2) Authorization of appropriations

There are authorized to be appropriated for fiscal year 1993 and each subsequent fiscal year such sums as may be necessary for the payments from discretionary appropriations described in paragraph (1).

(c) Definitions

As used in this section—

(1) the term ''discretionary appropriations'' has the meaning given that term in section 250(c)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(7)); and

(2) the term ''entitlement'' means ''spending authority'' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)(C)).

(Pub. L. 100–383, title I, § 110, as added Pub. L. 101–162, title II, § 209(a), Nov. 21, 1989, 103 Stat. 1005; amended Pub. L. 102–371, § 7, Sept. 27, 1992, 106 Stat. 1168.)

REFERENCES IN TEXT

Section 3 of the Civil Liberties Act Amendments of 1992, referred to in subsec. (b)(1), is section 3 of Pub. L. 102–371, which amended paragraph (2) of section 1989b–7 of this Appendix.

AMENDMENTS

1992—Pub. L. 102–371 designated existing provisions as subsec. (a), inserted heading, inserted ''and except as provided in subsection (b)'' after ''105(g) of this title'', struck out ''As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.'' after ''shall be an entitlement.'', and added subsecs. (b) and (c).

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

§ 1989c. Short title

This title [sections 1989c to 1989c–8 of this Appendix] may be cited as the ''Aleutian and Pribilof Islands Restitution Act''.

(Pub. L. 100–383, title II, § 201, Aug. 10, 1988, 102 Stat. 911.)

§ 1989c–1. Definitions

As used in this title [sections 1989c to 1989c–8 of this Appendix]—

(1) the term ''Administrator'' means the person appointed by the Secretary under section 204 [section 1989c–3 of this Appendix];

(2) the term ''affected Aleut villages'' means the surviving Aleut villages of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, and the Aleut village of Attu, Alaska;

(3) the term ''Association'' means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term ''Corporation'' means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established under section 7 of the Alaska Native Claims Settlement Act (Public Law 92–203; 43 U.S.C. 1606);

(5) the term ''eligible Aleut'' means any Aleut living on the date of the enactment of this Act [Aug. 10, 1988]—

(A) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation;

(6) the term ''Secretary'' means the Secretary of the Interior;

(7) the term ''Fund'' means the Aleutian and Pribilof Islands Restitution Fund established in section 203 [section 1989c–2 of this Appendix]; and

(8) the term ''World War II'' means the period beginning on December 7, 1941, and ending on September 2, 1945.

(Pub. L. 100–383, title II, § 202, Aug. 10, 1988, 102 Stat. 911.)

§ 1989c–2. Aleutian and Pribilof Islands Restitution Fund

(a) Establishment

There is established in the Treasury of the United States the Aleutian and Pribilof Islands

Restitution Fund, which shall be administered by the Secretary. The Fund shall consist of amounts appropriated to it pursuant to this title [sections 1989c to 1989c–8 of this Appendix].

(b) Report

The Secretary shall report to the Congress, not later than 60 days after the end of each fiscal year, on the financial condition of the Fund, and the results of operations of the Fund, during the preceding fiscal year and on the expected financial condition and operations of the Fund during the current fiscal year.

(c) Investment

Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(d) Termination

The Secretary shall terminate the Fund 3 years after the date of the enactment of this Act [Aug. 10, 1988], or 1 year following disbursement of all payments from the Fund, as authorized by this title [sections 1989c to 1989c–8 of this Appendix], whichever occurs later. On the date the Fund is terminated, all investments of amounts in the Fund shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(Pub. L. 100–383, title II, § 203, Aug. 10, 1988, 102 Stat. 911.)

REESTABLISHMENT OF FUND; USE OF FUNDS

For provisions that the Fund, if terminated pursuant to subsec. (d) of this section, is to be reestablished upon appropriation of additional funds, and restricting use of appropriated funds, see section 1(b), (c), of Pub. L. 103–402, set out as a note under section 1989c–4 of this Appendix.

§ 1989c–3. Appointment of Administrator

As soon as practicable after the date of the enactment of this Act [Aug. 10, 1986], the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under this title [sections 1989c to 1989c–8 of this Appendix]. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of the enactment of this title. If no such agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with leaders of affected Aleut villages and the Corporation.

(Pub. L. 100–383, title II, § 204, Aug. 10, 1988, 102 Stat. 912.)

§ 1989c–4. Compensation for community losses

(a) In general

Subject to the availability of funds appropriated to the Fund, the Secretary shall make payments from the Fund, in accordance with this section, as restitution for certain Aleut losses sustained in World War II.

(b) Trust

(1) Establishment

The Secretary shall, subject to the availability of funds appropriated for this purpose, establish a trust for the purposes set forth in this section. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) Administration of trust

The trust established under this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representatives of eligible Aleuts, the residents of affected Aleut villages, and the Administrator.

(c)[1] Accounts for benefit of Aleuts

(1) In general

The Secretary shall deposit in the trust such sums as may be appropriated for the purposes set forth in this subsection. The trustees shall maintain and operate 8 independent and separate accounts in the trust for purposes of this subsection, as follows:

(A) One account for the independent benefit of the wartime Aleut residents of Attu and their descendants.

(B) Six accounts for the benefit of the 6 surviving affected Aleut villages, one each for the independent benefit of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, respectively.

(C) One account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established under subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 percent of the principal amount deposited by the Secretary in the trust under this subsection. Of the remaining principal amount, an amount shall be credited to each account described in subparagraphs (A) and (B) which bears the same proportion to such remaining principal amount as the Aleut civilian population, as of June 1, 1942, of the village with respect to which such account is established bears to the total civilian Aleut population on such date of all affected Aleut villages.

(2) Uses of accounts

The trustees may use the principal, accrued interest, and other earnings of the accounts maintained under paragraph (1) for—

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need;

[1] So in original. Two subsecs. (c) have been enacted.

(B) the benefit of students in need of scholarship assistance;

(C) the preservation of Aleut cultural heritage and historical records;

(D) the improvement of community centers in affected Aleut villages; and

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(3) Authorization of appropriations

There are authorized to be appropriated $5,000,000 to the Fund to carry out this subsection.

(d) Compensation for damaged or destroyed church property

(1) Inventory and assessment of property

The Administrator shall make an inventory and assessment of real and personal church property of affected Aleut villages which was damaged or destroyed during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established under subsection (b), residents of affected Aleut villages, affected church members and leaders, and the clergy of the churches involved. Within 1 year after the date of the enactment of this Act [Aug. 10, 1988], the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary.

(2) Review by the Secretary; deposit in the trust

The Secretary shall review the inventory and assessment provided under paragraph (1), and shall deposit in the trust established under subsection (b) an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) Distribution of compensation

The trustees shall distribute the amount deposited in the trust under paragraph (2) for the benefit of the churches referred to in this subsection.

(4) Authorization of appropriations

There are authorized to be appropriated to the Fund $4,700,000 to carry out this subsection.

(c)[1] Administrative and legal expenses

(1) Reimbursement for expenses

The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out the Administrator's responsibilities under this title [sections 1989c to 1989c–8 of this Appendix].

(2) Authorization of appropriations

There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subsection.

(Pub. L. 100–383, title II, § 205, Aug. 10, 1988, 102 Stat. 912; Pub. L. 103–402, § 1(a), Oct. 22, 1994, 108 Stat. 4174.)

AMENDMENTS

1994—Subsec. (d)(4). Pub. L. 103–402 substituted ''$4,700,000'' for ''$1,400,000''.

REESTABLISHMENT OF FUND; USE OF FUNDS

Section 1(b), (c), of Pub. L. 103–402 provided that:

''(b) FUND.—If the Fund referred to in section 205(a) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(a)) has been terminated pursuant to section 203(d) of such Act (50 U.S.C. App. 1989c–2(d)), upon the appropriation of additional funds pursuant to this Act, the Fund shall be reestablished.

''(c) USE OF FUNDS.—The funds appropriated pursuant to this Act shall be used solely for the renovation, replacement, and restoration of church property lost, damaged, or destroyed during World War II.''

§ 1989c–5. Individual compensation of eligible Aleuts

(a) Payments to eligible Aleuts

In addition to payments made under section 205 [section 1989c–4 of this Appendix], the Secretary shall, in accordance with this section, make per capita payments out of the Fund to eligible Aleuts. The Secretary shall pay, subject to the availability of funds appropriated to the Fund for such payments, to each eligible Aleut the sum of $12,000.

(b) Assistance of Attorney General

The Secretary may request the Attorney General to provide reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages, and upon such request, the Attorney General shall provide such assistance. In so doing, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(c) Assistance of Administrator

The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts for purposes of this section.

(d) Clarification of treatment of payments under other laws

Amounts paid to an eligible Aleut under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering, and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(e) Payment in full settlement of claims against United States

The payment to an eligible Aleut under this section shall be in full satisfaction of all claims against the United States arising out of the relocation described in section 202(5) [section 1989c–1(5) of this Appendix].

(f) Authorization of appropriations

There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

(Pub. L. 100–383, title II, § 206, Aug. 10, 1988, 102 Stat. 914.)

§ 1989c–6. Attu Island restitution program

(a) Purpose of section

In accordance with section (3)(c)[1] of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System have been designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417; 16 U.S.C. 1132 note). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people, in lieu of the conveyance of Attu Island, shall be provided in accordance with this section.

(b) Acreage determination

Not later than 90 days after the date of the enactment of this Act [Aug. 10, 1988], the Secretary shall, in accordance with this subsection, determine the total acreage of land on Attu Island, Alaska, that, at the beginning of World War II, was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the Aleut people, and shall, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of such base acreage and such additional acreage shall constitute the acreage determination upon which payment to the Corporation under this section is based. The Secretary shall promptly notify the Corporation of the results of the acreage determination made under this subsection.

(c) Valuation

(1) Determination of value

Not later than 120 days after the date of the enactment of this Act [Aug. 10, 1988], the Secretary shall determine the value of the Attu Island acreage determined under subsection (b), except that—

(A) such acreage may not be valued at less than $350 per acre nor more than $500 per acre; and

(B) the total valuation of all such acreage may not exceed $15,000,000.

(2) Factors in making determination

In determining the value of the acreage under paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) Notification of determination; appeal

The Secretary shall promptly notify the Corporation of the determination of value made under this subsection, and such determination shall constitute the final determination of value unless the Corporation, within 30 days after the determination is made, appeals the determination to the Secretary. If such appeal is made, the Secretary shall, within 30 days after the appeal is made, review the determination in light of the appeal, and issue a final determination of the value of that acreage determined to be subject to traditional use under subsection (b).

(d) In lieu compensation payment

(1) Payment

The Secretary shall pay, subject to the availability of funds appropriated for such purpose, to the Corporation, as compensation for the Aleuts' loss of lands on Attu Island, the full amount of the value of the acreage determined under subsection (c), less the value (as determined under subsection (c)) of any land conveyed under subsection (e).

(2) Payment in full settlement of claims against the United States

The payment made under paragraph (1) shall be in full satisfaction of any claim against the United States for the loss of traditional Aleut lands and village properties on Attu Island.

(e) Village site conveyance

The Secretary may convey to the Corporation all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made under the authority contained in section 14(h)(1) of the Alaska Native Claims Settlement Act (Public Law 92–203; 43 U.S.C. 1613(h)(1)), except that after the enactment of this Act [Aug. 10, 1988], no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land, may be conveyed to the Corporation under such section 14(h)(1).

(f) Authorization of appropriations

There are authorized to be appropriated $15,000,000 to the Secretary to carry out this section.

(Pub. L. 100–383, title II, § 207, Aug. 10, 1988, 102 Stat. 914.)

REFERENCES IN TEXT

Section 702(1) of the Alaska National Interest Lands Conservation Act, referred to in subsec. (a), is section 702(1) of Pub. L. 96–487, title VII, Dec. 2, 1980, 94 Stat. 2417, which is included in the listing of wilderness areas set out as a note under section 1132 of Title 16, Conservation.

§ 1989c–7. Compliance with Budget Act

No authority under this title [sections 1989c to 1989c–8 of this Appendix] to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, the Secretary, with respect to—

[1] So in original. Probably should be section "3(c)".

(1) the Fund established under section 203 [section 1989c–2 of this Appendix],

(2) the trust established under section 205(b) [section 1989c–4(b) of this Appendix], and

(3) the provisions of sections 206 and 207 [sections 1989c–5 and 1989c–6 of this Appendix],

shall limit the total benefits conferred to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

(Pub. L. 100–383, title II, § 208, Aug. 10, 1988, 102 Stat. 916.)

REFERENCES IN TEXT

The Budget Act, referred to in section catchline, probably means the Congressional Budget Act of 1974, titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

§ 1989c–8. Severability

If any provision of this title [sections 1989c to 1989c–8 of this Appendix], or the application of such provision to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Pub. L. 100–383, title II, § 209, Aug. 10, 1988, 102 Stat. 916.)

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

§ 1989d. Exclusion of claims

Notwithstanding any other provision of law or of this Act [sections 1989 to 1989d of this Appendix], nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall this Act be construed as providing any basis for compensation in connection with any such claim.

(Pub. L. 100–383, title III, § 301, Aug. 10, 1988, 102 Stat. 916.)

MEDICAL CARE FOR PHILIPPINE VETERANS

ACT JULY 1, 1948, CH. 785, 62 STAT. 1210

§§ 1991 to 1996. Repealed. Pub. L. 85–461, § 5, June 18, 1958, 72 Stat. 203

Section 1991, act July 1, 1948, ch. 785, § 1, 62 Stat. 1210, related to grants-in-aid for construction of hospitals and expenses for medical care for treatment of Philippine veterans.

Section 1992, act July 1, 1948, ch. 785, § 2, 62 Stat. 1210, defined ''veteran''.

Section 1993, act July 1, 1948, ch. 785, § 3, 62 Stat. 1210, related to time and amount of hospital construction grants.

Section 1994, acts July 1, 1948, ch. 785, § 4, 62 Stat. 1210; June 18, 1954, ch. 329, 68 Stat. 268, related to time and amount of medical care grants.

Section 1995, act July 1, 1948, ch. 785, § 5, 62 Stat. 1210, related to issuance of rules and regulations.

Section 1996, act July 1, 1948, ch. 785, § 6, 62 Stat. 1210, related to authorization of appropriations.

WAR CLAIMS

ACT JULY 3, 1948, CH. 826, 62 STAT. 1240

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TITLE I

TITLE I OF ACT

Section 101 of Pub. L. 87–846, Oct. 22, 1962, 76 Stat. 1107, designated sections 2 to 17 of act July 3, 1948, as amended [sections 2001 to 2016 of this Appendix], as title I.

§ 2001. Foreign Claims Settlement Commission of the United States

(a) Employment of personnel; use of other facilities and services

The Foreign Claims Settlement Commission of the United States (hereinafter referred to as the ''Commission'') may, in accordance with the provisions of the civil-service laws and the Classification Act of 1949, as amended [5 U.S.C. 5101 et seq., 5331 et seq.], appoint and fix the compensation of such officers, attorneys, and employees, and may make such expenditures, as may be necessary to carry out its functions. Officers and employees of any other department or agency of the Government may, with the consent of the head of such department or agency,

be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government, utilize the facilities and services of such department or agency in carrying out the functions of the Commission.

(b) Rules and regulations; delegation of functions; time limit on filing of claims

The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may delegate functions to any member, officer, or employee of the Commission. The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the Federal Register. The limit of time within which claims may be filed with the Commission shall in no event be later than March 31, 1952. The Commission shall take immediate action to advise all persons entitled to file claims under the provisions of this title [sections 2001 to 2016 of this Appendix] administered by the Commission of their rights under such provisions, and to assist them in the preparation and filing of their claims.

(c) Subpenas; issuance; contempt; witness fees; administration of oaths

(1) For the purpose of any hearing, examination, or investigation under this title [sections 2001 to 2016 of this Appendix], the Commission and those employees designated by the Commission shall have the power to issue subpenas requiring persons to appear and testify or to appear and produce documents, or both, at any designated place where such hearing, examination, or investigation is being held. The Commission or any employee so designated shall, upon application of a claimant, issue to such claimant subpenas requiring the attendance and testimony of witnesses or the production of documents, or both, required by such claimant in hearings upon his claim: *Provided*, That the claimant making such application pay the witness fees and mileage of any witness or witnesses subpenaed upon his request. The production of a person's documents at any place other than his place of business shall not be required, however, in any case in which, prior to the return date specified in the subpena with respect thereto, such person either has furnished the issuer of the subpena with a copy of such documents (certified by such person under oath to be a true and correct copy) or has entered into a stipulation with the issuer of the subpena as to the information contained in such documents.

(2) The Commission may, in case of a failure or refusal on the part of any person to comply with any such subpena, invoke the aid of any United States district court within the jurisdiction of which the hearing, examination, or investigation is being conducted, or such person resides or transacts business. Such court may issue an order requiring such person to appear at the designated place of hearing, examination, or investigation, there to give or produce testimony or documentary evidence concerning the matter in question. Any failure to obey such order of the court shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person resides or transacts business or wherever such person may be found.

(3) Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are allowed and paid witnesses in United States district courts.

(4) Any member of the Commission, and any employee of the Commission authorized by the Commission to do so, may administer to, or take from, any person an oath, affirmation, or affidavit when such action is necessary or appropriate in the performance of the functions or activities of the Commission.

(July 3, 1948, ch. 826, title I, § 2, 62 Stat. 1240; May 27, 1949, ch. 145, § 1(1), 63 Stat. 112; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Aug. 16, 1950, ch. 718, 64 Stat. 449; Apr. 5, 1951, ch. 27, 65 Stat. 28; 1954 Reorg. Plan No. 1 §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279; Aug. 21, 1954, ch. 784, § 3, 68 Stat. 762; Pub. L. 87–846, title I, §§ 102, 104(a), Oct. 22, 1962, 76 Stat. 1107, 1113; Pub. L. 96–209, title I, § 108, Mar. 14, 1980, 94 Stat. 97.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The Classification Act of 1949, as amended, referred to in subsec. (a), is act Oct. 28, 1949, ch. 782, 63 Stat. 954, as amended. The Classification Act of 1949 was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–209 struck out subsec. (d) which provided for terms of office of Chairman and members of Foreign Claims Settlement Commission of United States. See section 1622c(c) of Title 22, Foreign Relations and Intercourse.

1962—Subsecs. (b), (c)(1). Pub. L. 87–846, § 102, substituted ''title'' for ''Act''.

Subsec. (d). Pub. L. 87–846, § 104(a), added subsec. (d).

1954—Subsec. (a). Act Aug. 21, 1954, struck out subsec. (a) which related to establishment and composition of the former War Claims Commission, and which had been affected by Reorg. Plan No. 1 of 1954 (see Transfer of Functions note below), redesignated subsec. (b) as (a) and substituted ''The Foreign Claims Settlement Commission of the United States (hereinafter referred to as the 'Commission')'' for ''The Commission'', meaning the former War Claims Commission.

Subsecs. (b) to (d). Act Aug. 21, 1954, § 3(a), designated subsecs. (b) to (d) as (a) to (c), respectively.

Former subsec. (e). Act Aug. 21, 1954, § 3(a), repealed subsec. (e) which related to termination of former War Claims Commission.

1951—Subsec. (c). Act Apr. 5, 1951, extended time limit on filing of claims from Mar. 1, 1951 to Mar. 31, 1952, and authorized Commission to advise claimants of their rights.

1950—Subsecs. (d), (e). Act Aug. 16, 1950, added subsec. (d) and redesignated former subsec. (d) as (e).

1949—Subsec. (b). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

Subsec. (c). Act May 27, 1949, extended time within which persons may file claims until Mar. 1, 1951.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–209 effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as an Effective Date note under section 1622a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1951 AMENDMENT

Act Apr. 5, 1951, provided that the amendment made by that Act is effective as of Mar. 1, 1951.

EFFECTIVE DATE OF 1949 AMENDMENT

The increased compensation provided for by act Oct. 15, 1949, took effect on first day of first pay period which began after Oct. 15, 1949, see section 9 of act Oct. 15, 1949.

SHORT TITLE OF 1954 AMENDMENT

Act Aug. 31, 1954, ch. 1162, title I, § 1, 68 Stat. 1033, provided: ''That this Act [enacting sections 2014 to 2016 of this Appendix, amending sections 2004, 2005, and 2012 of this Appendix and section 801 of former Title 5, Executive Departments and Government Officers and Employees, and enacting provisions set out as notes under this section and section 2008 of this Appendix] may be cited as the 'War Claims Act Amendments of 1954'.''

SHORT TITLE

Section 1 of act July 3, 1948, provided that: ''This Act [enacting this section and sections 2002 to 2017p of this Appendix] may be cited as the 'War Claims Act of 1948'.''

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

''Foreign Claims Settlement Commission'' substituted in text for ''War Claims Commission'' pursuant to Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees, which abolished War Claims Commission, including offices of its members, and transferred functions of Commission and members, officers, and employees thereof to Foreign Claims Settlement Commission of the United States.

GUAM WAR CLAIMS REVIEW COMMISSION

Pub. L. 107–333, Dec. 16, 2002, 116 Stat. 2873, known as the Guam War Claims Review Commission Act, established the Commission and its duties and powers, authorized appropriations, and provided that the Commission would report, not later than 9 months after its establishment, to the Secretary of the Interior and Congress and terminate 30 days thereafter.

TIME LIMIT FOR SETTLEMENT OF CLAIMS UNDER WAR CLAIMS ACT AMENDMENTS OF 1954

Act Aug. 31, 1954, ch. 1162, title I, § 105, 68 Stat. 1037, required the Foreign Claims Settlement Commission to wind up its affairs in settling claims for benefits authorized by act Aug. 31, 1954 within two years after Aug. 31, 1954.

REAPPOINTMENT OF MEMBERS OF FOREIGN CLAIMS SETTLEMENT COMMISSION

Section 104(b) of Pub. L. 87–846 provided that: ''Nothing in this section shall be construed to preclude the reappointment as a member of the Foreign Claims Settlement Commission of any person holding office as a member of such Commission on the date of enactment of this Act [Oct. 22, 1962].''

TENURE OF WAR CLAIMS COMMISSION

Act Apr. 9, 1952, ch. 167, § 4, 66 Stat. 49, provided that nothing in that act or the amendments made by it, amending sections 2005 and 2006 of this Appendix, should extend the life of the War Claims Commission for any period of time.

§ 2002. Jurisdiction of Commission

The Commission shall have jurisdiction to receive and adjudicate according to law claims as hereinafter provided.

(July 3, 1948, ch. 826, title I, § 3, 62 Stat. 1241.)

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2003. Claims of employees of contractors

(a) Payment by Secretary of Labor of certain claims; execution of releases

The Secretary of Labor is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any person specified in section 101(a) of the Act entitled ''An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes'', approved December 2, 1942, as amended [42 U.S.C. 1701(a)], or by the legal representative of any such person who may have died, for the amount by which (1) the total sum which would have been payable to such person by his employer (not including any payments for overtime), if such person's contract of employment had been in effect and he had been paid under it for the entire period during which he was entitled to receive benefits under section 101(b) of such Act [42 U.S.C. 1701(b)], exceeds (2) the entire amount creditable to such person's account for such period under the provisions of such section plus any amounts paid to such person by such employer for such period or recovered by such person in any legal action against such employer based upon such person's right against such employer for such period under the contract of employment, including payments in settlement of the liability of the employer arising under or out of such contract. No claim shall be allowed to any person under the provisions of this section unless such person executes a full release to the employer and to the United States in respect to the liability of the employer arising under or out of the contract of employment, except liability for workmen's compensation benefits under the Act of August 16, 1941, as amended (42 U.S.C. 1651 and the following) or detention or other benefits paid under the Act of December 2, 1942, as amended (42 U.S.C. 1751 and the following) [42 U.S.C. 1701 et seq.]. Any claim allowed under the provisions of this section shall be certified by the Secretary of Labor to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(b) Cancellation of employees' obligations; repayment to employees

(1) The Secretary of State is authorized and directed to cancel any obligation to the United States of any person specified in section 101(a) of such Act of December 2, 1942 [42 U.S.C. 1701(a)], to pay any sum which may have been advanced to or on behalf of any such person by the Department of State for the purpose of paying the costs of food and medical services furnished to such person during his period of internment by the Imperial Japanese Government or for the purpose of paying transportation or other expenses of repatriation.

(2) The Secretary of Labor is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any person specified in section 101(a) of such Act of December 2, 1942 [42 U.S.C. 1701(a)], for the repayment of any sum which may have been paid by such person to the Department of State in settlement of any obligation of the type referred to in paragraph (1) of this subsection. Any claim allowed under the provisions of this paragraph shall be certified by the Secretary of Labor to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(c) Omitted [Amendment of section 1702(a) of Title 42]

(July 3, 1948, ch. 826, title I, § 4, 62 Stat. 1241; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

REFERENCES IN TEXT

Act of August 16, 1941, as amended, referred to in subsec. (a), is act Aug. 16, 1941, ch. 357, 55 Stat. 622, as amended, known as the Defense Base Act, which is classified generally to chapter 11 (§ 1651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 42 and Tables.

Act of December 2, 1942, as amended, referred to in subsec. (a), is act Dec. 2, 1942, ch. 668, 56 Stat. 1028, as amended, titles I and II of which are popularly known as the War Hazards Compensation Act, and is classified principally to chapter 12 (§ 1701 et seq.) of Title 42. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

''Secretary of Labor'' substituted in subsecs. (a) and (b) for ''Federal Security Administrator'' and ''Administrator'' pursuant to Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, set out in the Appendix to Title 5, Government Organization and Employees, which transferred functions of Federal Security Administrator and Federal Security Agency under this section to Secretary of Labor, with power to delegate.

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions and funds transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, 6(c), eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2004. Internees

(a) "Civilian American citizen" defined

As used in subsections (b) and (f) of this section, the term ''civilian American citizen'' means any person who, being then a citizen of the United States, was captured by the Imperial Japanese Government on or after December 7, 1941, at Midway. Guam, Wake Island, the Philippine Islands, or any Territory or possession of the United States attacked or invaded by such government, or while in transit to or from any such place, or who went into hiding at any such place in order to avoid capture or internment by such government; except (1) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or (2) a person who at the time of his capture or entrance into hiding was a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force.

(b) Payment of detention benefits

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to December 6, 1941, during which he was held by the Imperial Japanese Government as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by such Imperial Japanese Government.

(c) Amount of detention benefits

The detention benefit allowed to any person under the provisions of subsection (b) shall be at the rate of $60 for each calendar month during which such person was at least eighteen years of age and at the rate of $25 per month for each calendar month during which such person was less than eighteen years of age.

(d) Persons entitled to detention benefits

The detention benefits allowed under subsection (b) of this section shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no husband, or child.

(e) Certification of claims

Any claim allowed by the Commission under this section (except under subsections (g) and (i)) shall be certified to the Secretary of the Treasury for payment out of the war claims funds established by section 13 of this title [section 2012 of this Appendix], and shall be payable by the Secretary of the Treasury to the person entitled thereto; except that where the person entitled to payment is under any legal disability, any part of the amount payable may, in the

discretion of the Commission, be paid, for the use of the claimant, to the natural or legal guardian, committee, conservator, or curator of the claimant, or, if there is no such guardian, committee, conservator, or curator, then the Commission may, in its discretion, make payment to any other person, including the spouse of such claimant, whom the Commission may determine is vested with the care of the claimant or his estate for the use and benefit of such claimant or estate; and if such person is a minor, any part of the amount payable may, in the discretion of the Commission, be paid to such minor.

(f) Application of sections 1701 to 1706 and 1711 to 1717 of Title 42; factors for determining benefits; effective date

(1) Except as otherwise provided in this subsection, the provisions of titles I [42 U.S.C. 1701 to 1706] and II [42 U.S.C. 1711 to 1717] of the Act entitled ''An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes'', approved December 2, 1942, as amended, are extended and shall apply with respect to the injury, disability, or death resulting from injury of a civilian American citizen occurring while he was held by or in hiding from the Imperial Japanese Government, to the same extent as if such civilian American citizen were an employee within the purview of such Act of December 2, 1942, as amended [42 U.S.C. 1701 to 1717].

(2) For the purpose of determining the benefits extended and made applicable by paragraph (1)—

(A) the average weekly wage of any such civilian American citizen, whether employed, self-employed, or not employed, shall be deemed to have been $37.50;

(B) the provisions of such Act [42 U.S.C. 1701 to 1717], shall be applicable whether or not any such civilian American citizen was employed;

(C) notice of injury or death shall not be required; and limitation provisions with respect to the filing of claims for injury, disability, or death shall not begin to run until the date of enactment of this section [July 3, 1948]; and

(D) the monthly compensation in cases involving partial disability shall be determined by the percentage the degree of partial disability bears to total disability and shall not be determined with respect to the extent of loss of wage earning capacity.

(3) The following provisions of such Act of December 2, 1942, as amended [42 U.S.C. 1701 to 1717], shall not apply in the case of such civilian American citizens: The last sentence of section 101(a), section 101(b), section 101(d) [42 U.S.C. 1701(a), (b), (d)], section 104 [42 U.S.C. 1704], and section 105 [42 U.S.C. 1705].

(4) Rights or benefits which, under this subsection, are to be determined with reference to other provisions of law shall be determined with reference to such provisions of law as in force on January 3, 1948.

(5) The money benefit for disability or death shall be paid only to the person entitled thereto, or to his legal or natural guardian if he has one, and shall not upon death of the person so entitled survive for the benefit of his estate or any other person.

(6) The benefit of a minor or of an incompetent person who has no natural or legal guardian may, in the discretion of the Secretary of Labor, be paid, in whole or in such part as he may determine for and on behalf of such minor or incompetent directly to the person or institution caring for, supporting, or having custody of such minor or incompetent.

(7) No person, except a widow or a child, shall be entitled to benefits for disability with respect to himself, and to death benefits on account of the death of another.

(8) If a civilian American citizen or his dependent receives or has received from the United States any payments on account of the same injury or death, or from his employer, in the form of wages, or payments in lieu of wages, or in any form of support or compensation (including workmen's compensation) in respect to the same objects, the benefits under this section shall be diminished by the amount of such payments in the following manner: (A) Benefits on account of injury or disability shall be reduced by the amount of payments to the injured person on account of the same injury or disability; and (B) benefits on account of death shall be reduced by the amount of payments to the dependents of the deceased civilian American citizen on account of the same death.

(9) This subsection shall take effect as of December 7, 1941, and the right of individuals to benefits shall be held to have begun to accrue as though this subsection had been in effect as of such date.

(10) No benefits provided by this subsection for injury, disability, or death shall accrue to any person who, without regard to this subsection, is entitled to or has received benefits for the same injury, disability, or death under such Act of December 2, 1942, as amended [42 U.S.C. 1701 to 1717].

(11) No benefits provided by this subsection shall accrue to any person to whom benefits have been paid, or are payable, under the Federal Employees' Compensation Act [5 U.S.C. 8101 et seq.], or any extension thereof, by reason of disability or death of an employee of the United States suffered after capture, detention, or other restraint by an enemy of the United States, when such disability or death is deemed, in the administration of the Federal Employees' Compensation Act to have resulted from injury occurring while in the performance of duty, under subsection (b) of section 5 of the Act entitled ''An Act to amend the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', as amended'', approved July 28, 1945, as amended.

(g) Benefits for civilian internees in Korea, and dependents; time

(1) As used in this subsection, the term ''civilian American citizens'' means any person who, being then a citizen of the United States, was captured in Korea on or after June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to August 21, 1954, or who went into hiding

in Korea in order to avoid capture or internment by any such hostile force; except (A) a person who at any time voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (B) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to June 25, 1950, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by any such hostile force.

(3) The detention benefit allowed to any person under the provisions of paragraph (2) of this subsection shall be at the rate of $60 for each calendar month during which such person was at least eighteen years of age and at the rate of $25 per month for each calendar month during which such person was less than eighteen years of age.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid by the Secretary of the Treasury to the person entitled thereto, except that where any person entitled to payment under this subsection is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection [Aug. 21, 1954];

(B) The date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) The date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(7)(A) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(h) Benefits for Guamanians killed or captured at Wake Island on or after December 7, 1941

In the case of any Guamanian killed or captured by the Imperial Japanese Government on or after December 7, 1941, at Wake Island, benefits shall be granted under subsections (a) through (f) of this section in the same manner and to the same extent as apply in the case of civilian American citizens so killed or captured. Claims for benefits under subsections (a) through (e) of this section must be filed within six months after the date of enactment of this subsection [Aug. 31, 1962], and the time limitation applicable to any individual by subsection (f) shall not begin to run until the date of enactment of this subsection [Aug. 31, 1962], with respect to any individual who is entitled to such benefits solely by reason of this subsection. The preceding sentence shall not be construed to affect the right of any individual to receive such benefits with respect to any period prior to the date of enactment of this subsection [Aug. 31, 1962].

(i) Detention benefits for civilian internees in Southeast Asia; definitions; authority of Commission; claim for benefits; rate of compensation; persons entitled to payments; certification for payment; filing date; determination of claims; appropriations

(1) As used in this subsection—

(A) the term ''Vietnam conflict'' relates to the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term ''civilian American citizen'' means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia, in order to avoid capture or internment by any such hostile force, except (i) a person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (ii) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to February 27, 1961, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid capture or internment by any such hostile force.

(3) The detention benefits allowed under paragraph (2) of this subsection shall be at the rate of $150 for each calendar month.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his death, only to the following persons:

(A) the widow or husband if there is no child or children of the deceased;

(B) the widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) the child or children of the deceased in equal shares if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid to the person entitled thereto, except that if a person entitled to payment under this section is under any legal disability, payment shall be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this section must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection [June 24, 1970];

(B) the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations for each claim filed under this subsection at the earliest practicable date, but not later than one year after the date on which such claim was filed.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(July 3, 1948, ch. 826, title I, §5, 62 Stat. 1242; 1950 Reorg. Plan No. 19, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Apr. 9, 1952, ch. 168, §1, 66 Stat. 49; Aug. 21, 1954, ch. 784, §1, 68 Stat. 759; Aug. 31, 1954, ch. 1162, title I, §§101 (a)–(c), 102(a), 68 Stat. 1034; Pub. L. 87–617, Aug. 31, 1962, 76 Stat. 413; Pub. L. 87–846, title I, §102, Oct. 22, 1962, 76 Stat. 1107; Pub. L. 91–289, §3, June 24, 1970, 84 Stat. 324; Pub. L. 94–383, Aug. 12, 1976, 90 Stat. 1122.)

REFERENCES IN TEXT

The Act entitled ''An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes'', approved December 2, 1942, as amended, referred to in subsec. (f)(1), means act Dec. 2, 1942, ch. 668, 56 Stat. 1028, as amended, titles I and II of which are popularly known as the War Hazards Compensation Act, and is classified principally to chapter 12 (§1701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The Federal Employees' Compensation Act, referred to in subsec. (f)(11), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, which was repealed and the provisions thereof were reenacted as subchapter 1 (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378.

Subsection (b) of section 5 of the Act entitled ''An Act to amend the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', as amended'', approved July 28, 1945, as amended, referred to in subsec. (f)(11), means section 5 of act July 28, 1945, ch. 328, 59 Stat. 504, as amended, which enacted section 801 of former Title 5, Executive Departments and Government Officers and Employees, amended sections 760, 761, 770, and 793 of former Title 5, and enacted provisions set out as notes under section 770 of former Title 5, and which was repealed by Pub. L. 85–608, §303, Aug. 8, 1958, 72 Stat. 539. See section 8102(b) of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (i)(3). Pub. L. 94–383 substituted ''$150'' for ''$60''.

1970—Subsec. (e). Pub. L. 91–289, §3(1), included reference to subsec. (i) in parenthetical phrase.

Subsec. (i). Pub. L. 91–289, §3(2), added subsec. (i).

1962—Subsec. (e). Pub. L. 87–846 substituted ''title'' for ''Act''.

Subsec. (h). Pub. L. 87–617 added subsec. (h).

1954—Subsec. (a). Act Aug. 31, 1954, §101(a), included as eligible for detention benefits, civilian American citizens who were captured at certain Pacific islands by the Japanese, but who were formerly expressly excluded from these benefits by reason of being Federal employees or employees of contractors with the United States, and to make them eligible for disability compensation. Act Aug. 21, 1954, §1(b), limited the application of such section's definition of ''civilian American citizen'' to subsecs. (b) and (f) of this section.

Subsec. (d). Act Aug. 31, 1954, §102(a), (b), struck out ''dependent'' wherever appearing, and added cl. (4).

Subsec. (e). Act Aug. 21, 1954, §1(c), inserted ''(except under subsection (g))'' after ''under this section''.

Subsec. (f)(3). Act Aug. 31, 1954, §101(b), provided that last sentence of section 101(a) [1701(a) of this Appendix] and section 101(d) [1701(d) of this Appendix] should not operate to exclude civilian American citizens from entitlement to medical care or disability compensation.

Subsec. (f)(10), (11). Act Aug. 31, 1954, §101(c), added pars. (10) and (11).

Subsec. (g). Act Aug. 21, 1954, §1(a), added subsec. (g).

1952—Subsec. (e). Act Apr. 9, 1952, allowed the award for the benefit of claimant to be paid to the claimant's natural or legal guardian, committee, conservator, or curator, or to such other person as is charged with the care of the claimant, and permitted the payment of an award payable to a minor, directly to such minor.

TRANSFER OF FUNCTIONS

''Secretary of Labor'' substituted for ''Federal Security Administrator'' in subsec. (f)(6) pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, set out in the Appendix to Title 5, Government Organization and Employees, which transferred functions of Federal Security Administrator and Federal Security Agency under this section to Secretary of Labor, with power to delegate.

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

FILING DATES FOR CLAIMS OF NEW CLASSES OF BENEFICIARIES; TOLLING OF LIMITATIONS

Section 101(e) of act Aug. 31, 1954, required persons entitled to benefits under subsec. (b), (c), or (d) of this section solely by reason of the amendments made to this section by act Aug. 31, 1954, to file claims therefor within one year from Aug. 31, 1954, and provided that the time limitations applicable to claims under subsec. (f) of this section were not to begin to run until Aug. 31, 1954, with regard to any person entitled to such benefits solely by reason of the amendments to this section by act Aug. 31, 1954.

Section 102(c) of act Aug. 31, 1954, required persons entitled to benefits solely by reason of amendments made to this section by section 102 of act Aug. 31, 1954 to file claims within one year from Aug. 31, 1954.

PRIOR BENEFITS AS AFFECTING RIGHTS

Section 102(b) of act Aug. 31, 1954, provided that the amendments to sections 2004(d) and 2005(c), (d)(4) of this Appendix by section 102 of act Aug. 31, 1954, should not apply with respect to benefits paid prior to Aug. 31, 1954.

§ 2005. Prisoners of war

(a) "Prisoner of war" defined

As used in subsection (b) of this section, the term ''prisoner of war'' means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) Payment of claims; rate allowed; certification of claims

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of $1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(c) Persons entitled to payments

Claims pursuant to subsection (b) shall be paid to the person entitled thereto, and shall in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no widow, husband, or child.

(d) Additional definition of "prisoner of war"; payment of claims; rate allowed; persons entitled to payments

(1) As used in this subsection the term ''prisoner of war'' means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States, who was held a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(2) The Commission is authorized to receive, adjudicate according to law, and to provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the violations by the enemy government by which he was held as a prisoner of war, or its agents, of such government's obligations under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the enemy government by which he was held, or its agents. The term ''inhumane treatment'' as used herein shall include, but not be limited to, violation by such enemy government, or its agents, of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57, of the Geneva Convention of July 27, 1929.

(3) Compensation shall be allowed to any prisoner of war under this subsection at the rate of $1.50 per day for each day he was held as a prisoner of war on which he alleges and proves in a manner acceptable to the Commission—

(A) the violation by such enemy government or its agents of the provisions of title III, section III, of the Geneva Convention of July 27, 1929; or

(B) any inhumane treatment as defined herein.

Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix]. In no event shall the compensation allowed to any prisoner of war under this subsection exceed the sum of $1.50 with respect to any one day.

(4) Claims pursuant to subsection (d)(2) shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall, in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents (in equal shares) if there is no widow, husband, or child.

(e) Extension to Korean War prisoners

(1) As used in this subsection the term ''prisoner of war'' means any regularly appointed, en-

rolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection [Aug. 21, 1954], or any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968, except any person who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of $1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term ''inhumane treatment'' as used herein shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57 of the Geneva Convention of July 27, 1929.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of $1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) or the inhumane treatment described in subparagraph (B). In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of $1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by paragraph (4) of subsection (d) of this section.

(5) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection [Aug. 21, 1954];

(B) The date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) The date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States;

(D) In the case of any person assigned to duty in the U.S.S. Pueblo referred to in paragraph (1) of this subsection, one year after the date of enactment of this subparagraph [June 24, 1970].

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7)(A) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(f) Vietnam conflict; definitions; authority of Commission; classes of claims; rate of compensation; certification for payment; persons entitled to payments; filing date; determination of claims; fund for payment; appropriations

(1) As used in this subsection—

(A) the term ''Vietnam conflict'' relates to the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term ''prisoner of war'' means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to collaborated with, or in any manner served, such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensa-

tion for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of $2 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term ''inhumane treatment'' as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 84, 85, 86, 87, 88, 89, 90, 97, or 98 of the Geneva Convention of August 12, 1949.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of $3 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of $3 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by subsection (d)(4) of this section.

(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection [June 24, 1970];

(B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(g) Manner of payment

Where any person entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5 [section 2004(e) of this Appendix].

(July 3, 1948, ch. 826, title I, § 6, 62 Stat. 1244; Sept. 30, 1950, ch. 1116, 64 Stat. 1090; Apr. 9, 1952, ch. 167, § 1, 66 Stat. 47; Apr. 9, 1952, ch. 168, § 2, 66 Stat. 49; Aug. 21, 1954, ch. 784, § 2, 68 Stat. 761; Aug. 31, 1954, ch. 1162, title I, § 102(a)(1), 68 Stat. 1034; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107; Pub. L. 91–289, §§ 1, 2, June 24, 1970, 84 Stat. 323.)

AMENDMENTS

1970—Subsec. (e)(1). Pub. L. 91–289, § 2(1), defined ''prisoner of war'' to include any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by Government of North Korea for any period of time ending on or before December 23, 1968, and substituted ''except any person'' for ''except any such member''.

Subsec. (e)(5)(D). Pub. L. 91–289, § 2(2), added subpar. (D).

Subsecs. (f), (g). Pub. L. 91–289, § 1, added subsec. (f) and redesignated former subsec. (f) as (g).

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

1954—Subsecs. (c), (d)(4). Act Aug. 31, 1954, § 102(a), struck out ''dependent'' wherever appearing.

Subsec. (e). Act Aug. 21, 1954, § 2(b), added subsec. (e).

Subsec. (f). Act Apr. 9, 1952, ch. 168, added subsec. as a second subsec. (d) which was redesignated ''(f)'' by act Aug. 21, 1954, § 2(a).

1952—Subsec. (a). Act Apr. 9, 1952, ch. 167, inserted ''subsection (b) of'' after ''As used in''.

Subsec. (c). Act Apr. 9, 1952, ch. 168, struck out ''or to his legal or natural guardian if he has one'' after ''person entitled thereto''.

Subsec. (d). Act Apr. 9, 1952, ch. 167, added subsec. (d). Another subsec. (d), which was added by act Apr. 9, 1952, ch. 168, was redesignated ''(f)''. See 1954 Amendment note above.

1950—Subsec. (c)(4). Act Sept. 30, 1950, removed requirement of dependency upon which parents were entitled to benefits.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

COMPENSATION FOR PERSONS AWARDED PRISONER OF WAR MEDAL WHO DID NOT PREVIOUSLY RECEIVE COMPENSATION AS PRISONER OF WAR

Pub. L. 104–201, div. A, title VI, § 656, Sept. 23, 1996, 110 Stat. 2584, provided that:

''(a) AUTHORITY TO MAKE PAYMENTS.—The Secretary of the military department concerned shall make payments in the manner provided in section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) to (or on behalf of) any person described in subsection (b) who submits an application for such payment in accordance with subsection (d).

''(b) ELIGIBLE PERSONS.—This section applies with respect to a member or former member of the Armed Forces who—

''(1) has received the prisoner of war medal under section 1128 of title 10, United States Code; and

''(2) has not previously received a payment under section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) with respect to the period of internment for which the person received the prisoner of war medal.

''(c) AMOUNT OF PAYMENT.—The amount of the payment to any person under this section shall be determined based upon the provisions of section 6 of the War Claims Act of 1948 that are applicable with respect to the period of time during which the internment occurred for which the person received the prisoner of war medal.

''(d) ONE-YEAR PERIOD FOR SUBMISSION OF APPLICATIONS.—A payment may be made by reason of this section only in the case of a person who submits an application to the Secretary concerned for such payment during the one-year period beginning on the date of the enactment of this Act [Sept. 23, 1996]. Any such application shall be submitted in such form and manner as the Secretary may require.''

FILING DATE FOR CLAIMS OF NEW CLASS OF BENEFICIARIES

Persons entitled to benefits solely by reason of amendments made to this section by section 102(a) of act Aug. 31, 1954, were required to file claims within one year of Aug. 31, 1954, see section 102(c) of act Aug. 31, 1954.

PRIOR BENEFITS AS AFFECTING RIGHTS

Section 102(b) of act Aug. 31, 1954, provided that the amendments to sections 2004(d) and 2005(c), (d)(4) of this Appendix by section 102 of act Aug. 31, 1954, should not apply with respect to benefits paid prior to Aug. 31, 1954.

TIME FOR FILING CLAIMS

Section 3 of act Apr. 9, 1952, ch. 167, as amended by act May 13, 1954, ch. 202, §1, 68 Stat. 97, provided that claims for compensation under subsec. (d) of this section were to be filed on or before Aug. 1, 1954.

Sections 2 and 3 of act May 13, 1954, provided:

''SEC. 2. The amendment made by this Act [amending section 3 of act Apr. 9, 1952, ch. 167, by extending the time for filing claims from one year after April 9, 1952 to August 1, 1954] shall not be construed to extend the life of the War Claims Commission for any period of time.

''SEC. 3. The amendment made by this Act shall take effect as of April 9, 1953.''

§ 2006. Religious organizations

(a) Reimbursement for services furnished members of armed services and American civilians; certification of claims

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any religious organization functioning in the Philippine Islands and affiliated with a religious organization in the United States, or by the personnel of any such Philippine organization, for reimbursement of expenditures incurred, or for payment of the fair value of supplies used, by such organization or such personnel for the purpose of furnishing shelter, food, clothing, hospitalization, medicines and medical services, and other relief in the Philippines to members of the armed forces of the United States or to civilian American citizens (as defined in section 5 [section 2004 of this Appendix]) at any time subsequent to December 6, 1941, and before August 15, 1945. Any claim allowed under the provisions of this section shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(b) Compensation for loss or damage to real property used in educational, medical, or welfare work

Any such religious organization or its personnel functioning in the Philippines and affiliated with a religious organization in the United States, which furnished relief in the Philippines to members of the Armed Forces of the United States or to civilian American citizens in accordance with the provisions of subsection (a) shall be compensated from the War Claims Fund, as hereinafter provided, for the loss and damage sustained as a consequence of the war to its schools, colleges, universities, scientific observatories, hospitals, dispensaries, orphanages, and other property or facilities connected with its educational, medical, or welfare work.

(c) Compensation to replace facilities

Any such affiliated organization furnishing relief which possessed any interest in, and whose personnel of American citizens substantially composed the administrative staff of, any hospital whose prewar facilities and capacity have not been restored shall be compensated in an amount sufficient to enable such organization to replace the hospital's facilities and capacity equal to that which existed at the time of the outbreak of the war, irrespective of what disposition was made subsequently of the land, buildings, and contents.

(d) Determination of claims

Claims filed pursuant to subsection (b) shall be determined and paid upon the basis of postwar cost of replacement which shall be ascertained by the War Claims Commission. In making such determinations the Commission shall utilize but not be limited to the factual information and evidence contained in the records of the Philippine War Damage Commission; the technical advice of experts in the field; the substantiating evidence submitted by the claimants; and any other technical and legal means by which fair and equitable postwar replacement costs shall be determined.

(e) Investigation; determination of replacement costs; basis used

The Commission is authorized and directed to proceed at once with the necessary investigation, study, and establishment of procedures in order to determine the replacement costs of the claims to be filed under subsections (b) and (c), using as a basis for beginning such investigation and study the evidence contained in the claims of those religious organizations or their personnel which have already filed and are eligible to be paid under the terms of subsection (a) of this section.

(f) Filing of claims; adjudication; place and use of payments

All claims under subsections (b) and (c) must be filed on or before October 1, 1952; and not later than March 31, 1953, the Commission shall adjudicate according to law and provide for the payment of any claim filed pursuant to this section. In any case in which any money is payable as a result of subsections (b) and (c) to a religious organization or its personnel functioning in the Philippines, such money shall be paid upon request of such organization to its affiliate in the United States: *Provided*, That all money thus paid to such affiliated religious organization in the United States shall be used by such affiliate for the purpose of restoring the educational, medical, and welfare facilities described in subsections (b) and (c) and located in the Philippines.

(g) Claims of internees and prisoners of war unaffected

The Commission shall expedite the payments under this section without reducing payment of claims of American civilian internees and prisoners of war filed before March 31, 1953, pursuant to the provisions of sections 5 and 6 of this title [sections 2004 and 2005 of this Appendix].

(h) Denominational organizations

(1) Any religious organization functioning in the Philippines and of the same denomination as a religious organization functioning in the United States which furnished relief (as described, and during the period designated, in subsection (a) of this section) in the Philippines to members of the Armed Forces of the United States or to civilian American citizens shall be compensated from the War Claims Fund (A) for expenditures incurred, or for payment of the fair value of supplies used by such organization, for the purpose of furnishing such relief and (B) for loss and damage sustained as a consequence of the war to its schools, colleges, universities, scientific observatories, hospitals, dispensaries, orphanages, and other property or facilities connected with its educational, medical, or welfare work. No payments shall be made to any organization under this subsection if such organization has received an award under subsection (a) or (b) of this section, and no payments shall be made to any organization pursuant to clause (B) of this paragraph unless such organization has received an award for war damages from the Philippine War Damage Commission under the provisions of the Philippine Rehabilitation Act of 1946, as amended [sections 1751 to 1806 of this Appendix].

(2) The Commission is authorized to receive, determine according to law, and provide for the payment of claims filed under this subsection. Each claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund. All payments under this subsection shall be made to an organization or individual in the United States designated by the claimant, and, in the case of claims under clause (B) of paragraph (1) of this subsection such payments shall be used for the purpose of restoring the educational, medical, and welfare facilities described in such clause.

(3) Claims for benefits under this subsection must be filed within six months after the date of enactment of this subsection [Aug. 6, 1956]. The Commission shall complete its determination with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(4) Claims filed pursuant to clause (B) of paragraph (1) of this subsection shall be determined and paid upon the basis of postwar cost of replacement for the twelve-month period ending October 1, 1952, as ascertained by the Commission.

(July 3, 1948, ch. 826, title I, § 7, 62 Stat. 1245; Apr. 9, 1952, ch. 167, § 2, 66 Stat. 48; Aug. 6, 1956, ch. 985, 70 Stat. 1063; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

1956—Subsec. (h). Act Aug. 6, 1956, added subsec. (h).

1952—Subsec. (a). Subsec. constituted entire section prior to amendment by act Apr. 9, 1952.

Subsecs. (b) to (g). Act Apr. 9, 1952, added subsecs. (b) to (g).

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

TERMINATION OF PHILIPPINE WAR DAMAGE COMMISSION

The Philippine War Damage Commission established by section 1751 of this Appendix terminated under the provisions of subsec. (d) of section 1751 which provided for the winding up of the Commission's affairs not later than two years after expiration of time for filing claims under former sections 1751 to 1763 of this Appendix if possible but in no event later than Apr. 30, 1951.

§ 2007. Commission's report on personal injury and property claims to President; findings; recommendations; public property; legislative effect

(a) The Commission shall inquire into and report to the President, for submission of such report to the Congress on or before March 31, 1950, with respect to war claims arising out of World War II, other than claims which may be received and adjudicated under the preceding sections of this Act [sections 2001 to 2006 of this Appendix], and shall present in such report its findings on—

(1) the estimated number and amount of such claims, classified by types and categories; and

(2) the extent to which such claims have been or may be satisfied under international agreements or domestic or foreign laws.

(b) The report of the Commission shall contain recommendations with respect to—

(1) categories and types of claims, if any, which should be received and considered and the legal and equitable bases therefor;

(2) the administrative method by which such claims should be considered, and any priorities or limitations which should be applicable; and

(3) any limitations which should be applied to the allowance and payment of fees in connection with such claims.

(c) The Commission shall include in such report—

(1) such other recommendations as it deems appropriate; and

(2) such proposals for legislation as it deems appropriate for carrying out the recommendations made in such report.

(d) Such report, with accompanying evidence, shall be printed as a public document when received by the Congress.

(e) Nothing in this section shall be deemed to imply that the Congress will enact legislation—

(1) adopting any recommendations made under this section with respect to the consideration or payment of any type of claim; or

(2) making any moneys, including moneys remaining in the war claims fund after the making of payments from such fund provided for by this title [sections 2001 to 2016 of this Appendix], available for the payment of such claims.

(July 3, 1948, ch. 826, title I, § 8, 62 Stat. 1245; May 27, 1949, ch. 145, § 1(2), 63 Stat. 112; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

1949—Subsec. (a). Act May 27, 1949, extended until March 31, 1950, time within which Commission is required to file its reports and recommendations.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2008. Reports to Congress

Not later than six months after its organization, and every six months thereafter, the Commission shall make a report to the Congress concerning its operations under this title [sections 2001 to 2016 of this Appendix].

(July 3, 1948, ch. 826, title I, § 9, 62 Stat. 1246; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

ANNUAL SUBMISSION OF REPORTS

Pub. L. 89–348, § 2(6), Nov. 8, 1965, 79 Stat. 1312, modified the provisions of this section, beginning Jan. 1, 1967, to require annual instead of semiannual submission to Congress by Foreign Claims Settlement Commission of report concerning its operations under War Claims Act of 1948.

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

MALNUTRITION STUDY; DEFINITIONS; REPORT TO CONGRESS

Act Aug. 31, 1954, ch. 1162, title II, §§ 201–203, 68 Stat. 1037, defined terms ''prisoner of war'' and ''civilian American citizen'' and directed Secretary of Health, Education, and Welfare to conduct malnutrition study and report results thereof, not later than Aug. 31, 1955, to President for transmittal to Congress.

§ 2009. Fee limitation for representing claimants; penalties

No remuneration on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim filed with the administering agency under this title [sections 2001 to 2016 of this Appendix] shall exceed 10 per centum (or such lesser per centum as may be fixed by the administering agency with respect to any class of claims) of the amount allowed by the administering agency on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, pays or offers to pay, or promises, to pay, or receives, on account of services rendered or to be rendered in connection with any such claim, any remuneration in excess of the maximum permitted by this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both, and, if any such payment shall have been made or granted, the administering agency shall take such action as may be necessary to recover the same, and, in addition thereto any such claimant shall forfeit all rights under this title [said sections].

(July 3, 1948, ch. 826, title I, § 10, 62 Stat. 1246; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2010. Hearings on claims; finality of decision

The Commission shall notify all claimants of the approval or denial of their claims, and, if ap-

proved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full allowable amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission or its representatives with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this title [sections 2001 to 2016 of this Appendix] shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

(July 3, 1948, ch. 826, title I, § 11, 62 Stat. 1246; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by 68 Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2011. Omitted

CODIFICATION

Section, act July 3, 1948, ch. 826, title I, § 12, 62 Stat. 1246, enacted section 39 of this Appendix.

§ 2012. War Claims Fund

(a) Composition; expenditure

There is hereby created on the books of the Treasury of the United States a trust fund to be known as the War Claims Fund. The War Claims Fund shall consist of all sums covered into the Treasury pursuant to the provisions of section 39 of the Trading With the Enemy Act of October 6, 1917, as amended [section 39 of this Appendix]. The moneys in such fund shall be available for expenditure only as provided in this Act [sections 2001 to 2017p of this Appendix] or as may be provided hereafter by the Congress.

(b) Estimation and certification to Treasury of total amount necessary under section 2004(f)

Before August 1, 1956, the Secretary of Labor shall estimate and report to the President the total amount which will be required to pay all benefits payable by reason of section 5(f) of this title [section 2004(f) of this Appendix]. If the President approves the amount so estimated as reasonably accurate, the total amount so estimated and approved shall be certified to the Secretary of the Treasury; if the President does not so approve he shall determine such amount, and the amount so determined shall be certified to the Secretary of the Treasury. Such certification shall be made on or before September 1, 1956. The Secretary of the Treasury shall then transfer from the War Claims Fund to the general fund of the Treasury a sum equal to the total amount certified to him under this subsection.

(c) Estimation and certification to Treasury of total amount necessary under section 2003(c)

Before August 1, 1956, the Secretary of Labor shall estimate and report to the President the total amount which will be required to pay all additional benefits payable as a result of the enactment of section 4(c) of this title [section 2003(c) of this Appendix]. If the President approves the amount so estimated as reasonably accurate, the total amount so estimated and approved shall be certified to the Secretary of the Treasury; if the President does not so approve, he shall determine such amount, and the amount so determined shall be certified to the Secretary of the Treasury. Such certification shall be made on or before September 1, 1956. The Secretary of the Treasury shall then transfer from the War Claims Fund to the general fund of the Treasury a sum equal to the total amount certified to him under this subsection.

(d) Certification to Treasury of total canceled obligations under section 2003(b)(1)

On or before August 1, 1956, the Secretary of State is authorized and directed to certify to the Secretary of the Treasury the total amount of all obligations canceled pursuant to the provisions of section 4(b)(1) of this title [section 2003(b)(1) of this Appendix]. The Secretary of the Treasury shall transfer from the war claims fund to the general fund of the Treasury an amount equal to the total amount so certified.

(e) Authorization of appropriations for Commission's work

There are hereby authorized to be appropriated, out of any money in the war claims fund, such sums as may be necessary to enable the Commission to carry out its functions under this title [sections 2001 to 2016 of this Appendix].

(July 3, 1948, ch. 826, title I, § 13, 62 Stat. 1247; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 31, 1954, ch. 1162, title I, § 104, 68 Stat. 1036; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

REFERENCES IN TEXT

Section 4(c) of this title, referred to in subsec. (c), which amended section 1702 of Title 42, The Public Health and Welfare, was classified to section 2003(c) of this Appendix, and was omitted from the Code.

AMENDMENTS

1962—Subsecs. (b) to (e). Pub. L. 87–846 substituted ''title'' for ''Act''.

1954—Subsec. (b). Act Aug. 31, 1954, § 104(a), provided that President may approve or disapprove of Secretary of Labor's estimate, and if he disapproves he shall estimate total amount of claims under section 2004(f) of this Appendix, and provided that all transfers which are to be made from the War Claims Fund to the Treasury general fund shall be made before Aug. 1, 1956.

Subsec. (c). Act Aug. 31, 1954, § 104(a), provided that President may approve or disapprove Secretary of Labor's estimate, and if he disapproves he shall estimate total amount of claims under section 2003 (c) of this Appendix, and provided that all transfers which are to be made from War Claims Fund to Treasury general fund shall be made before Aug. 1, 1956.

Subsec. (d). Act Aug. 31, 1954, § 104(b), inserted ''on or before August 1, 1956'' before ''Secretary of State''.

TRANSFER OF FUNCTIONS

''Secretary of Labor'' substituted for ''Federal Security Administrator'' in subsecs. (b) and (c) pursuant to Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, set out in the Appendix to Title 5, Government Organization and Employees, which transferred functions of Federal Security Administrator and Federal Security Agency under this section to Secretary of Labor with power to delegate.

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2012a. Omitted

CODIFICATION

Section, act June 29, 1955, ch. 226, title I, 69 Stat. 195, which placed a limitation on funds used for payment of claims, was from the General Government Matters Appropriation Act, 1956, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

1954—June 24, 1954, ch. 359, title I, 68 Stat. 293.

1953—July 31, 1953, ch. 302, title I, 67 Stat. 312.

1952—July 5, 1952, ch. 578, title I, 66 Stat. 410.

1951—Aug. 31, 1951, ch. 376, title I, 65 Stat. 282.

1950—Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 720.

§ 2013. Payments to certain members of religious orders

In any case in which any money is payable as a result of the enactment of this title [sections 2001 to 2016 of this Appendix] to any person who is prevented from accepting such money by the rules, regulations, or customs of the church or the religious order or organization of which he is a member, such money shall be paid, upon the request of such person, to such church or to such religious order or organization.

(July 3, 1948, ch. 826, title I, § 14, 62 Stat. 1247; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

War Claims Commission, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 2001 of this Appendix and notes thereunder.

§ 2014. United States citizens serving in allied forces

(a) Right to compensation

The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim for compensation filed by or on behalf of any individual who, being then an American citizen, served in the military or naval forces of any government allied with the United States during World War II who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which such allied government has been at war subsequent to such date. Compensation shall be payable under this section in accordance with the standards established by, and at the rates prescribed in, subsection (b) of section 6 of this title [section 2005(b) of this Appendix], and paragraphs (2) and (3) of subsection (d) of such section 6 [section 2005(d) (2), (3) of this Appendix].

(b) Deductions

The amount payable under this section shall be reduced by such sum as the individual entitled to compensation under this section has received or is entitled to receive from any government by reason of the same detention.

(c) Payments on death

In the event of death of the individual entitled to compensation under this section, payment may be made to the persons specified in paragraph (4) of subsection (d) of section 6 of this title [section 2005(d)(4) of this Appendix].

(d) Filing date for claims

Claims for benefits under this section must be filed within one year after the date of enactment of this section [Aug. 31, 1954].

(e) Certification of claim for payment

Any claim allowed under the provisions of this section shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(July 3, 1948, ch. 826, title I, § 15, as added Aug. 31, 1954, ch. 1162, title I, § 103, 68 Stat. 1034; amended Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

§ 2015. Detention benefits to merchant seamen

(a) "Merchant seaman" defined

As used in this section, the term ''merchant seaman'' means any individual who was employed as a seaman or crew member on any ves-

sel registered under the laws of the United States, or under the laws of any government friendly to the United States during World War II, and who was a citizen of the United States on and after December 7, 1941, to the date of his death or the date of filing claim under this section; except any such individual who is entitled to, or who has received, benefits under section 5 of this title [section 2004 of this Appendix] as a ''civilian American citizen''.

(b) Determination of claim; rate of payment

The Commission is authorized to receive and determine, according to law, the amount and validity, and provide for the payment of any claim for detention benefits filed by or on behalf of any merchant seaman who, being then a merchant seaman, was captured or interned or held by the Government of Germany or the Imperial Japanese Government, its agent or instrumentalities in World War II for any period of time subsequent to December 7, 1941, during which he was held by either such government as a prisoner, internee, hostage, or in any other capacity. Detention benefits shall be paid under this section at the rates prescribed and in the manner provided in subsections (c) and (d) of section 5 of this title [section 2004(c), (d) of this Appendix].

(c) Collaborationists excluded

Payment of any claim filed under this section shall not be made to any merchant seaman, or to any survivor or survivors thereof, who, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any government hostile to the United States during World War II.

(d) Time of filing claim

Claims for benefits under this section must be filed within one year after the date of enactment of this section [Aug. 31, 1954].

(e) Certification of claim for payment

Any claim allowed under the provisions of this section shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this title [section 2012 of this Appendix].

(July 3, 1948, ch. 826, title I, § 16, as added Aug. 31, 1954, ch. 1162, title I, § 103, 68 Stat. 1034; amended Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

§ 2016. Philippines

(a) Losses by individual from sequestered credits; loss by banks or other financial institutions

(1) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by—

(A) any individual who—

(i) on or after December 7, 1941, was a member of the military or naval forces of the United States;

(ii) is the survivor of any deceased individual described in subparagraph (i);

(iii) was a national of the United States on December 7, 1941, and is a national of the United States on the date of enactment of this section [Aug. 31, 1954]; or

(iv) is the survivor of any deceased individual who was a national of the United States on December 7, 1941, and would be a national of the United States on the date of enactment of this section [Aug. 31, 1954] if living; or

(B) any partnership, firm, corporation, or other legal entity, in which more than 50 per centum of the ownership was vested, directly or indirectly, both on December 7, 1941, and on the date of enactment of this section [Aug. 31, 1954], in individuals referred to in subparagraph (A) of this paragraph;

for losses arising as a result of the sequestration of accounts, deposits, or other credits of such individual or legal entity in the Philippines by the Imperial Japanese Government.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any bank or other financial institution doing business in the Philippines which reestablished sequestered accounts, deposits, or other credits of—

(A) any individual referred to in subparagraph (A) of paragraph (1) of this subsection; or

(B) any partnership, firm, corporation, or other legal entity, in which more than 50 per centum of the ownership was vested, directly or indirectly, both on December 7, 1941, and on the date of reestablishment of such sequestered credits, in individuals referred to in such subparagraph (A);

for reimbursement of the amounts of such sequestered credits paid by such bank or financial institution.

(b) Filing date for claims

Claims must be filed under this section within one year after the date of enactment of this section [Aug. 31, 1954].

(c) Death or legal disability as affecting payments

Where any individual entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5 of this title [section 2004(e) of this Appendix]. In the case of the death of any individual entitled to payment of any claim under this section, payment of such claim shall be made to the individuals specified, and in the order provided, in subsection (d) of section 6 of this title [section 2005(d) of this Appendix]; except that no payment shall be made under this section to any individual who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any government hostile to the United States during World War II.

(d) Certification of claims for payment

Each claim allowed under this section shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established under section 13 of this title [section 2012 of this Appendix]. The Secretary of the Treasury shall pay such claims as follows:

(1) In the case of each claim allowed in an amount equal to or less than $500, such claim shall be paid in full; and

(2) In the case of each claim allowed in an amount greater than $500, such claim shall be paid in two installments. The first installment shall be paid in an amount equal to $500 plus 66⅔ per centum of the amount of such claim allowed in excess of $500. The last installment shall be computed as of September 1, 1956, under the next sentence of this paragraph, and, as so computed, shall be paid from the sums remaining in the War Claims Fund on that date. If the sums remaining in the War Claims Fund on September 1, 1956, are sufficient to satisfy all claims allowed under this section and not paid in full, the unpaid portion of each such claim shall be paid in full; if the sums remaining in the War Claims Fund on September 1, 1956, are not sufficient to satisfy all claims allowed under this section and not paid in full, the last installment payable on each such claim shall be reduced ratably, and, as so reduced, shall be paid from the War Claims Fund.

(July 3, 1948, ch. 826, title I, § 17, as added Aug. 31, 1954, ch. 1162, title I, § 103, 68 Stat. 1035; amended Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107.)

AMENDMENTS

1962—Pub. L. 87–846 substituted ''title'' for ''Act''.

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

TITLE II

TITLE II OF ACT

Section 103 of Pub. L. 87–846, Oct. 22, 1962, 76 Stat. 1107, added sections 201 to 217 of act July 3, 1948, as amended [sections 2017 to 2017p of this Appendix], as title II.

§ 2017. Definitions

As used in this title [sections 2017 to 2017p of this Appendix] the term or terms—

(a) ''Albania'', ''Austria'', ''Czechoslovakia'', ''the Free Territory of Danzig'', ''Estonia'', ''Germany'', ''Greece'', ''Latvia'', ''Lithuania'', ''Poland'', and ''Yugoslavia'', when used in their respective geographical senses, mean the territorial limits of each such country or free territory, as the case may be, in continental Europe as such limits existed on December 1, 1937.

(b) ''Commission'' means the Foreign Claims Settlement Commission of the United States established pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279).

(c) ''National of the United States'' means (1) a natural person who is a citizen of the United States, (2) a natural person who, though not a citizen of the United States, owes permanent allegiance to the United States, and (3) a corporation, partnership, unincorporated body, or other entity, organized under the laws of the United States, or of any State, the Commonwealth of Puerto Rico, the District of Columbia, or any possession of the United States and in which more than 50 per centum of the outstanding capital stock or other proprietary or similar interest is owned, directly or indirectly, by persons referred to in clauses (1) and (2) of this subsection. It does not include aliens.

(d) ''Property'' means real property and such items of tangible personalty as can be identified and evaluated.

(July 3, 1948, ch. 826, title II, § 201, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1107.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279), referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

SEPARABILITY

Section 301 of Pub. L. 87–846 provided that: ''If any provision of this Act [enacting sections 41, 42, and 2017 to 2017p of this Appendix, amending sections 9, 32, 33, 39, 2001, 2003 to 2010, 2012, and 2013 to 2016 of this Appendix, and exacting provisions set out as notes under this section and section 2001 of this Appendix], or the application thereof to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provisions to other persons or circumstances, shall not be affected.''

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

§ 2017a. Claims authorized

The Commission is directed to receive and to determine according to the provisions of this title [sections 2017 to 2017p of this Appendix] the validity and amount of claims of nationals of the United States for—

(a) loss or destruction of, or physical damage to, property located in Albania, Austria, Czechoslovakia, the Free Territory of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, or Yugoslavia, or in territory which was part of Hungary or Rumania on December 1, 1937, but which was not included in such countries on September 15, 1947, which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945, or which occurred in the period beginning July 1, 1937, and ending September 2, 1945, to property in territory occupied or attacked by the Imperial Japanese military forces (including territory to which Japan has renounced all right, title, and claim under article 2 of the Treaty of Peace Between the Allied Powers and Japan) except the island of Guam: *Provided*, That claims for loss, destruction, or damage occurring in the Commonwealth of the Philippines shall not be allowed except on behalf of nationals of the United States who have received no payment,

and certify under oath or affirmation that they have received no payment, on account of the same loss, destruction, or damage under the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix], whether or not claim was filed thereunder: *Provided further*, That such loss, destruction, or damage must have occurred, as a direct consequence of (1) military operations of war or (2) special measures directed against property in such countries or territories during the respective periods specified, because of the enemy or alleged enemy character of the owner, which property was owned, directly or indirectly, by a national of the United States at the time of such loss, damage or destruction;

(b) damage to, or loss or destruction of, ships or ship cargoes directly or indirectly owned by a national of the United States at the time such damage, loss, or destruction occurred, which was a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; no award shall be made under this subsection in favor of any insurer or reinsurer as assignee or otherwise as successor in interest to the right of the insured;

(c) net losses under war-risk insurance or reinsurance policies or contracts, incurred in the settlement of claims for insured losses of ships directly or indirectly owned by a national of the United States at the time of the loss, damage, or destruction of such ships and at the time of the settlement of such claims, which insured losses were a direct consequence of military action by Germany or Japan during the period beginning September 1, 1939, and ending September 2, 1945; such net losses shall be determined by deducting from the aggregate of all payments made in the settlement of such insured losses the aggregate of the net amounts received by any such insurance companies on all policies of contracts of war-risk insurance or reinsurance on ships under which the insured was a national of the United States, after deducting expenses; and

(d) loss or damage on account of—

(1) the death of any person who, being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, died or was killed as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be made only to or for the benefit of the following persons in the order of priority named:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents of the deceased (in equal shares) if there is no widow, husband, or child;

(2) injury or permanent disability sustained by any person, who being then a civilian national of the United States and a passenger on any vessel engaged in commerce on the high seas, was injured or permanently disabled as a result of military action by Germany or Japan which occurred during the period beginning September 1, 1939, and ending December 11, 1941; awards under this paragraph shall be payable solely to the person so injured or disabled;

(3) the loss or destruction, as a result of such action, of property on such vessel, as determined by the Commission to be reasonable, useful, necessary, or proper under the circumstances, which property was owned by any civilian national of the United States who was then a passenger on such vessel; and in the case of the death of any person suffering such loss, awards under this paragraph shall be made only to or for the benefit of the persons designated in paragraph (1) of this subsection and in the order of priority named therein.

(July 3, 1948, ch. 826, title II, § 202, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1107.)

§ 2017b. Transfers and assignments

The transfer or assignment for value of any property forming the subject matter of a claim under subsection (a) or (b) of section 202 [section 2017a of this Appendix] subsequent to its damage, loss, or destruction shall not operate to extinguish any claim of the transferor otherwise compensable under either of such subsections. If a claim which could otherwise be allowed under subsection (a) or (b) of section 202 [section 2017a of this Appendix] has been assigned for value prior to the enactment of this title [Oct. 22, 1962], the assignee shall be the party entitled to claim thereunder.

(July 3, 1948, ch. 826, title II, § 203, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1109.)

§ 2017c. Nationality of claimants

No claim shall be allowed under subsection (a), (b), or (c) of section 202 of this title [section 2017a of this Appendix] unless the property upon which it is based was owned by a national or nationals of the United States on the date of loss, damage, or destruction and unless the claim was owned by a national or nationals of the United States continuously thereafter until the date of filing with the Commission pursuant to this title [sections 2017 to 2017p of this Appendix]. Where any person who lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country reacquired such citizenship before the date of enactment of this title [Oct. 22, 1962], then if such individual, but for such marriage would have been a national of the United States at all times on and after the date of such loss, damage, or destruction until the filing of the claim, such individual shall be treated for all purposes of this title [sections 2017 to 2017p of this Appendix] as having been a national of the United States at all such times.

(July 3, 1948, ch. 826, title II, § 204, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1109.)

§ 2017d. Claims of stockholders

(a) A claim under section 202 of this title [section 2017a of this Appendix] based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

(b) A claim under section 202 of this title [section 2017a of this Appendix], based upon a direct ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title [sections 2017 to 2017p of this Appendix], if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

(c) A claim under section 202 of this title [section 2017a of this Appendix], based upon an indirect ownership interest in a corporation, association, or other entity which suffered a loss within the meaning of said section, shall be allowed, subject to other provisions of this title [sections 2017 to 2017p of this Appendix], only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

(d) Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

(July 3, 1948, ch. 826, title II, § 205, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1109.)

§ 2017e. Deductions in making awards

(a) In determining the amount of any award there shall be deducted all amounts the claimant has received on account of the same loss or losses with respect to which an award is made under this title [sections 2017 to 2017p of this Appendix].

(b) Each claim in excess of $10,000 filed under this title [sections 2017 to 2017p of this Appendix] by a corporation shall include a statement under oath disclosing the aggregate amount of Federal tax benefits derived by such corporation in any prior taxable year or years resulting from any deduction or deductions claimed for the loss or losses with respect to which such claim is filed. In determining the amount of any award where the allowable loss exceeds $10,000 there shall be deducted an amount equal to the aggregate amount of Federal tax benefits so derived by the claimant. For the purposes of this subsection, such Federal tax benefits shall be the aggregate of the amounts by which the claimant's taxes for such year or years under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code of 1939, or subtitle A of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] were decreased with respect to such loss or losses. Any payments made on an award reduced by reason of this subsection shall be exempt from Federal income taxes.

(July 3, 1948, ch. 826, title II, § 206, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1110; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in text, was generally repealed by section 7851 of the Internal Revenue Code of 1986, Title 26. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See, also, section 7852(b) of Title 26 for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (b), was comprised of sections 1 to 482 of former Title 26, Internal Revenue Code. Section 14 of former Title 26 was repealed by act Oct. 20, 1951, ch. 521, title I, pt. II, § 121(g), 65 Stat. 469. Sections 34 and 185 of former Title 26 were repealed by act Feb. 25, 1944, ch. 63, title I, §§ 106(c)(2), 107(a), 58 Stat. 31. Sections 264 and 363 of former Title 26 were repealed by act Oct. 21, 1942, ch. 619, title I, §§ 159(e), 170(a), 56 Stat. 860, 878. Sections 430 to 474 of former Title 26 were omitted from the Code, and subsequently, along with the remaining sections of former Title 26 comprising chapter 1, except sections 143 and 144, were repealed by sections 7851(a)(1)(A) of Title 26, Internal Revenue Code. Sections 143 and 144 of former Title 26 were repealed by section 7851(a)(1)(B) of Title 26.

Chapter 2A of the Internal Revenue Code of 1939, referred to in subsec. (b), was comprised of sections 500 to 511 of former Title 26, Internal Revenue Code. Sections 500 to 511 were repealed by section 7851(a)(1)(A) of Title 26, Internal Revenue Code.

Chapter 2B of the Internal Revenue Code of 1939, referred to in subsec. (b), was comprised of sections 600 to 605 of former Title 26, Internal Revenue Code. Sections 600 to 605 were repealed by act Nov. 8, 1945, ch. 453, title II, § 202, 59 Stat. 574, eff. with respect to taxable years ending June 30, 1946.

Chapter 2D of the Internal Revenue Code of 1939, referred to in subsec. (b), was comprised of sections 700 to 706 of former Title 26, Internal Revenue Code. Sections 700 to 716 were repealed by section 7851(a)(1)(A) of Title 26, Internal Revenue Code.

Chapter 2E of the Internal Revenue Code of 1939, referred to in subsec. (b), was comprised of sections 710 to 784 of former Title 26, Internal Revenue Code. Sections 710 to 736, 740, 742 to 744, 750, 751, 760, 761 and 780 to 784 were repealed by act Nov. 8, 1945, ch. 453, title I, § 122(a), 59 Stat. 568. Section 741 was repealed by act Oct. 21, 1942, ch. 619, title II, §§ 224(b), 228(b), 56 Stat. 920, 925. Section 752 was repealed by act Oct. 21, 1942, ch. 619, title II, § 229(a)(1), 56 Stat. 931, eff. as of Oct. 8, 1940.

Subtitle A of the Internal Revenue Code of 1986, referred to in subsec. (b), is subtitle A of act Aug. 16, 1954, ch. 736, 68A Stat. 4, as amended, which comprises subtitle A (§ 1 et seq.) of Title 26, Internal Revenue Code.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

§ 2017f. Consolidated awards

With respect to any claim which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimant therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this title [sections 2017 to 2017p of this Appendix] in all respects as if the award had been in favor of a single person.

(July 3, 1948, ch. 826, title II, § 207, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1110.)

§ 2017g. Certain awards prohibited

No award shall be made under this title [sections 2017 to 2017p of this Appendix] to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115, title 18, United States Code, or of any other crime involving disloyalty to the United States, or (2) any claimant whose claim under this title [said sections] is within the scope of title III of the International Claims Settlement Act of 1949, as amended (69 Stat. 570) [22 U.S.C. 1641 et seq.], except any claimant whose award under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1641b(1)], is recertified pursuant to subsection (b) of section 209 of this title [section 2017h of this Appendix].

(July 3, 1948, ch. 826, title II, § 208, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1110.)

REFERENCES IN TEXT

The International Claims Settlement Act of 1949, as amended, referred to in text, is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title III of the International Claims Settlement Act of 1949, as amended (69 Stat. 570) is classified generally to subchapter III (§ 1641 et seq.) of chapter 21 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of Title 22 and Tables.

§ 2017h. Certification of awards

(a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, for payment out of the War Claims Fund each award made pursuant to section 202 [section 2017a of this Appendix].

(b) The Commission shall recertify to the Secretary of the Treasury, in terms of United States currency, for payment out of the War Claims Fund, awards heretofore made with respect to claims against the Government of Hungary under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1641b(1)]. Nothing contained in this subsection shall be construed as authorizing the filing of new claims against Hungary.

(July 3, 1948, ch. 826, title II, § 209, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1111.)

§ 2017i. Claim filing period

Within sixty days after the enactment of this title [Oct. 22, 1962] or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title [sections 2017 to 2017p of this Appendix], whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than eighteen months after such publication.

(July 3, 1948, ch. 826, title II, § 210, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1111.)

PROTESTS RELATING TO AWARDS BY COMMISSION; NOTICE BY PUBLICATION IN FEDERAL REGISTER

Notwithstanding the provisions of this section and section 2017j of this Appendix, receipt and consideration of filed and published protests relating to awards made by the Foreign Claims Settlement Commission which result in modification of such awards shall be certified and paid by the Secretary of the Treasury out of the War Claims Fund in accordance with section 2017*l* of this Appendix. See section 615 of act Mar. 10, 1950, ch. 54, as added by Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512, set out as a note under section 1623 of Title 22, Foreign Relations and Intercourse.

§ 2017j. Claims settlement period

The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title [sections 2017 to 2017p of this Appendix] not later than four years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title [said sections].

(July 3, 1948, ch. 826, title II, § 211, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1111.)

PROTESTS RELATING TO AWARDS BY COMMISSION; NOTICE BY PUBLICATION IN FEDERAL REGISTER

Notwithstanding the provisions of this section and section 2017i of this Appendix, receipt and consideration of filed and published protests relating to awards made by the Foreign Claims Settlement Commission which result in modification of such awards shall be certified and paid by the Secretary of the Treasury out of the War Claims Fund in accordance with section 2017*l* of this Appendix. See section 615 of act Mar. 10, 1950, ch. 54, as added by Pub. L. 94–542, Oct. 18, 1976; 90 Stat. 2512, set out as a note under section 1623 of Title 22, Foreign Relations and Intercourse.

§ 2017k. Notification to claimants

Each award or denial of a claim by the Commission whether rendered before or after a hearing, shall include a specific statement of the facts and of the reasoning of the Commission in support of its conclusion.

(July 3, 1948, ch. 826, title II, § 212, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1111.)

§ 2017*l*. Payment of awards; priorities; limitations

(a) The Secretary of the Treasury shall pay out of the War Claims Fund on account of award certified by the Commission pursuant to this title [sections 2017 to 2017p of this Appendix] as follows and in the following order of priority:

(1) Payment in full of awards made pursuant to section 202(d)(1) and (2) [section 2017a(d)(1) and (2) of this Appendix], and thereafter of any award made pursuant to section 202(a) [section 2017a(a) of this Appendix] to any claimant (A) certified to the Commission by the Small Business Administration as having been, on the date of loss, damage, or destruction, a small business concern within the meaning now set forth in the Small Business Act, as amended [15 U.S.C. 631 et seq.], or (B) determined by the Commission to have been, on the date of loss, damage, or destruction, a nonprofit organization operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes.

(2) Thereafter, payments from time to time on account of the other awards made pursuant to

section 202 [section 2017a of this Appendix] in an amount which shall be the same for each award or in the amount of the award, whichever is less. The total payment made pursuant to this paragraph on account of any award shall not exceed $10,000.

(3) Thereafter, payments from time to time on account of the other awards made to individuals and corporations pursuant to section 202 [section 2017a of this Appendix] and not compensated in full under paragraph (1) or (2) of this subsection in an amount which shall be the same for each award or in the amount of the award, whichever is less. The total payment pursuant to this paragraph on account of any award shall not exceed $35,000.

(4) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to section 202 [section 2017a of this Appendix] or recertified pursuant to subsection (b) of section 209 [section 2017h of this Appendix] which shall bear to such unpaid balance the same proportion as the total amount in the War Claims Fund and available for distribution at the time such payments are made bears to the aggregate unpaid balances of all such awards. No payment made pursuant to this paragraph on account of any award shall exceed the unpaid balance of such award. Payments heretofore made under section 310 of title III of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1641i], on awards made against the Government of Hungary under section 303(1) of title III of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1641b(1)], and recertified under subsection (b) of section 209 [section 2017h(b) of this Appendix], shall be considered as payments under this paragraph and no payment shall be made on any recertified award until the percentage of distribution on awards made under section 202 [section 2017a of this Appendix] exceeds the corresponding percentage of distribution on such recertified award: *Provided*, That no payment made on awards recertified under subsection (b) of section 209 [section 2017h(b) of this Appendix] shall exceed 40 per centum of the amount of the award recertified.

(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

(c) For the purpose of making any such payments, other than under section 213(a)(1) [subsec. (a)(1) of this section], an ''award'' shall be deemed to mean the aggregate of all awards certified for payment in favor of the same claimant.

(d) If any person to whom any payment is to be made pursuant to this title [sections 2017 to 2017p of this Appendix] is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Secretary of the Treasury to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

(e) Payment on account of any award pursuant to this title [sections 2017 to 2017p of this Appendix] shall not, unless such payment is for the full amount of the award, extinguish any rights against any foreign government for the unpaid balance of the award.

(f) Payments made under this section on account of any award for loss, damage, or destruction occurring in the Commonwealth of the Philippines shall not exceed the amount paid on account of awards in the same amount under the Philippine Rehabilitation Act of 1946 [sections 1751 to 1806 of this Appendix].

(July 3, 1948, ch. 826, title II, § 213, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1111; amended Pub. L. 91–571, § 1(a), Dec. 24, 1970, 84 Stat. 1503; Pub. L. 104–316, title I, § 128(b), Oct. 19, 1996, 110 Stat. 3841.)

REFERENCES IN TEXT

The Small Business Act, as amended, referred to in subsec. (a)(1), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–316 substituted ''Secretary of the Treasury'' for ''Comptroller General''.

1970—Subsec. (a)(1). Pub. L. 91–571, § 1(a)(1), included payment to any claimant determined by Commission to have been, on date of loss, damage, or destruction, a nonprofit organization operated exclusively for promotion of social welfare, religious, charitable, or educational purposes.

Subsec. (a)(3), (4). Pub. L. 91–571, § 1(a)(2), added par. (3) and redesignated former par. (3) as (4).

PROTEST RELATING TO AWARDS BY COMMISSION; NOTICE BY PUBLICATION IN FEDERAL REGISTER

Notwithstanding the provisions of sections 2017i and 2017j of this Appendix receipt and consideration of filed and published protests relating to awards made by the Foreign Claims Settlement Commission which result in modification of such awards shall be certified and paid by the Secretary of the Treasury out of the War Claims Fund in accordance with this section. See section 615 of Act Mar. 10, 1950, ch. 54, as added by Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512, set out as a note under section 1623 of Title 22, Foreign Relations and Intercourse.

RECERTIFICATION OF CERTAIN AWARDS

Section 1(b) of Pub. L. 91–571 provided that: ''The Foreign Claims Settlement Commission is authorized to recertify to the Secretary of the Treasury each award which has been certified before the date of enactment of this Act [Dec. 24, 1970] pursuant to title II of the War Claims Act of 1948, as added by the Act of October 22, 1962 (76 Stat. 1107) [sections 2017 to 2017p of this Appendix], but which as of the date of enactment of this Act has not been paid in full, in such manner as it may determine to be required to give effect to the amendments made by this Act [amending this section] to the same extent and with the same effect as if such amendments had taken effect on October 22, 1962.''

§ 2017m. Fees of attorneys and agents

No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title [sections 2017 to 2017p of this Appendix] shall exceed 10 per centum (or such lesser per centum as may be fixed by the Commission with respect to any class of claims) of the total amount paid pursuant to any award certified

under the provisions of this title [said sections] on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(July 3, 1948, ch. 826, title II, § 214, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1112.)

§ 2017n. Application of other laws

To the extent they are not inconsistent with the provisions of this title [sections 2017 to 2017p of this Appendix], the following provisions of title I of this Act [sections 2001 to 2016 of this Appendix] and title I of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1621 et seq.], shall apply to this title [sections 2017 to 2017p of this Appendix]: The first sentence of subsection (b) of section 2 [section 2001 of this Appendix], all of subsection (c) of section 2 [section 2001 of this Appendix] and section 11 [section 2010 of this Appendix] of title I of this Act, and subsections (c), (d), (e), and (f) of section 7 of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1626].

(July 3, 1948, ch. 826, title II, § 215, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1112.)

REFERENCES IN TEXT

The International Claims Settlement Act of 1949, as amended, referred to in text, is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title I of that Act is classified generally to subchapter I (§ 1621 et seq.) of chapter 21 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of Title 22 and Tables.

§ 2017*o*. Transfer of records

The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title [sections 2017 to 2017p of this Appendix] as may be required by the Commission in carrying out its functions under this title [said sections].

(July 3, 1948, ch. 826, title II, § 216, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1113.)

§ 2017p. Administrative expenses

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary (but not to exceed the total covered into the Treasury to the credit of miscellaneous receipts under section 39 subsection (d)[1] of the Trading With the Enemy Act [section 39(d) of this Appendix]) to enable the Commission and the Treasury Department to pay their administrative expenses in carrying out their respective functions under this title [sections 2017 to 2017p of this Appendix].

(July 3, 1948, ch. 826, title II, § 217, as added Pub. L. 87–846, title I, § 103, Oct. 22, 1962, 76 Stat. 1113.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 39 subsection (d) of the Trading With the Enemy Act, referred to in text, was repealed by Pub. L. 100–418, title II, § 2501(a)(1), Aug. 23, 1988, 102 Stat. 1371.

MICRONESIAN WAR AND POSTWAR CLAIMS

PUB. L. 92–39, JULY 1, 1971, 85 STAT. 92

§§ 2018 to 2020b. Omitted

CODIFICATION

Sections 2018 to 2020b terminated Aug. 3, 1976, pursuant to section 2019b of this Appendix.

Section 2018, Pub. L. 92–39, § 1, July 1, 1971, 85 Stat. 92, provided that sections 2018 to 2020b of this Appendix were to be cited as the Micronesian Claims Act of 1971.

Section 2019, Pub. L. 92–39, title I, § 101, July 1, 1971, 85 Stat. 92; Pub. L. 93–131, § 1, Oct. 19, 1973, 87 Stat. 460, related to purpose of sections 2019 to 2019e of this Appendix to implement an ex gratia contribution by the United States to meritorious Micronesian war claimants inhabiting the Trust Territory of Pacific Islands.

Section 2019a, Pub. L. 92–39, title I, § 102, July 1, 1971, 85 Stat. 93, authorized appropriations for purposes of sections 2018 to 2020b of this Appendix and authorized the establishment and management of a Micronesian Claims Fund.

Section 2019b, Pub. L. 92–39, title I, § 103, July 1, 1971, 85 Stat. 93, established Micronesian Claims Commission, provided for compensation and allowances of its members, authorized prescription of rules and regulations by Commission, and provided that Commission was to wind up its affairs no later than three years after expiration of time for filing claims under sections 2018 to 2020b of this Appendix. The Commission terminated on Aug. 3, 1976.

Section 2019c, Pub. L. 92–39, title I, § 104, July 1, 1971, 85 Stat. 94; Pub. L. 93–131, § 2, Oct. 19, 1973, 87 Stat. 461, related to powers of Commission.

Section 2019d, Pub. L. 92–39, title I, § 105, July 1, 1971, 85 Stat. 95, authorized appropriations necessary for operational and administrative expenses of Foreign Claims Settlement Commission and Micronesian Claims Commission in carrying out the purposes of sections 2018 to 2020b of this Appendix.

Section 2019e, Pub. L. 92–39, title I, § 106, July 1, 1971, 85 Stat. 95, related to remuneration limitation for filing services and prescribed penalties for violations of sections 2018 to 2020b of this Appendix.

Section 2020, Pub. L. 92–39, title II, § 201, July 1, 1971, 85 Stat. 96, authorized Commission to determine personal or property loss claims against United States by Micronesian inhabitants and provided that administrative settlements by Commission were to be final and conclusive.

Section 2020a, Pub. L. 92–39, title II, § 202, July 1, 1971, 85 Stat. 96, authorized appropriations for making payments to extent authorized by sections 2020 to 2020b of this Appendix.

Section 2020b, Pub. L. 92–39, title II, § 203, July 1, 1971, 85 Stat. 96, authorized transfer of any funds remaining after settlement of claims under sections 2020 to 2020b of this Appendix to Treasury of United States.

EXPORT CONTROLS

ACT FEB. 26, 1949, CH. 11, 63 STAT. 7

§§ 2021 to 2032. Omitted

CODIFICATION

Sections 2021 to 2032 terminated pursuant to section 2032 of this Appendix. See section 2401 et seq. of this Appendix.

Section 1, in part, of act Feb. 26, 1949, ch. 11, 63 Stat. 7, as amended, provided that act Feb. 26, 1949, may be cited as the Export Control Act of 1949.

Section 2021, acts Feb. 26, 1949, ch. 11, § 1(a), (b), 63 Stat. 7; July 1, 1962, Pub. L. 87–515, § 2, 76 Stat. 127, set out Congressional findings.

Section 2022, acts Feb. 26, 1949, ch. 11, §2, 63 Stat. 7; July 1, 1962, Pub. L. 87–515, §3, 76 Stat. 127; June 30, 1965, Pub. L. 89–63, §3(a), 79 Stat. 209, set out Congressional declaration of policy.

Section 2023, acts Feb. 26, 1949, ch. 11, §3, 63 Stat. 7; July 1, 1962, Pub. L. 87–515, §4, 76 Stat. 127; June 30, 1965, Pub. L. 89–63, §§3(b), 4(a), (d), 79 Stat. 210, set out authority to effectuate export control policy and delegated authority to prescribe rules and regulations.

Section 2024, acts Feb. 26, 1949, ch. 11, §4, 63 Stat. 8; June 30, 1965, Pub. L. 89–63, §4(b), 79 Stat. 210, laid down criteria for establishment of standards for carrying out policies and for consultation among departments and agencies.

Section 2025, acts Feb. 26, 1949, ch. 11, §5, 63 Stat. 8; July 1, 1962, Pub. L. 87–515, §5, 76 Stat. 128; June 30, 1965, Pub. L. 89–63, §§2, 4(c), 79 Stat. 209, 210, provided for penalties for violations of export control policy.

Section 2026, act Feb. 26, 1949, ch. 11, §6, 63 Stat. 8, provided for enforcement and for keeping certain information confidential.

Subsec. (b) of section 2026, which provided that no person would be excused from complying with any requirements under this section because of his privilege against self-incrimination, but that immunity provisions of section 46 of Title 49, Transportation, would apply with respect to any individual specifically claiming such privilege, was repealed by Pub. L. 91–452, title II, §250, Oct. 15, 1970, 84 Stat. 931. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Section 2027, act Feb. 26, 1949, ch. 11, §7, 63 Stat. 9, exempted functions under Act from Administrative Procedure Act.

Section 2028, act Feb. 26, 1949, ch. 11, §8, 63 Stat. 9, required quarterly reports to be submitted to President and Congress.

Section 2029, act Feb. 26, 1949, ch. 11, §9, 63 Stat. 9, defined ''person''.

Section 2030, act Feb. 26, 1949, ch. 11, §10, 63 Stat. 9, provided for effect of Act on other legislation.

Section 2031, act Feb. 26, 1949, ch. 11, §11, 63 Stat. 9, set out effective date of sections 2021 to 2032 of this Appendix.

Section 2032, acts Feb. 26, 1949, ch. 11, §12, 63 Stat. 9; May 16, 1951, ch. 83, 65 Stat. 43; June 16, 1953, ch. 116, 67 Stat. 62; June 29, 1956, ch. 473, §1, 70 Stat. 407; June 25, 1958, Pub. L. 85–466, 72 Stat. 220; May 13, 1960, Pub. L. 86–464, 74 Stat. 130; July 1, 1962, Pub. L. 87–515, §1, 76 Stat. 127; June 30, 1965, Pub. L. 89–63, §1, 79 Stat. 209; June 30, 1969, Pub. L. 91–35, 83 Stat. 42; Aug. 18, 1969, Pub. L. 91–59, 83 Stat. 101; Oct. 31, 1969, Pub. L. 91–105, §1, 83 Stat. 169, provided for termination date of sections 2021 to 2032 of this Appendix, on Dec. 31, 1969.

ALIEN PROPERTY DAMAGE CLAIMS

ACT MAR. 15, 1949, CH. 19, 63 STAT. 12

§§ 2041 to 2045. Omitted

CODIFICATION

Sections 2041 to 2045 were omitted pursuant to section 2042 of this Appendix.

Section 2041, act Mar. 15, 1949, ch. 19, §1, 63 Stat. 12, related to adjustment and settlement of claims.

Section 2042, act Mar. 15, 1949, ch. 19, §2, 63 Stat. 13, related to time limitation for presentment of claims under sections 2041 to 2045 of this Appendix and required presentment within one year of Mar. 15, 1949.

Section 2043, act Mar. 15, 1949, ch. 19, §3, 63 Stat. 13, related to finality and conclusiveness of Attorney General's decisions.

Section 2044, act Mar. 15, 1949, ch. 19, §4, 63 Stat. 13, related to claims in excess of one thousand dollars.

Section 2045, act Mar. 15, 1949, ch. 19, §5, 63 Stat. 13, related to authorization of appropriations for use under sections 2041 to 2045 of this Appendix.

DEFENSE PRODUCTION ACT OF 1950

ACT SEPT. 8, 1950, CH. 932, 64 STAT. 798

Sec.
2061. Short title.
2062. Declaration of policy.

TITLE I—PRIORITIES AND ALLOCATIONS

2071. Priority in contracts and orders.
2072. Hoarding of designated scarce materials.
2073. Penalties.
2074. Limitation on actions without Congressional authorization.
2075. Presidential power to ration gasoline among classes of end-users unaffected.
2076. Designation of energy as a strategic and critical material.
2077. Strengthening domestic capability.
2078. Modernization of small business suppliers.

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

2081. Omitted.

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

2091. Loan guarantees.
2092. Loans to private business enterprises.
2093. Purchase of raw materials and installation of equipment.
2094. Defense Production Act Fund.
2095. Synthetic fuel production.
2096. Synthetic fuel production subsequent to determinations respecting a national energy supply shortage of defense fuels.
2096a. Annual reports on synthetic fuel production.
2097. Synthetic fuel action.
2098. Definitions.
2099. Annual report on impact of offsets.
2099a. Civil-military integration.

TITLE IV—PRICE AND WAGE STABILIZATION

2101 to 2112. Omitted.

TITLE V—SETTLEMENT OF LABOR DISPUTES

2121 to 2123. Omitted.

TITLE VI—CONTROL OF REAL ESTATE CREDIT

2131 to 2137. Repealed or Omitted.

TITLE VII—GENERAL PROVISIONS

2151. Small business.
2152. Definitions.
2153. Civilian personnel.
2154. Regulations and orders.
2155. Investigations; records; reports; subpoenas; right to counsel.
2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of provisions.
2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations.
2158. Voluntary agreements and plans of action for preparedness programs and expansion of production capacity and supply.
2158a. Repealed.
2159. Public participation in rulemaking.
2160. Employment of personnel; appointment policies; nucleus executive reserve; use of confidential information by employees; printing and distribution of reports.
2161. Authorization of appropriations; availability of funds.
2162. Repealed.
2163. Territorial application of Act.
2163a. Repealed.
2164. Separability.
2165. Repealed.
2166. Termination of Act.

2167 to 2169. Repealed.
2170. Authority to review certain mergers, acquisitions, and takeovers.
2170a. Prohibition on purchase of United States defense contractors by entities controlled by foreign governments.
2170b. Reports on foreign industrial espionage.
2171. Defense industrial base information system.

AMENDMENTS

1952—Act June 30, 1952, ch. 530, title I, § 116(a), 66 Stat. 305, struck out ''CONSUMER AND'' in title VI heading.

1951—Act July 31, 1951, ch. 275, title I, § 107, 65 Stat. 138, amended heading of title II by inserting ''AND CONDEMN''.

TERMINATION DATE

For termination of certain provisions of act Sept. 8, 1950, see section 2166 of this Appendix.

§ 2061. Short title

This Act [sections 2061 to 2171 of this Appendix], divided into titles, may be cited as ''the Defense Production Act of 1950''.

(Sept. 8, 1950, ch. 932, § 1, 64 Stat. 798.)

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–49, § 1(a), July 26, 2007, 121 Stat. 246, provided that: ''This Act [amending section 2170 of this Appendix, section 5315 of Title 5, Government Organization and Employees, and section 301 of Title 31, Money and Finance, and enacting provisions set out as notes under section 2170 of this Appendix and section 5315 of Title 5] may be cited as the 'Foreign Investment and National Security Act of 2007'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–195, § 1, Dec. 19, 2003, 117 Stat. 2892, provided that: ''This Act [amending sections 2152, 2155, 2161, and 2166 of this Appendix and enacting provisions set out as notes under sections 2062, 2093, and 2099 of this Appendix] may be cited as the 'Defense Production Act Reauthorization of 2003'.''

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–47, § 1, Oct. 5, 2001, 115 Stat. 260, provided that: ''This Act [amending sections 2091, 2093, 2094, 2099, 2161, and 2166 of this Appendix] may be cited as the 'Defense Production Act Amendments of 2001'.''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–64, § 1, Dec. 18, 1995, 109 Stat. 689, provided that: ''This Act [amending sections 2161 and 2166 of this Appendix and enacting provisions set out as a note under section 2062 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1995'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–558, § 1(a), Oct. 28, 1992, 106 Stat. 4198, provided that: ''This Act [enacting sections 2074, 2077, 2078, 2099a, and 2171 of this Appendix, amending sections 2062, 2091 to 2094, 2097, 2099, 2151 to 2155, 2159 to 2161, 2166, and 2170 of this Appendix, sections 1815, 1817, 1818, 1820, 1834, 1834a, and 3104 of Title 12, Banks and Banking, and section 1143 of Title 30, Mineral Lands and Mining, repealing sections 2162, 2165, 2167, and 2169 of this Appendix, enacting provisions set out as notes under sections 2062, 2099, and 2159 of this Appendix and sections 1815, 1817, 1834, 1834a, and 3104 of Title 12, and repealing provisions set out as notes under sections 1817, 1834, and 1834a of Title 12] may be cited as the 'Defense Production Act Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–99, § 1, Aug. 17, 1991, 105 Stat. 487, provided that: ''This Act [amending sections 2071, 2158, 2161, and 2166 of this Appendix, repealing section 2158a of this Appendix, and enacting provisions set out as a note under section 2071 of this Appendix] may be cited as the 'Defense Production Act Extension and Amendments of 1991'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–441, § 1, Oct. 3, 1986, 100 Stat. 1117, provided that: ''This Act [amending sections 2099, 2161, and 2166 of this Appendix and provisions set out as a note under section 5314 of Title 5, Government Organization and Employees] may be cited as the 'Defense Production Act Amendments of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–265, § 1, Apr. 17, 1984, 98 Stat. 149, provided that: ''This Act [enacting section 2099 of this Appendix and amending sections 2091, 2092, 2093, 2161, and 2166 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1984'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–294, title I, part A (§§ 101–107), § 101, June 30, 1980, 94 Stat. 617, provided that: ''This part [enacting sections 2075, 2076, and 2095 to 2098 of this Appendix, amending sections 2062, 2091 to 2093, 2151, 2161, and 2166 of this Appendix, and enacting a provision set out as a note under section 2062 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1980'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–37, § 1, June 1, 1977, 91 Stat. 178, provided: ''That this Act [amending section 2166 of this Appendix] may be cited as the 'Defense Production Act Extension Amendments of 1977'.''

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–152, § 1, Dec. 16, 1975, 89 Stat. 810, provided: ''That this Act [enacting section 2158a of this Appendix, amending sections 2158, 2160, 2162, 2166, 2168, and 2169 of this Appendix, and enacting provisions set out as notes under section 2158 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1975'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–426, § 1, Sept. 30, 1974, 88 Stat. 1166, provided: ''That this Act [enacting section 2169 of this Appendix and amending sections 2094, 2161, and 2166 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1974'.''

SHORT TITLE OF 1955 AMENDMENT

Act Aug. 9, 1955, ch. 655, § 1, 69 Stat. 580, provided: ''That this Act [amending sections 2062, 2093, 2151, 2158, 2160, 2162, and 2166 of this Appendix and enacting provisions set out as notes under section 2062 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1955'.''

SHORT TITLE OF 1953 AMENDMENT

Act June 30, 1953, ch. 171, § 1, 67 Stat. 129, provided: ''That this Act [amending sections 2062, 2071, 2091, 2093, 2151, 2152, 2155, 2163a, and 2166 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1953'.''

SHORT TITLE OF 1952 AMENDMENT

Act June 30, 1952, ch. 530, § 1, 66 Stat. 296, provided: ''That this Act [enacting sections 1894a, 2111, 2112, and 2137 of this Appendix and section 43a of Title 41, Public Contracts, and amending sections 1884, 1894, 1894a, 2071, 2074, 2092, 2102, 2103, 2107, 2108, 2123, 2155, 2157, 2158, 2162, 2163a, and 2166 of this Appendix and sections 44 and 45 of Title 41] may be cited as the 'Defense Production Act Amendments of 1952'.''

SHORT TITLE OF 1951 AMENDMENT

Act July 31, 1951, ch. 275, § 1, 65 Stat. 131, provided: ''That this Act [amending sections 1884, 1892 to 1896,

1898, 1899, 2071, 2072, 2074, 2081, 2093, 2094, 2102, 2103, 2105, 2109, 2122, 2123, 2131, 2133, 2135, 2151, 2153 to 2156, 2160, and 2163a to 2166 of this Appendix, repealing section 694f of former Title 38, Pensions, Bonuses, and Veterans' Relief, and enacting provisions set out as a note under section 1907 of this Appendix] may be cited as the 'Defense Production Act Amendments of 1951'.''

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of certain authority of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix] relating to national defense industrial resource preparedness and statement of related policy, see Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, set out as a note under section 2153 of this Appendix.

§ 2062. Declaration of policy

(a) Findings

The Congress finds that—

(1) the vitality of the industrial and technology base of the United States is a foundation of national security that provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency;

(2) in peacetime, the health of the industrial and technological base contributes to the technological superiority of United States defense equipment, which is a cornerstone of the national security strategy, and the efficiency with which defense equipment is developed and produced;

(3) in times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency;

(4) in view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, the United States defense mobilization preparedness effort continues to require the development of—

(A) preparedness programs;

(B) domestic defense industrial base improvement measures;

(C) provisions for a graduated response to any threatening international or military situation;

(D) the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand; and

(E) some diversion of certain materials and facilities from civilian use to military and related purposes.[1]

(5) to meet the requirements referred to in this subsection, this Act [sections 2061 to 2171 of this Appendix] affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base;

(6) the activities referred to in this subsection are needed in order to—

(A) improve domestic defense industrial base efficiency and responsiveness;

(B) reduce the time required for industrial mobilization in the event of an attack on the United States; or

(C) to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect the national defense preparedness of the United States;

(7) in order to ensure national defense preparedness, which is essential to national security, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

(8) to further assure the adequate maintenance of the defense industrial base, to the maximum extent possible, such supplies should be augmented through reliance on renewable fuels, including solar, geothermal, and wind energy and ethanol and its derivatives, and on energy conservation measures;

(9) the domestic defense industrial base is a component part of the core industrial capacity of the Nation;

(10) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

(A) the overall competitiveness of the United States industrial economy; and

(B) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production;

(11) the domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for the national defense;

(12) such dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation; and

(13) the inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain United States Armed Forces in combat for longer than a short period.

(b) Statement of policy

It is the policy of the United States that—

(1) in order to ensure productive capacity in the event of an attack on the United States, the United States should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas which are vulnerable to attack by an enemy of the United States;

[1] So in original. The period probably should be a semicolon.

(2) to ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible;

(3) in the construction of any Government-owned industrial facility, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographic dispersal of such facilities in the interest of national defense, except that nothing in this paragraph shall preclude the use of existing industrial facilities;

(4) to ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition should continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

(5) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment; and

(6) plans and programs to carry out this section shall be undertaken with due consideration for promoting efficiency and competition.

(Sept. 8, 1950, ch. 932, § 2, 64 Stat. 798; June 30, 1953, ch. 171, § 2, 67 Stat. 129; Aug. 9, 1955, ch. 655, § 2, 69 Stat. 580; June 29, 1956, ch. 474, § 4, 70 Stat. 408; Pub. L. 96–294, title I, § 102, June 30, 1980, 94 Stat. 617; Pub. L. 102–558, title I, § 101, Oct. 28, 1992, 106 Stat. 4199.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(5) and (b)(3), means act Sept. 8, 1950, ch. 932, 64 Stat. 798, as amended, known as the Defense Production Act of 1950, which is classified to sections 2061 to 2171 of this Appendix. For complete classification of this Act to the Code, see section 2061 of this Appendix and Tables.

AMENDMENTS

1992—Pub. L. 102–558 amended section generally, substituting provisions relating to findings and statement of policy, for provisions stating that mobilization effort continued to require diversion of materials and facilities from civilian to military use, and to require development of preparedness programs and expansion of productive capacity and supply, in order to reduce time required for full mobilization in case of attack on the United States or to respond to actions occurring outside the United States resulting in termination or reduction of availability of strategic materials, including energy, and provisions stating policy of Congress was to encourage geographical dispersal of industrial facilities, and requiring executive branch departments and agencies to apply principle of geographical dispersal in construction of such facilities.

1980—Pub. L. 96–294 inserted provisions relating to preparedness respecting termination or reduction in availability of strategic and critical materials, including energy, and domestic energy supplies for national defense needs.

1956—Act June 29, 1956, inserted paragraph relating to encouragement of the geographical dispersal of the industrial facilities of the United States.

1955—Act Aug. 9, 1955, provided that mobilization effort requires development of preparedness programs and expansion of productive capacity and supply in order to reduce time required for full mobilization.

1953—Act June 30, 1953, amended section generally to make it conform to the more limited scope of sections 2061 et seq. of this Appendix.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 304 of Pub. L. 102–558 provided that: ''This Act [enacting sections 2074, 2077, 2078, 2099a, and 2171 of this Appendix, amending sections 2062, 2091 to 2094, 2097, 2099, 2151 to 2155, 2159 to 2161, 2166, and 2170 of this Appendix, sections 1815, 1817, 1818, 1820, 1834, 1834a, and 3104 of Title 12, Banks and Banking, and section 1143 of Title 30, Mineral Lands and Mining, repealing sections 2162, 2165, 2167, and 2169 of this Appendix, enacting provisions set out as notes under sections 2062, 2099, and 2159 of this Appendix and sections 1815, 1817, 1834, 1834a, and 3104 of Title 12, and repealing provisions set out as notes under sections 1817, 1834, and 1834a of Title 12] and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 107 of Pub. L. 96–294 provided that: ''The amendments made by this part [enacting sections 2075, 2076, and 2095 to 2098 of this Appendix, amending sections 2062, 2091 to 2093, 2151, 2161, and 2166 of this Appendix, and enacting a provision set out as a note under section 2061 of this Appendix] shall take effect on the date of the enactment of this part [June 30, 1980].''

EFFECTIVE DATE OF 1955 AMENDMENT

Section 11 of act Aug. 9, 1955, provided that: ''The provisions of this Act [amending sections 2062, 2093, 2151, 2158, 2160, 2162, and 2166 of this Appendix and enacting provisions set out as a note under this section] shall take effect as of the close of July 31, 1955.''

TERMINATION DATE

For termination of certain provisions of act Sept. 8, 1950, see section 2166 of this Appendix.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPORT ON CONTRACTING WITH MINORITY- AND WOMEN-OWNED BUSINESSES

Pub. L. 108–195, § 6, Dec. 19, 2003, 117 Stat. 2893, provided that:

''(a) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this

Act [Dec. 19, 2003], the Secretary of Defense shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the extent to which contracts entered into during the fiscal year ending before the end of such 1-year period under the Defense Production Act of 1950 [sections 2061 to 2071 of this Appendix] have been contracts with minority- and women-owned businesses.

''(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall include the following:

''(1) The types of goods and services obtained under contracts with minority- and women-owned businesses under the Defense Production Act of 1950 in the fiscal year covered in the report.

''(2) The dollar amounts of such contracts.

''(3) The ethnicity of the majority owners of such minority- and women-owned businesses.

''(4) A description of the types of barriers in the contracting process, such as requirements for security clearances, that limit contracting opportunities for minority- and women-owned businesses, together with such recommendations for legislative or administrative action as the Secretary of Defense may determine to be appropriate for increasing opportunities for contracting with minority- and women-owned businesses and removing barriers to such increased participation.

''(c) DEFINITIONS.—For purposes of this section, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in section 21A(r) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(r)], and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101–73, 12 U.S.C. 1811 note].''

REPORTS TO CONGRESS

Pub. L. 104–64, § 4, Dec. 18, 1995, 109 Stat. 689, directed the President to prepare and transmit to Congress an interim report, not later than Jan. 31, 1997, and a final report, not later than Sept. 30, 1997, on proposed legislative modernization of the authorities contained in the Defense Production Act of 1950, section 2061 et seq. of this Appendix.

EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY

Section 203 of Pub. L. 102–558, established Congressional Commission on the Evaluation of the Defense Industrial Base Policy which was to submit, not later than Mar. 1, 1995, a final report to Congress outlining criteria for maintaining strength of domestic industrial base for purposes of supporting national security strategy of United States, taking into consideration, with respect to each Federal agency and department with any responsibility for maintaining strength of domestic defense industrial base, adequacy of statutory framework, budgets, policies, and programs of such agency or department in maintaining domestic defense industrial base, and whether such elements were being effectively implemented and coordinated within such agency or department, as well as degree to which similar activities in commercial sector were being integrated and implemented by such agency or department, and further provided for membership of Commission, as well as staff, powers, interim reports, appropriations, and termination of Commission 60 days after submission of final report.

TITLE I—PRIORITIES AND ALLOCATIONS

§ 2071. Priority in contracts and orders

(a) Allocation of materials, services, and facilities

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

(b) Critical and strategic materials

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

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

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

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

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

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

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

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

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

(Sept. 8, 1950, ch. 932, title I, § 101, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 101(a), 65 Stat. 132; June 30, 1952, ch. 530, title I, §§ 101, 102, 66 Stat. 296; June 30, 1953, ch. 171, § 3, 67 Stat. 129; Pub. L. 94–163, title I, § 104(a), Dec. 22, 1975, 89 Stat. 878; Pub. L. 102–99, § 6, Aug. 17, 1991, 105 Stat. 490.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–99, §6(1), substituted ''materials, services, and facilities'' for ''materials and facilities''.

Subsec. (c)(1). Pub. L. 102–99, §6(2), substituted ''materials, equipment, and services'' for ''supplies of materials and equipment''.

Subsec. (c)(2) to (4). Pub. L. 102–99, §6(3), (4), added par. (2), redesignated par. (4) as (3), and struck out former pars. (2) and (3) which read as follows:

''(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

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

''(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

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

1975—Subsec. (c). Pub. L. 94–163 added subsec. (c).

1953—Subsec. (a). Act June 30, 1953, struck out provisions which related to slaughtering of livestock and allocation of meat and meat products.

Subsec. (b). Act June 30, 1953, retained priorities and allocation authority for defense production but generally to discontinue such authority with respect to the civilian market except in the special cases where, because of shortages and demands of the defense effort, there otherwise would be a significant dislocation in the civilian market resulting in appreciable hardship.

1952—Act June 30, 1952, redesignated existing provisions as subsec. (a), inserted provisions relating to meat and meat products, and added subsec. (b).

1951—Act July 31, 1951, inserted provision relating to slaughtering of livestock.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 7 of Pub. L. 102–99 provided that: ''This Act [amending this section and sections 2158, 2161, and 2166 of this Appendix, repealing section 2158a of this Appendix, and enacting provisions set out as a note under section 2061 of this Appendix] shall take effect on October 20, 1990.''

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of certain authority of President under this section, see sections 201 to 203 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29526, 29527, set out as a note under section 2153 of this Appendix.

REPORT ON INDUSTRY PREPAREDNESS

Pub. L. 110–53, title X, §1002(b), Aug. 3, 2007, 121 Stat. 375, provided that: ''Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.''

PRESIDENTIAL AUTHORITY TO ISSUE ORDERS RELATING TO DOMESTIC ENERGY SUPPLIES

Pub. L. 94–163, title I, §104(b), Dec. 22, 1975, 89 Stat. 879, as amended by Pub. L. 99–58, title I, §101(b), July 2, 1985, 99 Stat. 102; Pub. L. 101–46, §1(2), June 30, 1989, 103 Stat. 132; Pub. L. 101–262, §2(a), Mar. 31, 1990, 104 Stat. 124; Pub. L. 101–360, §2(a), Aug. 10, 1990, 104 Stat. 421; Pub. L. 101–383, §2(1), Sept. 15, 1990, 104 Stat. 727; Pub. L. 105–388, §6, Nov. 13, 1998, 112 Stat. 3479; Pub. L. 106–469, title I, §103(2), Nov. 9, 2000, 114 Stat. 2029, provided that: ''The expiration of the Defense Production Act of 1950 [section 2061 et seq. of this Appendix] or any amendment of such Act after the date of enactment of this Act [Dec. 22, 1975] shall not affect the authority of the President under section 101(c) of such Act [subsec. (c) of this section], as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.''

EXECUTIVE ORDER NO. 10161

Ex. Ord. No. 10161, Sept. 9, 1950, 15 F.R. 6105, as amended by Ex. Ord. No. 10200, Jan. 3, 1951, 16 F.R. 61; Ex. Ord. No. 10233, Apr. 23, 1951, 16 F.R. 3503; Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789; Ex. Ord. No. 10301, Nov. 5, 1951, 16 F.R. 11257; Ex. Ord. No. 10324, Feb. 6, 1952, 17 F.R. 1171; Ex. Ord. No. 10359, June 9, 1952, 17 F.R. 5269; Ex. Ord. No. 10373, July 15, 1952, 17 F.R. 6425; Ex. Ord. No. 10377, July 28, 1952, 17 F.R. 6891; Ex. Ord. No. 10390, Sept. 2, 1952, 17 F.R. 7995; and Ex. Ord. No. 10433, Feb. 4, 1953, 18 F.R. 761, which related to delegation of President's functions, was revoked by Ex. Ord. No. 10480, Aug. 18, 1953, 18 F.R. 4939, formerly set out under section 2153 of this Appendix.

ABOLITION OF WAGE STABILIZATION BOARD AND CREATION OF NEW BOARD

Wage Stabilization Board created by Ex. Ord. No. 10161, eff. Sept. 9, 1950, 15 F.R. 6105, as amended, abolished by section 2103(b)(6) of this Appendix. A new Wage Stabilization Board was created by section 2103(b)(1), which terminated according to section 2166 of this Appendix Apr. 30, 1953.

POWERS OF SECRETARY OF COMMERCE UNDER EX. ORD. NO. 10161

The Secretary of Commerce by F.R. Doc. 50–8068, filed Sept. 13, 1950, 15 F.R. 6182, established the National Production Authority in the Department of Commerce to perform the functions and exercise the powers vested in the Secretary of Commerce by Ex. Ord. No. 10161, and established the Advisory Committee on Priorities Administration which was to serve in an advisory capacity with respect to policy matters. The National Production Authority was abolished and its functions merged into the Business and Defense Services Administration by Secretary of Commerce order, dated Oct. 1, 1953, which in turn was abolished by Department Organization Order 40–1A of Sept. 15, 1970 and its functions transferred to the Bureau of Domestic Commerce. All functions of the Bureau of Domestic Commerce were

transferred by the Secretary of Commerce to the Domestic and International Business Administration, within the Department of Commerce, eff. Nov. 17, 1972.

§ 2072. Hoarding of designated scarce materials

In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation.

In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act [sections 2061 to 2171 of this Appendix]. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act [sections 2071 and 2154 of this Appendix].

(Sept. 8, 1950, ch. 932, title I, § 102, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 101(b), 65 Stat. 132.)

AMENDMENTS

1951—Act July 31, 1951, authorized President to prescribe conditions and exceptions allowing maintenance of substantial inventories of critical materials in certain cases.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2073. Penalties

Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title [sections 2071 to 2078 of this Appendix] or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(Sept. 8, 1950, ch. 932, title I, § 103, 64 Stat. 799.)

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2074. Limitation on actions without Congressional authorization

(a) Wage or price controls

No provision of this Act [sections 2061 to 2171 of this Appendix] shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

(b) Chemical or biological weapons

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

(Sept. 8, 1950, ch. 932, title I, § 104, as added Pub. L. 102–558, title I, § 112, Oct. 28, 1992, 106 Stat. 4202.)

PRIOR PROVISIONS

A prior section 2074, act Sept. 8, 1950, ch. 932, title I, § 104, as added July 31, 1951, ch. 275, title I, § 101(c), 65 Stat. 132; amended June 30, 1952, ch. 530, § 103, 66 Stat. 297, which related to limitations on imports of fats and oils, terminated at close of June 30, 1953, by terms of section 2166(a) of this Appendix.

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

DELEGATION OF AUTHORITY

Authority of President under subsec. (b) of this section delegated to Secretary of Defense by section 204 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29527, set out as a note under section 2153 of this Appendix.

§ 2075. Presidential power to ration gasoline among classes of end-users unaffected

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

(Sept. 8, 1950, ch. 932, title I, § 105, as added Pub. L. 96–294, title I, § 103, June 30, 1980, 94 Stat. 617.)

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2076. Designation of energy as a strategic and critical material

For purposes of this Act [sections 2061 to 2171 of this Appendix], ''energy'' shall be designated as a ''strategic and critical material'' after the date of the enactment of this section [June 30, 1980]: *Provided*, That no provision of this Act [sections 2061 to 2171 of this Appendix] shall, by virtue of such designation—

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

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

(Sept. 8, 1950, ch. 932, title I, § 106, as added Pub. L. 96–294, title I, § 103, June 30, 1980, 94 Stat. 617.)

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2077. Strengthening domestic capability

(a) In general

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

(b) Critical components and critical technology items

(1) Identification

(A) In general

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

(B) Definition

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

(2) Maintenance of reliable sources of supply

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

(3) Appropriate action

For purposes of this subsection, appropriate action may include—

(A) restricting contract solicitations to reliable sources;

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

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

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

(iii) other statutory authority;

(C) stockpiling critical components; and

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

(Sept. 8, 1950, ch. 932, title I, § 107, as added Pub. L. 102–558, title I, § 111, Oct. 28, 1992, 106 Stat. 4201.)

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of the President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to the production, conservation, use, control, distribution, and allocation of energy, delegated to the Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2078. Modernization of small business suppliers

(a) In general

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

(b) Modernization of equipment

(1) In general

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

(2) Small business suppliers

In considering proposals for title III [sections 2091 to 2099a of this Appendix] projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

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

(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufactur-

ing equipment being proposed for installation; and

(C) meets the requirements of section 301, 302, or 303 [section 2091, 2092, or 2093 of this Appendix].

(Sept. 8, 1950, ch. 932, title I, § 108, as added Pub. L. 102–558, title I, § 111, Oct. 28, 1992, 106 Stat. 4202.)

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of the President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to the production, conservation, use, control, distribution, and allocation of energy, delegated to the Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

TITLE II—AUTHORITY TO REQUISITION AND CONDEMN

AMENDMENTS

1951—Act July 31, 1951, ch. 275, title I, § 102(a), 65 Stat. 132, in heading inserted ''AND CONDEMN''.

§ 2081. Omitted

CODIFICATION

Section, acts Sept. 8, 1950, ch. 932, title II, § 201, 64 Stat. 799; July 31, 1951, ch. 275, title I, § 102 (b), 65 Stat. 132, which related to requisition of property needed for national defense, terminated at close of June 30, 1953, by the terms of section 2166(a) of this Appendix.

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

§ 2091. Loan guarantees

(a) Purpose of loans; guaranteeing agencies; Presidential determinations

(1) In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of Defense, the Department of Energy, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as ''guaranteeing agencies''), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small-business concern (as defined in section 702(16)[1] [section 2152(16) of this Appendix]) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(2) Except as provided in section 305 [section 2095 of this Appendix] and section 306 [section 2096 of this Appendix], no authority contained in sections 301, 302, or 303 [sections 2091, 2092, or 2093 of this Appendix] may be used in any manner—

(A) in the development, production, or distribution of synthetic fuel;

(B) for any synthetic fuel project;

(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

(D) to provide any assistance to any person for the purchase of synthetic fuel.

(3) Except during periods of national emergency declared by the Congress or the President, a guarantee may be entered into under this section only if the President determines that—

(A) the guaranteed contract or activity is for industrial resources or a critical technology item which is essential to the national defense;

(B) without the guarantee, United States industry cannot reasonably be expected to provide the needed industrial resources or critical technology item in a timely manner;

(C) the guarantee is the most cost-effective, expedient, and practical alternative for meeting the need involved; and

(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.

(b) Fiscal agents; accountability; reimbursement

Any Federal agency or any Federal Reserve bank, when designated by the President, is authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section. All such funds as may be necessary to enable any such fiscal agent to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency. No such fiscal agent shall have any responsibility or accountability except as agent in taking any action pursuant to or under authority of the provisions of this section. Each such fiscal agent shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on

[1] See References in Text note below.

behalf of such guaranteeing agency, including among such expenses, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) Supervision; interest, fees, procedures

All actions and operations of such fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as he may prescribe; and the President is authorized to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Funds available for guarantees

Each guaranteeing agency is authorized to use for the purposes of this section any funds which have heretofore been appropriated or allocated or which hereafter may be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purpose of meeting the necessities of the national defense.

(e) Identification of industrial resource or critical technology item shortfall; prevention of personal financial insolvency or bankruptcy

(1)(A) Except as provided in subparagraph (D), a guarantee may be made under this section only if the industrial resource or critical technology item shortfall which such guarantee is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (a)(3) of this section.

(B) Any such guarantee may be made only after 60 days have elapsed after such industrial resource or critical technology item shortfall has been identified pursuant to subparagraph (A).

(C) If the making of any guarantee or guarantees to correct an industrial resource or critical technology item shortfall would cause the aggregate outstanding amount of all guarantees for such industrial resource or critical technology item shortfall to exceed $50,000,000, any such guarantee or guarantees may be made only if specifically authorized by law.

(D) The requirements of subparagraphs (A), (B), and (C) may be waived—

(i) during periods of national emergency declared by the Congress or the President; or

(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology item shortfall that would severely impair national defense capability.

(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at least ten days prior to the exercise of that authority for such use.

(Sept. 8, 1950, ch. 932, title III, § 301, 64 Stat. 800; June 30, 1953, ch. 171, § 4, 67 Stat. 129; Pub. L. 91–379, title I, § 104, Aug. 15, 1970, 84 Stat. 799; Pub. L. 96–294, title I, § 104(a), (b), June 30, 1980, 94 Stat. 618; Pub. L. 98–265, §§ 3(a), 4(a), Apr. 17, 1984, 98 Stat. 149, 150; Pub. L. 102–558, title I, §§ 121(a), 141, Oct. 28, 1992, 106 Stat. 4203, 4217; Pub. L. 107–47, § 4(1)–(3), (5), Oct. 5, 2001, 115 Stat. 260.)

REFERENCES IN TEXT

Section 702, referred to in subsec. (a)(1), was subsequently amended, and section 702(16) no longer defines the term ''small-business concern''. However, such term is defined elsewhere in that section.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–47, § 4(1), substituted ''section 702(16)'' for ''section 714(a)(1) of this Act''.

Subsec. (e)(1)(A)–(C). Pub. L. 107–47, § 4(2), substituted ''industrial resource or critical technology item shortfall'' for ''industrial resource shortfall'' wherever appearing.

Subsec. (e)(1)(D)(ii). Pub. L. 107–47, § 4(3), inserted ''item'' after ''critical technology''.

Subsec. (e)(2)(B). Pub. L. 107–47, § 4(5), substituted ''Committee on Financial Services of the House of Representatives'' for ''Committee on Banking, Finance and Urban Affairs of the House of Representatives''.

1992—Subsec. (a)(1). Pub. L. 102–558, § 121(a)(1), substituted ''to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense'' for ''to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense,''.

Subsec. (a)(3)(A). Pub. L. 102–558, § 121(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the guaranteed contract or operation is for a material, or the performance of a service, which is essential to the national defense;''.

Subsec. (a)(3)(B). Pub. L. 102–558, § 121(a)(3), substituted ''without'' for ''Without'' and ''the needed industrial resources or critical technology item'' for ''the capability for the needed material or service''.

Subsec. (a)(3)(D). Pub. L. 102–558, § 121(a)(4), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''the United States national defense demand is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the guarantee.''

Subsec. (e)(1)(A). Pub. L. 102–558, § 121(a)(5), substituted ''Except as provided in subparagraph (D)'' for ''Except during periods of national emergency declared by the Congress or the President''.

Subsec. (e)(1)(C). Pub. L. 102–558, § 121(a)(6), substituted ''$50,000,000'' for ''$25,000,000''.

Subsec. (e)(1)(D). Pub. L. 102–558, § 121(a)(7), added subpar. (D).

Subsec. (e)(2)(B). Pub. L. 102–558, § 141, substituted ''and to the Committee on Banking, Housing, and

Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' for ''and to the Committees on Banking and Currency of the respective Houses''.

1984—Subsec. (a)(3). Pub. L. 98–265, § 3(a), added par. (3).

Subsec. (e)(1). Pub. L. 98–265, § 4(a), substituted provision that a guarantee be made under this section only if the industrial resource shortfall which such guarantee is intended to correct is identified for provision that the maximum obligation under this section not exceed $38,000,000, but if guarantees exceed such amount, Congressional committees be notified and no disapproving resolution be adopted within a 60-day period of continuous session of Congress, with provision for determination of continuity of Congressional session for the purpose of computing such 60-day period.

1980—Subsec. (a). Pub. L. 96–294, § 104(a), designated existing provisions as par. (1), substituted references to Departments of Defense and Energy for references to Departments of Army, Navy, and Air Force, and added par. (2).

Subsec. (e)(1). Pub. L. 96–294, § 104(b), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B)'' for ''Except with the approval of Congress'' and ''$38,000,000'' for ''$20,000,000'', and added subpar. (B).

1970—Subsec. (e). Pub. L. 91–379 added subsec. (e).

1953—Subsec. (a). Act June 30, 1953, made it clear that Government guaranties of credit may be made under this section in connection with the termination of Government contracts, and to provide that no small-business concern shall be denied a guaranty merely because an alternative source of supply exists for the item to be procured on the Government contract involved.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TRANSFER OF FUNCTIONS

Act July 30, 1953, ch. 282, title I, § 107(a)(2), (b), 67 Stat. 273, required President to transfer functions, powers, duties, and authority of Reconstruction Finance Corporation under sections 2091 to 2094 of this Appendix within sixty days after July 30, 1953, and provided that all assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records of Corporation, which Director of Bureau of the Budget [now Office of Management and Budget], determined necessary to performance of such functions were to be transferred to officer or agency of Government to which such functions were transferred.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

EXECUTIVE ORDER NO. 10223

Ex. Ord. No. 10223, Mar. 12, 1951, 16 F.R. 2247, providing for the performance of certain functions under act Sept. 8, 1950, was revoked by section 404 of Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789.

§ 2092. Loans to private business enterprises

(a) Purposes

To expedite production and deliveries or services to aid in carrying out Government contracts for the procurement of industrial resources or a critical technology item for the national defense, the President may make provision for loans (including participations in, or guarantees of, loan) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, and manufacture of newsprint.

(b) Terms and conditions; Presidential determinations

Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that—

(1) financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms; and

(2) except during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

(A) the loan is for the expansion of capacity, the development of a technological process, or the production of materials essential to the national defense;

(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need; and

(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the loan.

(c) Identification of industrial resource shortfall

(1) Except as provided in paragraph (4), no loans may be made under this section, unless the industrial resource shortfall which such loan is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (b)(2) of this section.

(2) Any such loan may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to paragraph (1).

(3) If the making of any loan or loans to correct an industrial resource shortfall would cause the aggregate outstanding amount of all loans for such industrial resource shortfall to exceed $50,000,000, any such loan or loans may be made only if specifically authorized by law.

(4) The requirements of paragraphs (1), (2), and (3) may be waived—

(A) during periods of national emergency declared by the Congress or the President; and

(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

(Sept. 8, 1950, ch. 932, title III, § 302, 64 Stat. 801; June 30, 1952, ch. 530, title I, § 104, 66 Stat. 298; Pub. L. 93–155, title VIII, § 807(b), Nov. 16, 1973, 87 Stat. 615; Pub. L. 96–294, title I, § 104(c), June 30, 1980, 94 Stat. 618; Pub. L. 98–265, §§ 3(b), 4(b), Apr. 17, 1984, 98 Stat. 149, 151; Pub. L. 102–558, title I, § 121(b), Oct. 28, 1992, 106 Stat. 4204.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–558, § 121(b)(1), substituted "for the procurement of industrial resources or a critical technology item for the national defense" for "for the procurement of materials or the performance of services for the national defense".

Subsec. (b)(2)(D). Pub. L. 102–558, § 121(b)(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the United States national defense demand is equal to, or greater than, domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the loan."

Subsec. (c)(1). Pub. L. 102–558, § 121(b)(3), substituted "Except as provided in paragraph (4), no loans may be made under this section" for "No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President".

Subsec. (c)(3). Pub. L. 102–558, § 121(b)(4), substituted "$50,000,000" for "$25,000,000".

Subsec. (c)(4). Pub. L. 102–558, § 121(b)(5), added par. (4).

1984—Subsec. (a). Pub. L. 98–265, § 3(b), designated existing provision as subsec. (a) and struck out provision that loans be made without regard to limitations of existing law on such terms and conditions as the President deems necessary, except that financial assistance be extended only to the extent not available on reasonable terms, and that with respect to loans in excess of $48,000,000, Congressional committees be notified and no disapproving resolution be adopted within a 60-day period of continuous session of Congress, with provision for determining continuity of Congressional session for the purpose of computing such 60-day period. See subsec. (b).

Subsec. (b). Pub. L. 98–265, § 3(b)(2), added subsec. (b).

Subsec. (c). Pub. L. 98–265, § 4(b), added subsec. (c).

1980—Pub. L. 96–294 substituted "$48,000,000" for "$25,000,000".

1973—Pub. L. 93–155 provided for notification of Congressional Committees with respect to certain proposed loans, Congressional resolution of disapproval, continuity of Congressional sessions, and computation of period.

1952—Act June 30, 1952, brought manufacture of newsprint within its provisions.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

OBLIGATIONS ENTERED INTO BEFORE NOVEMBER 16, 1973

Amendment by Pub. L. 93–155 not affecting the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to Nov. 16, 1973, see section 807(e) of Pub. L. 93–155, set out as a note under section 2307 of Title 10, Armed Forces.

EXECUTIVE ORDER NO. 10634

Ex. Ord. No. 10634, Aug. 31, 1955, 20 F.R. 6433, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971, which related to loans for facilities destroyed or damaged by major disaster, was revoked by section 5–106 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

§ 2093. Purchase of raw materials and installation of equipment

(a) Presidential provisions

(1) In general

To assist in carrying out the objectives of this Act [sections 2061 to 2171 of this Appendix], the President may make provision—

(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

(2) Treatment of certain agricultural commodities

Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.

(3) Terms of sales

No commodity purchased under this subsection shall be sold at less than—

(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower; or

(B) if no ceiling price has been established, the higher of—

(i) the current domestic market price for such commodity; or

(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation, as provided in section 407 of the Agricultural Act of 1949 [7 U.S.C. 1427].

(4) Delivery dates

No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than 1 year after the expiration of this section.

(5) Presidential determinations

Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

(A) the industrial resource or critical technology item is essential to the national defense;

(B) without Presidential action under the authority provided for in this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

(D) the combination of the United States national defense demand and foreseeable nondefense demand for the industrial resource or critical technology item is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the purchase, purchase commitment, or other action.

(6) Identification of shortfall

(A) In general

Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of paragraph (5).

(B) Timing of action

Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

(C) Limitation

If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

(7) Waiver

The requirements of paragraphs (1) through (6) may be waived—

(A) during periods of national emergency declared by the Congress or the President; or

(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology item shortfall that would severely impair national defense capability.

(b) Terms and conditions of purchase

Subject to the limitations in subsection (a) of this section, purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government or that such purchases are necessary to assure the availability to the United States of overseas supplies.

(c) Subsidy payments on domestically produced materials; exclusion of agricultural products

If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or nonprocessed material, there will result a decrease in supplies from high-costs sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act [sections 2061 to 2171 of this Appendix]; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials;

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

(d) Transportation, storage, and processing

The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined, any materials procured under this section.

(e) Installation of equipment in industrial facilities

When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install government-owned equipment in plants, factories, and other industrial facilities owned by private persons.

(f) Transfer of excess materials to national stockpile

Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act [sections 2061 to 2171 of this Appendix], shall

be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest. Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds appropriated for the purposes of such Act, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304(b)[1] of this Act, as amended [section 2094(b) of this Appendix], shall be reduced in an amount equal to the amount of any notes so canceled.

(g) Development of substitutes for strategic and critical materials

When in his judgment it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials, critical components, critical technology items, and other industrial resources.

(Sept. 8, 1950, ch. 932, title III, § 303, 64 Stat. 801; July 31, 1951, ch. 275, title I, § 103(a), 65 Stat. 133; June 30, 1953, ch. 171, §§ 5, 6, 67 Stat. 130; Aug. 9, 1955, ch. 655, § 3, 69 Stat. 580; June 29, 1956, ch. 474, § 2, 70 Stat. 408; Pub. L. 88–343, § 2, June 30, 1964, 78 Stat. 235; Pub. L. 92–325, § 1, June 30, 1972, 86 Stat. 390; Pub. L. 94–273, § 2(29), Apr. 21, 1976, 90 Stat. 376; Pub. L. 96–41, § 3(c), July 30, 1979, 93 Stat. 325; Pub. L. 96–294, title I, § 104(d), June 30, 1980, 94 Stat. 618; Pub. L. 98–265, §§ 3(c), 4(c), Apr. 17, 1984, 98 Stat. 150, 151; Pub. L. 102–558, title I, § 121(c), (d), Oct. 28, 1992, 106 Stat. 4204, 4206; Pub. L. 107–47, § 4(3), Oct. 5, 2001, 115 Stat. 260.)

REFERENCES IN TEXT

For expiration of this section, referred to in subsec. (a)(4), see section 2166(a) of this Appendix.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (f), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

Section 304(b) of this Act, referred to in subsec. (f), is classified to section 2094(b) of this Appendix, and was repealed and a new subsec. (b) was enacted by Pub. L. 93–426, § 2, Sept. 30, 1974, 88 Stat. 1166, which does not relate to limiting aggregate amount of borrowing which may be outstanding.

AMENDMENTS

2001—Subsec. (a)(7)(B). Pub. L. 107–47 inserted ''item'' after ''critical technology''.

1992—Subsec. (a). Pub. L. 102–558, § 121(c)(1), amended subsec. (a) generally, substituting present provisions for provisions relating to purchases for use or resale, development of strategic minerals, metals, and materials, exclusion of certain agricultural commodities, termination of purchase authority, Presidential action, and identification of industrial resource shortfalls.

Subsec. (b). Pub. L. 102–558, § 121(c)(2), substituted ''a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made'' for ''September 30, 1995''.

Subsec. (g). Pub. L. 102–558, § 121(d), inserted before period at end '', critical components, critical technology items, and other industrial resources''.

1984—Subsec. (a). Pub. L. 98–265, § 3(c), inserted provision requiring President, except during periods of national emergency, to make specific determinations before executing a contract under this subsection.

Pub. L. 98–265, § 4(c), inserted provision requiring President, except during periods of national emergency, to identify industrial resource shortfall before taking any action under this section.

1980—Subsec. (a). Pub. L. 96–294, § 104(d)(1), inserted references to materials after metals wherever appearing.

Subsec. (b). Pub. L. 96–294, § 104(d)(2), substituted ''1995'' for ''1985''.

Subsec. (g). Pub. L. 96–294, § 104(d)(3), struck out provisions relating to certifications by Secretaries of Agriculture and Interior regarding short supply of a particular strategic or critical material.

1979—Subsec. (f). Pub. L. 96–41 substituted ''the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)'' for ''the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98–98h)'' and ''from funds appropriated for the purposes of such Act'' for ''from funds available under such Act of June 7, 1939, as amended''.

1976—Subsec. (b). Pub. L. 94–273 substituted ''September'' for ''June''.

1972—Subsec. (b). Pub. L. 92–325 substituted ''June 30, 1985'' for ''June 30, 1975''.

1964—Subsec. (b). Pub. L. 88–343 substituted ''June 30, 1975'' for ''June 30, 1965''.

1956—Subsec. (b). Act June 29, 1956, substituted ''June 30, 1965'' for ''June 30, 1963''.

1955—Subsec. (g). Act Aug. 9, 1955, added subsec. (g).

1953—Subsec. (b). Act June 30, 1953, § 5, substituted ''1963'' for ''1962''.

Subsec. (f). Act June 30, 1953, § 6, added subsec. (f).

1951—Act July 31, 1951, amended section generally to broaden authority under this section to include materials generally, to continue prohibition against resale of domestic agricultural commodities except for industrial uses or stockpiling but eliminated it as to imported agricultural commodities, to provide that minerals and metals purchased under subsec. (a) may be sold at less than the established ceiling price, but not less than the current domestic market price, to limit provision barring contracts calling for delivery more than one year after the expiration of this section to imported agricultural commodities, to provide that purchases and commitments to purchase under subsec. (a) may not be made for any period extending beyond June 30, 1952, and to provide for a differential subsidy.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

[1] See References in Text note below.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS

Pub. L. 108–195, § 3, Dec. 19, 2003, 117 Stat. 2892, provided that:

''(a) IN GENERAL.—Notwithstanding the limitation contained in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), the President may take actions under section 303 of the Defense Production Act of 1950 to correct the industrial resource shortfall for radiation-hardened electronics, to the extent that such Presidential actions do not cause the aggregate outstanding amount of all such actions to exceed $200,000,000.

''(b) REPORT BY THE SECRETARY.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Dec. 19, 2003], the Secretary of Defense shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing—

''(1) the current state of the domestic industrial base for radiation-hardened electronics;

''(2) the projected requirements of the Department of Defense for radiation-hardened electronics;

''(3) the intentions of the Department of Defense for the industrial base for radiation-hardened electronics; and

''(4) the plans of the Department of Defense for use of providers of radiation-hardened electronics beyond the providers with which the Department had entered into contractual arrangements under the authority of the Defense Production Act of 1950 [sections 2061 to 2071 of this Appendix], as of the date of the enactment of this Act.''

Pub. L. 107–314, div. A, title VIII, § 829, Dec. 2, 2002, 116 Stat. 2618, provided that: ''Notwithstanding the limitation in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), action or actions may be taken under section 303 of that Act to correct the industrial resource shortfall for radiation-hardened electronics, if such actions do not cause the aggregate outstanding amount of all such actions to exceed $106,000,000.''

CLARIFICATION OF STOCKPILE STATUS OF CERTAIN MATERIALS

For provisions that all materials purchased under this section and held in the Defense Production Act inventory as of June 30, 1992, are transferred to the National Defense Stockpile, see section 3315 of Pub. L. 102–484, as amended, set out as a note under section 98c of Title 50, War and National Defense.

EXECUTIVE ORDER NO. 10219

Ex. Ord. No. 10219, Feb. 28, 1951, 16 F.R. 1983, as amended by Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513; Ex. Ord. No. 10537, June 22, 1954, 19 F.R. 3807; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971, which related to the responsibilities of Federal agencies with respect to transportation and storage, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out as a note under section 2271 of this Appendix.

§ 2094. Defense Production Act Fund

(a) Establishment of Fund

There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as ''the Fund'').

(b) Moneys in Fund

There shall be credited to the Fund—

(1) all moneys appropriated for the Fund, as authorized by section 711(b) [section 2161(b) of this Appendix]; and

(2) all moneys received by the Fund on transactions entered into pursuant to section 303 [section 2093 of this Appendix].

(c) Use of Fund

The Fund shall be available to carry out the provisions and purposes of this title [sections 2091 to 2099a of this Appendix], subject to the limitations set forth in this Act [sections 2061 to 2171 of this Appendix] and in appropriations Acts.

(d) Duration of Fund

Moneys in the Fund shall remain available until expended.

(e) Fund balance

The Fund balance at the close of each fiscal year shall not exceed $400,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds $400,000,000, the amount in excess of $400,000,000 shall be paid into the general fund of the Treasury.

(f) Fund manager

The President shall designate a Fund manager. The duties of the Fund manager shall include—

(1) determining the liability of the Fund in accordance with subsection (g);

(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

(g) Liabilities against Fund

When any agreement entered into pursuant to this title [sections 2091 to 2099a of this Appendix] after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.

(Sept. 8, 1950, ch. 932, title III, § 304, 64 Stat. 802; June 2, 1951, ch. 121, Ch. XI, 65 Stat. 61; July 31, 1951, ch. 275, title I, § 103(b), (c), 65 Stat. 134; Pub. L. 86–560, § 2, June 30, 1960, 74 Stat. 282; Pub. L. 88–343, § 3, June 30, 1964, 78 Stat. 235; Pub. L. 93–426, § 2, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 102–558, title I, § 122, Oct. 28, 1992, 106 Stat. 4206; Pub. L. 107–47, § 4(4), Oct. 5, 2001, 115 Stat. 260.)

AMENDMENTS

2001—Subsec. (b)(1). Pub. L. 107–47 substituted ''section 711(b)'' for ''section 711(c)''.

1992—Pub. L. 102–558 amended section generally. Prior to amendment, section read as follows:

''(a) For the purposes of sections 302 and 303, the President is authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

''(b) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid

notes issued to the Secretary of the Treasury pursuant to this section, together with interest accrued and unpaid on such notes.

''(c) Any cash balance remaining on June 30, 1974, in the borrowing authority previously authorized by this section, and any funds thereafter received on transactions heretofore or hereafter entered into pursuant to sections 302 and 303 shall be covered into the Treasury as miscellaneous receipts.''

1974—Subsec. (b). Pub. L. 93–426 substituted provisions authorizing Secretary of the Treasury to cancel outstanding balance of all unpaid notes issued to Secretary of the Treasury together with interest accrued and unpaid on such notes, for provisions relating to borrowing authority mechanism by which all program operations under the Defense Production Act have been financed since the initiation of the Act in 1950 with an overall limit of $2.1 billion outstanding at any one time and with provisions for payment of interest on the obligations.

Subsec. (c). Pub. L. 93–426 added subsec. (c). Former subsec. (c) was repealed by act July 31, 1951, ch. 275, title I, § 103(c), 65 Stat. 134.

1964—Subsec. (b). Pub. L. 88–343 provided that no new purchases or commitments to purchase shall be made or entered into after June 30, 1964, unless President makes a finding that such new purchases or commitments are essential to national security, and that total of such new purchases or commitments including contingent liabilities, could not exceed $100,000,000.

1960—Subsec. (b). Pub. L. 86–560 substituted ''six months'' for ''quarter''.

1951—Subsec. (b). Act July 31, 1951, § 103(b), increased revolving fund from $600,000,000 to $2,100,000,000, and limited contingent liability of the United States.

Act June 2, 1951, increased aggregate of borrowing from $600,000,000 to $1,600,000,000.

Subsec. (c). Act July 31, 1951, § 103(c), repealed subsec. (c) which authorized $1,400,000,000 to be appropriated to carry out sections 2092 and 2093 of this Appendix.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DEFENSE PRODUCTION ACT FUND MANAGER

Secretary of Defense designated Defense Production Act Fund Manager in accordance with subsec. (f) of this section, see section 309 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29529, set out as a note under section 2153 of this Appendix.

§ 2095. Synthetic fuel production

(a) Immediate Presidential action to meet national defense needs; exercise of authorities; United States Synthetic Fuel Corporation authority unaffected

(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act [sections 2061 to 2171 of this Appendix] (other than sections 101(a), 101(b), 301, 302, 303, and 306 [sections 2071(a), 2071(b), 2091, 2092, 2093, and 2096 of this Appendix]), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

(i) in consultation with the Secretary of Energy;

(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980 [42 U.S.C. 8701 et seq.].

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(b) Specific Presidential authorities; requisites, limitations, etc.

(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301 [section 2091 of this Appendix], except that the provisions of section 301(e)(1)(B) [section 2091(e)(1)(B) of this Appendix] shall not apply with respect to such guarantees; and

(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302 [section 2092 of this Appendix], except that the provisions of section 302(2) [section 2092(2) of this Appendix] shall not apply with respect to such loans.

(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 [section 2091 of this Appendix] or section 302 [section 2092 of this Appendix] in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307[1] [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307[1] [section 2097 of this Appendix], any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

(c) Purchases and commitments to purchase by President; authority; limitations; advance payments prior to construction of synthetic fuel project

(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

(A) without regard to the limitations of existing law (other than the limitations con-

[1] See References in Text note below.

tained in this Act [sections 2061 to 2171 of this Appendix]) regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a) [section 2166(a) of this Appendix], for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(d) Bidding and contracting procedures and requirements applicable to purchases and commitments to purchase

(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307[2] [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307[2] [section 2097 of this Appendix], any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3)[2] [section 2161(a)(2) and 2161(a)(3) of this Appendix], an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(e) Scope of Presidential procurement power

The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(f) Determinations necessary for purchase and sale of synthetic fuel

(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not

[2] See References in Text note below.

used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

(g) Maximum liability of Federal Government under contracts; budgetary certifications

(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(h) Loan, guarantee, or purchase agreement not to be deemed a major Federal action significantly affecting the quality of the human environment

For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(i) Labor standards; applicability, certifications, etc.

All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950.

(j) Other jurisdictional, etc., authorities relating to water resources and rights unaffected

(1) Nothing in this section shall—

(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(k) Termination of contracting or commitment authority of President; renewal or extension of contracts

(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980 [42 U.S.C. 8701 et seq.].

(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

(Sept. 8, 1950, ch. 932, title III, § 305, as added Pub. L. 96–294, title I, § 104(e), June 30, 1980, 94 Stat. 619; amended Pub. L. 107–314, div. A, title X, § 1062(*o*)(3), Dec. 2, 2002, 116 Stat. 2653.)

REFERENCES IN TEXT

The United States Synthetic Fuels Corporation Act of 1980, referred to in subsecs. (a)(1)(B)(iii) and (k)(1), is Pub. L. 96–294, title I, pt. B, June 30, 1980, 94 Stat. 633, which was classified generally to chapter 95 (§ 8701 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code. For complete classification of this Act to the Code, see Tables.

Section 307, referred to in subsecs. (b)(3) and (d)(4)(A)(ii), is classified to section 2097 of this Appendix and was amended by Pub. L. 102–558, title I, § 151, Oct. 28, 1992, 106 Stat. 4218, and as so amended, provisions relating to congressional approval of synthetic fuel action by the President were struck out.

Section 711, referred to in subsec. (d)(5), is classified to section 2161 of this Appendix and was amended by Pub. L. 102–558, title I, § 152, Oct. 28, 1992, 106 Stat. 4218, repealing subsec. (a)(2) and redesignating subsec. (a)(3) as subsec. (b). Subsec. (b) was subsequently repealed and a new subsec. (b) added by Pub. L. 104–64, § 3(2), Dec. 18, 1995, 109 Stat. 689.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (i), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (i). Pub. L. 107–314, § 1062(*o*)(3)(B), struck out ''and section 276(c) of title 40'' before period at end.

Pub. L. 107–314, § 1062(*o*)(3)(A), substituted ''subchapter IV of chapter 31 of title 40, United States Code'' for ''the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act''.

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TERMINATION OF UNITED STATES SYNTHETIC FUELS CORPORATION

United States Synthetic Fuels Corporation terminated by Pub. L. 99–272, title VII, § 7403(b), Apr. 7, 1986, 100 Stat. 144, set out as a note under section 8791 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12242

Ex. Ord. No. 12242, Sept. 30, 1980, 45 F.R. 65175, which related to delegation and exercise of functions relating to synthetic fuels, was revoked, except with respect to any loan guarantee issued under the provisions of that order, by Ex. Ord. No. 12346, § 4, Feb. 8, 1982, 47 F.R. 5993, set out below.

EX. ORD. NO. 12346. TRANSITION OF SYNTHETIC FUEL RESPONSIBILITIES FROM DEPARTMENT OF ENERGY TO UNITED STATES SYNTHETIC FUELS CORPORATION

Ex. Ord. No. 12346, Feb. 8, 1982, 47 F.R. 5993, provided:

By the authority vested in me as President by Section 305(k) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2095(k)), and having determined that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980 (Public Law 96–294; 94 Stat. 633 *et seq.*) [42 U.S.C. 8701 et seq.], and to provide for an orderly transition of synthetic fuel responsibilities from the Department of Energy to the United States Synthetic Fuels Corporation, it is hereby ordered as follows:

SECTION 1. No new awards for purchases or commitments for financial assistance shall be made under the provisions of Section 305 of the Defense Production Act of 1950, as amended [this section].

SEC. 2. Synthetic fuels projects or actions initiated by the Department of Energy shall, to the extent provided in the Supplemental Appropriations and Rescissions Act, 1980 (Public Law 96–304; 94 Stat. 880–881) [see 42 U.S.C. 5915 note], transfer to the Corporation upon a majority vote of the Board of Directors of the Corporation, and unexpended balances of the funds obligated for such projects shall be transferred to the Corporation to the extent such projects are transferred to the Corporation.

SEC. 3. The balance of the amounts not committed or not conditionally committed by the Department of Energy which were appropriated by Public Law 96–304 and Public Law 96–126 [see 42 U.S.C. 5915 note] from the Energy Security Reserve to the Department of Energy are available as provided in the Supplemental Appropriations and Rescissions Act, 1981 (Public Law 97–12; 95 Stat. 48) [see 42 U.S.C. 5915 note], to carry out the provisions of Title I of the Energy Security Act (Public Law 96–294; 94 Stat. 616 *et seq.*) [which enacted sections 2075, 2076, and 2095 to 2098 of this Appendix and section 8701 et seq. of Title 42, The Public Health and Welfare, amended sections 2062, 2091 to 2093, 2151, 2161, and 2166 of this Appendix, and enacted provisions set out as notes under sections 2061 and 2062 of this Appendix and section 8701 of Title 42].

SEC. 4. Executive Order No. 12242 of September 30, 1980 is revoked.

SEC. 5. Notwithstanding the revocation of Executive Order No. 12242, the provisions of that Order shall continue in full force and effect with respect to any loan guarantee issued under the provisions of that Order.

RONALD REAGAN.

§ 2096. Synthetic fuel production subsequent to determinations respecting a national energy supply shortage of defense fuels

(a) Invocation of authorities; judicial review prohibited

(1) At any time after the date of the enactment of this section [June 30, 1980], the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

(B) If the President determines that such shortage is less than 25 percent, the transmittal

under paragraph (1) shall be made in accordance with section 307[1] [section 2097 of this Appendix] and the authorities under this section shall be effective only as provided under such section. For purposes of section 307[1] [section 2097 of this Appendix], any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

(3) No court shall have the authority to review any determination made by the President under this subsection.

(b) Immediate Presidential action to meet national defense needs; exercise of authorities; United States Synthetic Fuels Corporation authority unaffected

(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act [sections 2061 to 2171 of this Appendix] (other than sections 101(a), 101(b), 301, 302, 303, and 305 [sections 2071(a), 2071(b), 2091, 2092, 2093, and 2095 of this Appendix]), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

(B) The President shall exercise the authority granted by this section—

(i) in consultation with the Secretary of Energy; and

(ii) through the Department of Defense and any other Federal department or agency designated by the President.

(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

(c) Specific Presidential authorities; requisites, limitations, etc.

(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301 [section 2091 of this Appendix], except that the provisions of section 301(e)(1)(B) [section 2091(e)(1)(B) of this Appendix] shall not apply with respect to such guarantees;

(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302 [section 2092 of this Appendix], except that the provisions of section 302(2) [section 2092(2) of this Appendix] shall not apply with respect to such loans;

(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

(ii) transport and store and have processed and refined such synthetic fuel.

(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 [section 2091 of this Appendix] or section 302 [section 2092 of this Appendix] in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307[2] [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307[2] [section 2097 of this Appendix], any proposal pertaining to a proposed loan or guarantee, notice of which is

[1] See References in Text note below.

[2] See References in Text note below.

transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

(d) Purchases and commitments to purchase by President; authority; limitations; advance payments prior to construction of synthetic fuel project

(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

(A) without regard to the limitations of existing law (other than those limitations contained in this Act [sections 2061 to 2171 of this Appendix]) regarding the procurement of goods or services by the Government; and

(B) subject to section 717(a) [section 2166(a) of this Appendix], for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

(e) Bidding and contracting procedures and requirements applicable to purchases and commitments to purchase

(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307[3] [section 2097 of this Appendix] and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307[3] [section 2097 of this Appendix], any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

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[3] See References in Text note below.

(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

(f) Scope of Presidential procurement power

The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

(g) Determinations respecting purchase and sale of synthetic fuel

(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

(h) Maximum liability of Federal Government under contracts; budgetary certifications

(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

(A) loans shall be valued at the initial face value of the loan;

(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

(i) Loan, guarantee, or purchase not to be deemed a major Federal action significantly affecting the quality of the human environment

For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

(j) Labor standards; applicability, certifications, etc.

All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950.

(k) Other jurisdictional, etc., authorities relating to water resources and rights unaffected

(1) Nothing in this section shall—

(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(*l*) Renewals and extensions of contracts

Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) [subsec. (a)(1) of this section] remain in effect for purposes of the use of such authority.

(Sept. 8, 1950, ch. 932, title III, § 306, as added Pub. L. 96–294, title I, § 104(e), June 30, 1980, 94 Stat. 623; amended Pub. L. 107–314, div. A, title X, § 1062(*o*)(3), Dec. 2, 2002, 116 Stat. 2653.)

REFERENCES IN TEXT

Section 307, referred to in subsecs. (a)(2)(B), (c)(4), and (e)(4)(B), is classified to section 2097 of this Appendix and was amended by Pub. L. 102–558, title I, § 151, Oct. 28, 1992, 106 Stat. 4218, and as so amended, provisions relating to congressional approval of synthetic fuel action by the President were struck out.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (j). Pub. L. 107–314, § 1062(*o*)(3)(B), struck out ''and section 276(c) of title 40'' before period at end.

Pub. L. 107–314, § 1062(*o*)(3)(A), substituted ''subchapter IV of chapter 31 of title 40, United States Code'' for ''the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act''.

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TERMINATION OF UNITED STATES SYNTHETIC FUELS CORPORATION

United States Synthetic Fuels Corporation terminated by Pub. L. 99–272, title VII, § 7403(b), Apr. 7, 1986, 100 Stat. 144, set out as a note under section 8791 of Title 42, The Public Health and Welfare.

§ 2096a. Annual reports on synthetic fuel production

Beginning one year after the effective date of this part [June 30, 1980], and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950 [sections 2095 and 2096 of this Appendix].

(Pub. L. 96–294, title I, § 106, June 30, 1980, 94 Stat. 633.)

CODIFICATION

Section was enacted as part of the Energy Security Act, and not as part of the Defense Production Act of 1950 which comprises sections 2061 to 2171 of this Appendix.

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

§ 2097. Synthetic fuel action

(a) "Synthetic fuel action" defined

For purposes of this section, the term ''synthetic fuel action'' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) Submission to Congress by President

The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day.

(Sept. 8, 1950, ch. 932, title III, § 307, as added Pub. L. 96–294, title I, § 104(e), June 30, 1980, 94 Stat. 628; amended Pub. L. 102–558, title I, § 151, Oct. 28, 1992, 106 Stat. 4218.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–558, § 151(1), struck out after first sentence ''If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.''

Subsecs. (c) to (g). Pub. L. 102–558, § 151(2), struck out subsec. (c) relating to effective date of synthetic fuel action, resolution of disfavor, and earlier effective date; subsec. (d) relating to congressional sessions for purposes of effective date; subsec. (e) relating to later effective date of synthetic fuel action; subsec. (f) relating to construction and applicability of procedures with rules of each House; and subsec. (g) relating to procedures applicable to resolutions of approval and disapproval.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2098. Definitions

(a) For purposes of this Act [sections 2061 to 2171 of this Appendix], the term ''Government synthetic fuel project'' means a synthetic fuel project undertaken in accordance with the provisions of section 306(c) [section 2096(c) of this Appendix].

(b)(1)(A) For purposes of this Act [sections 2061 to 2171 of this Appendix], the term ''synthetic

fuel'' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 [section 2095 of this Appendix] or section 306 [section 2096 of this Appendix]; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(2)(A) For purposes of this Act [sections 2061 to 2171 of this Appendix], the term ''synthetic fuel project'' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 [section 2095 of this Appendix] or section 306 [section 2096 of this Appendix].

(C) For purposes of this paragraph—

(i) the term ''exclusive'' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

(ii) the term ''incidental'' means a relatively small portion of the total project cost; and

(iii) the term ''necessary'' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

(c) For purposes of section 305 [section 2095 of this Appendix] and section 306 [section 2096 of this Appendix], the term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Sept. 8, 1950, ch. 932, title III, § 308, as added Pub. L. 96–294, title I, § 104(e), June 30, 1980, 94 Stat. 631.)

EFFECTIVE DATE

Section effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as an Effective Date of 1980 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2099. Annual report on impact of offsets

(a) Annual report on impact of offsets

(1) Report required

Not later than 18 months after April 17, 1984, and annually thereafter, the President shall submit to the Committee on Financial Services of the House of Representatives and the

Committee on Banking, Housing, and Urban Affairs of the Senate, a detailed report on the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States.

(2) Duties of the Secretary of Commerce

The Secretary of Commerce (hereafter in this subsection referred to as ''the Secretary'') shall—

(A) prepare the report required by paragraph (1);

(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

(C) function as the President's Executive Agent for carrying out this section.

(b) Interagency studies and related data

(1) Purpose of report

Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

(2) Use of data

Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary's responsibilities with respect to trade offset and countertrade policy development.

(c) Notice of offset agreements

(1) In general

If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

(2) Regulations

The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

(d) Contents of report

(1) In general

Each report under subsection (a) shall include—

(A) a net assessment of the elements of the industrial base and technology base covered by the report;

(B) recommendations for appropriate remedial action under the authority of this Act [sections 2061 to 2171 of this Appendix], or other law or regulations;

(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

(2) Alternative findings or recommendations

Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

(e) Utilization of annual report in negotiations

The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.

(Sept. 8, 1950, ch. 932, title III, § 309, as added Pub. L. 98–265, § 6, Apr. 17, 1984, 98 Stat. 152; amended Pub. L. 99–441, § 4, Oct. 3, 1986, 100 Stat. 1117; Pub. L. 102–558, title I, § 124, Oct. 28, 1992, 106 Stat. 4207; Pub. L. 107–47, § 4(5), Oct. 5, 2001, 115 Stat. 260.)

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–47 substituted ''Committee on Financial Services of the House of Representatives'' for ''Committee on Banking, Finance and Urban Affairs of the House of Representatives''.

1992—Subsec. (a). Pub. L. 102–558, § 124(1), inserted heading, designated existing provisions as par. (1), struck after first sentence ''Each such report also shall include a discussion of bilateral and multilateral negotiations on offsets in international procurement and provide information on the types, terms, and magnitude of the offsets.'', and added par. (2).

Subsec. (b). Pub. L. 102–558, § 124(2), amended subsec. (b) generally, substituting present provisions for provisions delineating the scope and contents of reports based on interagency studies.

Subsecs. (c) to (e). Pub. L. 102–558, § 124(3), added subsecs. (c) to (e).

1986—Pub. L. 99–441 designated existing provisions as subsec. (a), inserted subsec. heading, substituted ''a detailed report on'' for ''a report on'', and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Authority of President under this section with respect to offsets delegated to Secretary of Commerce by section 401 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29529, set out as a note under section 2153 of this Appendix.

REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND LOWER TIER SUBCONTRACTORS

Pub. L. 108–195, § 7(a), Dec. 19, 2003, 117 Stat. 2894, provided that:

''(1) IN GENERAL.—As part of the annual report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), the Secretary of Commerce (in this section referred to as the 'Secretary') shall—

''(A) detail the number of foreign contracts involving domestic contractors that use offsets, industrial participation agreements, or similar arrangements during the preceding 5-year period;

''(B) calculate the aggregate, median, and mean values of the contracts and the offsets, industrial participation agreements, and similar arrangements during the preceding 5-year period; and

''(C) describe the impact of international or foreign sales of United States defense products and related offsets, industrial participation agreements, and similar arrangements on domestic prime contractors and, to the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period in terms of domestic employment, including any job losses, on an annual basis.

''(2) USE OF INTERNAL DOCUMENTS.—To the extent that the Department of Commerce is already in possession of relevant data, the Department shall use internal documents or existing departmental records to carry out paragraph (1).

''(3) INFORMATION FROM NON-FEDERAL ENTITIES.—

''(A) EXISTING INFORMATION.—In carrying out paragraph (1), the Secretary shall only require a non-Federal entity to provide information that is available through the existing data collection and reporting systems of that non-Federal entity.

''(B) FORMAT.—The Secretary may require a non-Federal entity to provide information to the Secretary in the same form that is already provided to a foreign government in fulfilling an offset arrangement, industrial participation agreement, or similar arrangement.''

DEFENSE OFFSETS DISCLOSURE

Pub. L. 106–113, div. B, § 1000(a)(7) [div. B, title XII, subtitle D], Nov. 29, 1999, 113 Stat. 1536, 1501A–500, provided that:

''SEC. 1241. SHORT TITLE.

''This subtitle may be cited as the 'Defense Offsets Disclosure Act of 1999'.

''SEC. 1242. FINDINGS AND DECLARATION OF POLICY.

''(a) FINDINGS.—Congress makes the following findings:

''(1) A fair business environment is necessary to advance international trade, economic stability, and development worldwide, is beneficial for American workers and businesses, and is in the United States national interest.

''(2) In some cases, mandated offset requirements can cause economic distortions in international defense trade and undermine fairness and competitiveness, and may cause particular harm to small- and medium-sized businesses.

''(3) The use of offsets may lead to increasing dependence on foreign suppliers for the production of United States weapons systems.

''(4) The offset demands required by some purchasing countries, including some close allies of the United States, equal or exceed the value of the base contract they are intended to offset, mitigating much of the potential economic benefit of the exports.

''(5) Offset demands often unduly distort the prices of defense contracts.

''(6) In some cases, United States contractors are required to provide indirect offsets which can negatively impact nondefense industrial sectors.

''(7) Unilateral efforts by the United States to prohibit offsets may be impractical in the current era of globalization and would severely hinder the competitiveness of the United States defense industry in the global market.

''(8) The development of global standards to manage and restrict demands for offsets would enhance United States efforts to mitigate the negative impact of offsets.

''(b) DECLARATION OF POLICY.—It is the policy of the United States to monitor the use of offsets in international defense trade, to promote fairness in such trade, and to ensure that foreign participation in the production of United States weapons systems does not harm the economy of the United States.

''SEC. 1243. DEFINITIONS.

''In this subtitle:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Foreign Relations of the Senate; and

''(B) the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

''(2) G–8.—The term 'G–8' means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, Italy, and Russia established to facilitate economic cooperation among the eight major economic powers.

''(3) OFFSET.—The term 'offset' means the entire range of industrial and commercial benefits provided to foreign governments as an inducement or condition to purchase military goods or services, including benefits such as coproduction, licensed production, subcontracting, technology transfer, in-country procurement, marketing and financial assistance, and joint ventures.

''(4) TRANSATLANTIC ECONOMIC PARTNERSHIP.—The term 'Transatlantic Economic Partnership' means the joint commitment made by the United States and the European Union to reinforce their close relationship through an initiative involving the intensification and extension of multilateral and bilateral cooperation and common actions in the areas of trade and investment.

''(5) WASSENAAR ARRANGEMENT.—The term 'Wassenaar Arrangement' means the multilateral export control regime in which the United States participates that seeks to promote transparency and responsibility with regard to transfers of conventional armaments and sensitive dual-use items.

''(6) WORLD TRADE ORGANIZATION.—The term 'World Trade Organization' means the organization established pursuant to the WTO Agreement.

''(7) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

''SEC. 1244. SENSE OF CONGRESS.

''It is the sense of Congress that—

''(1) the executive branch should pursue efforts to address trade fairness by establishing reasonable, business-friendly standards for the use of offsets in international business transactions between the United States and its trading partners and competitors;

''(2) the Secretary of Defense, the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, or their designees, should raise with other industrialized nations at every suitable venue the need for transparency and reasonable standards to govern the role of offsets in international defense trade;

''(3) the United States Government should enter into discussions regarding the establishment of multilateral standards for the use of offsets in international defense trade through the appropriate multilateral fora, including such organizations as the Transatlantic Economic Partnership, the Wassenaar Arrangement, the G–8, and the World Trade Organization; and

''(4) the United States Government, in entering into the discussions described in paragraph (3), should

take into account the distortions produced by the provision of other benefits and subsidies, such as export financing, by various countries to support defense trade.

''SEC. 1245. REPORTING OF OFFSET AGREEMENTS.

''[Amended section 2776 of title 22.]

''SEC. 1246. EXPANDED PROHIBITION ON INCENTIVE PAYMENTS.

''[Amended section 2779a of title 22.]

''SEC. 1247. ESTABLISHMENT OF REVIEW COMMISSION.

''(a) IN GENERAL.—There is established a National Commission on the Use of Offsets in Defense Trade (in this section referred to as the 'Commission') to address all aspects of the use of offsets in international defense trade.

''(b) COMMISSION MEMBERSHIP.—Not later than 120 days after the date of enactment of this Act [Nov. 29, 1999], the President, with the concurrence of the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint 11 individuals to serve as members of the Commission. Commission membership shall include—

''(1) representatives from the private sector, including—

''(A) one each from—

''(i) a labor organization,

''(ii) a United States defense manufacturing company dependent on foreign sales,

''(iii) a United States company dependent on foreign sales that is not a defense manufacturer, and

''(iv) a United States company that specializes in international investment, and

''(B) two members from academia with widely recognized expertise in international economics; and

''(2) five members from the executive branch, including a member from—

''(A) the Office of Management and Budget,

''(B) the Department of Commerce,

''(C) the Department of Defense,

''(D) the Department of State, and

''(E) the Department of Labor.

The member designated from the Office of Management and Budget shall serve as Chairperson of the Commission. The President shall ensure that the Commission is nonpartisan and that the full range of perspectives on the subject of offsets in the defense industry is adequately represented.

''(c) DUTIES.—The Commission shall be responsible for reviewing and reporting on—

''(1) the full range of current practices by foreign governments in requiring offsets in purchasing agreements and the extent and nature of offsets offered by United States and foreign defense industry contractors;

''(2) the impact of the use of offsets on defense subcontractors and nondefense industrial sectors affected by indirect offsets; and

''(3) the role of offsets, both direct and indirect, on domestic industry stability, United States trade competitiveness and national security.

''(d) COMMISSION REPORT.—Not later than 12 months after the Commission is established, the Commission shall submit a report to the appropriate congressional committees. In addition to the items described under subsection (c), the report shall include—

''(1) an analysis of—

''(A) the collateral impact of offsets on industry sectors that may be different than those of the contractor providing the offsets, including estimates of contracts and jobs lost as well as an assessment of damage to industrial sectors;

''(B) the role of offsets with respect to competitiveness of the United States defense industry in international trade and the potential damage to the ability of United States contractors to compete if offsets were prohibited or limited; and

''(C) the impact on United States national security, and upon United States nonproliferation objectives, of the use of coproduction, subcontracting, and technology transfer with foreign governments or companies that results from fulfilling offset requirements, with particular emphasis on the question of dependency upon foreign nations for the supply of critical components or technology;

''(2) proposals for unilateral, bilateral, or multilateral measures aimed at reducing any detrimental effects of offsets; and

''(3) an identification of the appropriate executive branch agencies to be responsible for monitoring the use of offsets in international defense trade.

''(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(f) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

''(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

''(h) COMMISSION PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(3) STAFF.—

''(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

''(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''(i) TERMINATION.—The Commission shall terminate 30 days after the transmission of the report from the President as mandated in section 1248(b).

''SEC. 1248. MULTILATERAL STRATEGY TO ADDRESS OFFSETS.

''(a) IN GENERAL.—The President shall initiate a review to determine the feasibility of establishing, and the most effective means of negotiating, a multilateral treaty on standards for the use of offsets in international defense trade, with a goal of limiting all offset transactions that are considered injurious to the economy of the United States.

''(b) REPORT REQUIRED.—Not later than 90 days after the date on which the Commission submits the report required under section 1247(d), the President shall submit to the appropriate congressional committees a report containing the President's determination pursuant to subsection (a), and, if the President determines a multilateral treaty is feasible or desirable, a strategy for United States negotiation of such a treaty. One year after the date the report is submitted under the preceding sentence, and annually thereafter for 5 years, the President shall submit to the appropriate congressional committees a report detailing the progress toward reaching such a treaty.

''(c) REQUIRED INFORMATION.—The report required by subsection (b) shall include—

''(1) a description of the United States efforts to pursue multilateral negotiations on standards for the use of offsets in international defense trade;

''(2) an evaluation of existing multilateral fora as appropriate venues for establishing such negotiations;

''(3) a description on a country-by-country basis of any United States efforts to engage in negotiations to establish bilateral treaties or agreements with respect to the use of offsets in international defense trade; and

''(4) an evaluation on a country-by-country basis of any foreign government efforts to address the use of offsets in international defense trade.

''(d) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall monitor and periodically report to Congress on the progress in reaching a multilateral treaty.''

DECLARATION OF OFFSET POLICY

Pub. L. 102–558, title I, §123, Oct. 28, 1992, 106 Stat. 4206, as amended by Pub. L. 108–195, §7(c), Dec. 19, 2003, 117 Stat. 2895, provided that:

''(a) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it is the policy of the Congress that—

''(1) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

''(2) United States Government funds shall not be used to finance offsets in security assistance transactions, except in accordance with policies and procedures that were in existence on March 1, 1992;

''(3) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into before March 1, 1992; and

''(4) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, reside with the companies involved.

''(b) PRESIDENTIAL APPROVAL OF EXCEPTIONS.—It is the policy of the Congress that the President may approve an exception to the policy stated in subsection (a) after receiving the recommendation of the National Security Council.

''(c) NEGOTIATIONS.—

''(1) INTERAGENCY TEAM.—

''(A) IN GENERAL.—It is the policy of Congress that the President shall designate a chairman of an interagency team comprised of the Secretary of Commerce, Secretary of Defense, United States Trade Representative, Secretary of Labor, and Secretary of State to consult with foreign nations on limiting the adverse effects of offsets in defense procurement without damaging the economy or the defense industrial base of the United States or United States defense production or defense preparedness.

''(B) MEETINGS.—The President shall direct the interagency team to meet on a quarterly basis.

''(C) REPORTS.—The President shall direct the interagency team to submit to Congress an annual report, to be included as part of the report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), that describes the results of the consultations of the interagency team under subparagraph (A) and the meetings of the interagency team under subparagraph (B).

''(2) RECOMMENDATIONS FOR MODIFICATIONS.—The interagency team shall submit to the President any recommendations for modifications of any existing or proposed memorandum of understanding between officials acting on behalf of the United States and one or more foreign countries (or any instrumentality of a foreign country) relating to—

''(A) research, development, or production of defense equipment; or

''(B) the reciprocal procurement of defense items.''

EX. ORD. NO. 13177. NATIONAL COMMISSION ON THE USE OF OFFSETS IN DEFENSE TRADE AND PRESIDENT'S COUNCIL ON THE USE OF OFFSETS IN COMMERCIAL TRADE

Ex. Ord. No. 13177, Dec. 4, 2000, 65 F.R. 76558, as amended by Ex. Ord. No. 13316, §3(f), Sept. 17, 2003, 68 F.R. 55256, provided:

By the authority vested in the President by the Constitution and the laws of the United States of America, including Public Law 106–113 [see Tables for classification] and the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to implement section 1247 of Public Law 106–113 (113 Stat. 1501A–502) [set out in a note above] and to create a parallel ''President's Council on the Use of Offsets in Commercial Trade,'' it is hereby ordered as follows:

SECTION 1. *Membership*. Pursuant to Public Law 106–113, the ''National Commission on the Use of Offsets in Defense Trade'' (Commission) comprises 11 members appointed by the President with the concurrence of the Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives. The Commission membership includes: (a) representatives from the private sector, including one each from (i) a labor organization, (ii) a United States defense manufacturing company dependent on foreign sales, (iii) a United States company dependent on foreign sales that is not a defense manufacturer, and (iv) a United States company that specializes in international investment; (b) two members from academia with widely recognized expertise in international economics; and (c) five members from the executive branch, including a member from the: (i) Office of Management and Budget, (ii) Department of Commerce, (iii) Department of Defense, (iv) Department of State, and (v) Department of Labor. The member from the Office of Management and Budget will serve as Chairperson of the Commission and will appoint, and fix the compensation of, the Executive Director of the Commission.

SEC. 2. *Duties*. The Commission will be responsible for reviewing and reporting on: (a) current practices by foreign governments in requiring offsets in purchasing agreements and the extent and nature of offsets offered by United States and foreign defense industry contractors; (b) the impact of the use of offsets on defense sub-

contractors and nondefense industrial sectors affected by indirect offsets; and (c) the role of offsets, both direct and indirect, on domestic industry stability, United States trade competitiveness, and national security.

SEC. 3. *Commission Report.* Not later than 12 months after the Commission is established, it will report to the appropriate congressional committees. In addition to the items described in section 2 of this order, the report will include: (a) an analysis of (i) the collateral impact of offsets on industry sectors that may be different than those of the contractor paying offsets, including estimates of contracts and jobs lost as well as an assessment of damage to industrial sectors; (ii) the role of offsets with respect to competitiveness of the United States defense industry in international trade and the potential damage to the ability of United States contractors to compete if offsets were prohibited or limited; and (iii) the impact on United States national security, and upon United States nonproliferation objectives, of the use of co-production, subcontracting, and technology transfer with foreign governments or companies, that results from fulfilling offset requirements, with particular emphasis on the question of dependency upon foreign nations for the supply of critical components or technology; (b) proposals for unilateral, bilateral, or multilateral measures aimed at reducing any detrimental effects of offsets; and (c) an identification of the appropriate executive branch agencies to be responsible for monitoring the use of offsets in international defense trade.

SEC. 4. *Administration, Compensation, and Termination.* (a) The Department of Defense will provide administrative support and funding for the Commission and Federal Government employees may be detailed to the Commission without reimbursement.

(b) Members of the Commission who are not officers or employees of the Federal Government will be compensated at a rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performance of the duties of the Commission. Members of the Commission who are officers or employees of the Federal Government will serve without compensation in addition to that received for their services as officers or employees of the Federal Government.

(c) Members of the Commission will be allowed travel expenses, including per diem in lieu of subsistence, under subchapter 1 of chapter 57 of title 5, United States Code, while on business in the performance of services for the Commission.

(d) The Commission will terminate 30 days after transmitting the report required in section 1248(b) of Public Law 106–113 (113 Stat. 1501A–505) [set out in a note above].

[SECS. 5 to 8. Revoked effective Sept. 30, 2003, by Ex. Ord. No. 13316, § 3(f), Sept. 17, 2003, 68 F.R. 55256.]

§ 2099a. Civil-military integration

An important purpose of this title [sections 2091 to 2099a of this title] is the creation of production capacity that will remain economically viable after guarantees and other assistance provided under this title [said sections] have expired.

(Sept. 8, 1950, ch. 932, title III, § 310, as added Pub. L. 102–558, title I, § 125, Oct. 28, 1992, 106 Stat. 4208.)

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

TITLE IV—PRICE AND WAGE STABILIZATION

§§ 2101 to 2112. Omitted

CODIFICATION

Section 2101, act Sept. 8, 1950, ch. 932, title IV, § 401, 64 Stat. 803, related to purposes of price and wage stabilization and cooperation by government agencies.

Section 2102, acts Sept. 8, 1950, ch. 932, title IV, § 402, 64 Stat. 803; July 31, 1951, ch. 275, title I, § 104 (a) to (h), 65 Stat. 134; June 30, 1952, ch. 530, title I, §§ 105 to 111, 66 Stat. 298, related to price and wage controls.

Section 2103, acts Sept. 8, 1950, ch. 932, title IV, § 403, 64 Stat. 807; July 31, 1951, ch. 275, title I, § 105(a), 65 Stat. 137; June 30, 1952, ch. 530, title I, § 112, 66 Stat. 300, authorized an independent agency to administer price and wage controls and rationing, created a Wage Stabilization Board in the Economic Stabilization Agency and prescribed its duties and functions and prescribed the jurisdiction of the Salary Stabilization Board and the Office of Salary Stabilization within the Economic Stabilization Agency. Act Sept. 8, 1950, ch. 932, title IV, § 403, 64 Stat. 807, formerly classified to section 2103 of this Appendix, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 656.

Section 2104, act Sept. 8, 1950, ch. 932, title IV, § 404, 64 Stat. 807, authorized consultation by the President with representatives of persons affected by regulations or orders relating to price and wage controls.

Section 2105, acts Sept. 8, 1950, ch. 932, title IV, 405, 64 Stat. 807; July 31, 1951, ch. 275, title I, § 104(i), 65 Stat. 136, related to unlawfulness for violating sections 2101 to 2112 of this appendix or any regulations, orders or requirements issued thereunder.

Section 2106, act Sept. 8, 1950, ch. 932, title IV, § 406, 64 Stat. 807, prohibited any construction of sections 2101 to 2112 of this Appendix as requiring any person to sell any material or service, or to perform personal services.

Section 2107, acts Sept. 8, 1950, ch. 932, title IV, § 407, 64 Stat. 807; June 30, 1952, ch. 530, title I, § 113(a), 66 Stat. 301, related to objections to price and rent control regulations, filing, hearing and determination of protests, procedure, and review.

Section 2108, acts Sept. 8, 1950, ch. 932, title IV, § 408, 64 Stat. 808; June 30, 1952, ch. 530, title I, § 113(b), 66 Stat. 302, related to determination, by the Emergency Court of Appeals, of validity of price, wage and rent control regulations, procedure, review by the Supreme Court, and stay of civil and criminal proceedings in other courts for determination of such validity.

Section 2109, acts Sept. 8, 1950, ch. 932, title IV, § 409, 64 Stat. 811; July 31, 1951, ch. 275, title I, § 104(j) to (*l*) 65 Stat. 136, in connection with actions for violations of section 2105 of this Appendix, and regulations or orders, related to injunctions, criminal penalties, recovery of overcharges, and disallowance of fines, penalties, and compromise sums for tax or other purposes.

Section 2110, act Sept. 8, 1950, ch. 932, title IV, § 410, 64 Stat. 812, required certain price representations and agreements to be contained in contracts providing for the purchase of processed chickens and turkeys by government agencies.

Section 2111, act Sept. 8, 1950, ch. 932, title IV, § 411, as added June 30, 1952, ch. 530, title I, § 114, 66 Stat. 304, made it unnecessary to furnish reports on sales or services below ceiling prices if such sales at such prices had been certified to the President.

Section 2112, act Sept. 8, 1950, ch. 932, title IV, § 412, as added June 30, 1952, ch. 530, title I, § 114, 66 Stat. 304, permitted suspension or termination of price and wage controls over any materials or services, from time to time as economic factors might warrant, and their restoration if deemed necessary.

TERMINATION DATE

Sections 2101 to 2112 terminated at close of Apr. 30, 1953, by the terms of section 2166(a) of this Appendix.

EXECUTIVE ORDER NO. 10160

Ex. Ord. No. 10160, Sept. 9, 1950, 15 F.R. 6103, which related to preservation of records for certain purposes, was revoked by Ex. Ord. No. 10662, Mar. 13, 1956, 21 F.R. 1673.

EX. ORD. NO. 10434. SUSPENSION OF WAGE AND PRICE CONTROLS

Ex. Ord. No. 10434, Feb. 6, 1953, 18 F.R. 809, provided:

1. All regulations and orders issued pursuant to the Defense Production Act of 1950, as amended [see section 2061 of this Appendix], stabilizing wages, salaries, and other compensation, are hereby suspended.

2. The wage, salary, and other compensation adjustments proposed in petitions pending before wage and salary control agencies may now be placed in effect without the approval of such agencies. To the extent that agreements involved in such petitions are conditioned upon approval under Title IV of the Defense Production Act [sections 2101 to 2112 of this Appendix], this order shall be deemed such approval, but such approval shall be subject to paragraph 3 hereof.

3. This order shall not operate to defeat any suit, action, prosecution, or administrative enforcement proceeding, whether heretofore or hereafter commenced, with respect to any right, liability, or offense possessed, incurred, or committed, prior to this date.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER NO. 10494

Ex. Ord. No. 10494, Oct. 14, 1953, 18 F.R. 6585, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971, which related to the disposition of remaining functions, was revoked by section 5–103 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

TITLE V—SETTLEMENT OF LABOR DISPUTES

§§ 2121 to 2123. Omitted

CODIFICATION

Section 2121, act Sept. 8, 1950, ch. 932, title V, § 501, 64 Stat. 812, stated intent of Congress in providing for settlement of labor disputes affecting national defense.

Section 2122, acts Sept. 8, 1950, ch. 932, title V, § 502, 64 Stat. 812; July 31, 1951, ch. 275, title I, § 105(b), 65 Stat. 137, stated national policy in connection with such settlement, and provided for voluntary conferences.

Section 2123, acts Sept. 8, 1950, ch. 932, title V, § 503, 64 Stat. 812; July 31, 1951, ch. 275, title I, § 105(c), 65 Stat. 137; June 30, 1952, ch. 530, title I, § 115, 66 Stat. 305, provided that, in such settlements, due regard should be given to collective bargaining and other laws, and, as amended by the act of June 30, 1952, requested the President to invoke the Labor-Management Relations Act, 1947, (29 U.S.C. 141 et seq.), with regard to the steel strike then existing.

TERMINATION DATE

Sections 2121 to 2123 terminated at close of Apr. 30, 1953, by the terms of section 2166(a) of this Appendix.

TITLE VI—CONTROL OF REAL ESTATE CREDIT

CODIFICATION

Sections 2132 to 2137 of this Appendix, which comprised this title, terminated on June 30, 1953, by the terms of section 2166(a) of this Appendix. Previous to such termination, act June 30, 1952, ch. 530, title I, § 116(a), 66 Stat. 305 amended catchline of title to omit reference to consumer credit control and subtitle heading of this title to read ''This title authorizes the regulation of real estate construction credit only.''

§ 2131. Repealed. June 30, 1952, ch. 530, title I, § 116(a), 66 Stat. 305

Section, acts Sept. 8, 1950, ch. 932, title VI, § 601, 64 Stat. 812; July 31, 1951, ch. 275, title I, § 106(a), 65 Stat. 138, related to power to exercise consumer credit controls.

§§ 2132 to 2137. Omitted

CODIFICATION

Section 2132, act Sept. 8, 1950, ch. 932, title VI, § 602, 64 Stat. 813, related to real estate construction credit.

Section 2133, acts Sept. 8, 1950, ch. 932, title VI, § 603, 64 Stat. 814; July 31, 1951, ch. 275, title I, § 106(b), 65 Stat. 138, prescribed penalties for violating sections 2131, 2132 and 2135 of this Appendix or any regulation or order issued thereunder.

Section 2134, act Sept. 8, 1950, ch. 932, title VI, § 604, 64 Stat. 814, related to consumer credit controls.

Section 2135, acts Sept. 8, 1950, ch. 932, title VI, § 605, 64 Stat. 814; July 31, 1951, ch. 275, title I, § 106(c), 65 Stat. 138; Sept. 1, 1951, ch. 378, title VI, § 602(a), 65 Stat. 313, related to real estate loans by government agencies.

Section 2136, act Sept. 8, 1950, ch. 932, title VI, § 606, as added Sept. 1, 1951, ch. 378, title VI, § 602(b), 65 Stat. 313, related to down-payment requirements on veterans homes.

Section 2137, act Sept. 8, 1950, ch. 932, title VI, § 607, as added June 30, 1952, ch. 530, title I, § 116(b), 66 Stat. 305, related to credit controls on residential property.

TERMINATION DATE

Sections 2132 to 2137 terminated at close of June 30, 1953, by the terms of section 2166(a) of this Appendix.

TITLE VII—GENERAL PROVISIONS

§ 2151. Small business

(a) Participation

Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act [sections 2061 to 2171 of this Appendix].

(b) Administration of Act

In administering the programs, implementing regulations, policies, and procedures under this Act [sections 2061 to 2171 of this Appendix], requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

(c) Advisory committee participation

Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this Act [sections 2061 to 2171 of this Appendix].

(d) Information

Information about this Act [sections 2061 to 2171 of this Appendix] and activities undertaken in accordance with this Act [said sections] shall be made available to small business concerns.

(e) Allocations under section 101

Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101 [section 2071 of this Appendix], small business concerns shall be accorded, to the extent practicable, a fair share

of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to emerging small business concerns.

(Sept. 8, 1950, ch. 932, title VII, § 701, 64 Stat. 815; July 31, 1951, ch. 275, title I, § 108, 65 Stat. 138; June 30, 1953, ch. 171, § 7, 67 Stat. 130; Aug. 9, 1955, ch. 655, §§ 4, 5, 69 Stat. 580; Pub. L. 96–294, title I, § 105(c), June 30, 1980, 94 Stat. 633; Pub. L. 102–558, title I, § 131, Oct. 28, 1992, 106 Stat. 4209.)

AMENDMENTS

1992—Pub. L. 102–558 amended section generally, substituting present provisions for provisions stating policy to encourage small business enterprises and providing for measures to carry out this policy, for allocation of materials in the civilian market, and for distribution of defense contracts.

1980—Subsec. (d). Pub. L. 96–294 substituted ''enactment of the Defense Production Act Amendments of 1980'' for ''enactment of the Defense Production Act Amendments of 1955''.

1955—Subsec. (c). Act Aug. 9, 1955, § 4, struck out specific dates which were the basis for determination of materials in civilian market and inserted provisions requiring that a business receive its fair share based on a representative period before imposition of the allocation.

Subsec. (d). Act Aug. 9, 1955, § 5, added subsec. (d).

1953—Subsec. (c). Act June 30, 1953, amended subsec. (c) generally, the principal change being to provide, in the allocation to business of a fair share of available civilian supply, a new base period for allocating materials not under control on July 1, 1953.

1951—Subsec. (c). Act July 31, 1951, provided that limitations and restrictions on production of specific items shall not exclude new concerns.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2152. Definitions

For purposes of this Act [sections 2061 to 2171 of this Appendix], the following definitions shall apply:

(1) Critical component

The term ''critical component'' includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 [19 U.S.C. 1862] shall be designated as critical components for purposes of this Act [sections 2061 to 2171 of this Appendix], unless the President determines that the designation is unwarranted.

(2) Critical industry for national security

The term ''critical industry for national security'' means any industry (or industry sector) identified pursuant to section 2503(6)[1] of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

(3) Critical infrastructure

The term ''critical infrastructure'' means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.

(4) Critical technology

The term ''critical technology'' includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681[1] of title 42, United States Code, or section 2508[1] of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

(5) Critical technology item

The term ''critical technology item'' means materials directly employing, derived from, or utilizing a critical technology.

(6) Defense contractor

The term ''defense contractor'' means any person who enters into a contract with the United States—

(A) to furnish materials, industrial resources, or a critical technology for the national defense; or

(B) to perform services for the national defense.

(7) Domestic defense industrial base

The term ''domestic defense industrial base'' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during peacetime, graduated mobilization, national emergency, or war.

[1] See References in Text note below.

(8) Domestic source

The term ''domestic source'' means a business concern—

(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item; and

(B) that procures from business concerns described in subparagraph (A) substantially all of any components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

(9) Essential weapon system

The term ''essential weapon system'' means a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

(10) Facilities

The term ''facilities'' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

(11) Foreign source

The term ''foreign source'' means a business entity other than a ''domestic source''.

(12) Industrial resources

The term ''industrial resources'' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

(13) Materials

The term ''materials'' includes—

(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

(14) National defense

The term ''national defense'' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity. Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5195 et seq.] and critical infrastructure protection and restoration.

(15) Person

The term ''person'' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

(16) Services

The term ''services'' includes any effort that is needed for or incidental to—

(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item; or

(B) the construction of facilities.

(17) Small business concern

The term ''small business concern'' means a business concern that meets the requirements of section 3(a) of the Small Business Act [15 U.S.C. 632(a)] and the regulations promulgated pursuant to that section, and includes such business concerns owned and controlled by socially and economically disadvantaged individuals or by women.

(18) Small business concern owned and controlled by socially and economically disadvantaged individuals

The term ''small business concern owned and controlled by socially and economically disadvantaged individuals'' has the same meaning as in section 8(d)(3)(C) of the Small Business Act [15 U.S.C. 637(d)(3)(C)].

(Sept. 8, 1950, ch. 932, title VII, § 702, 64 Stat. 815; June 30, 1953, ch. 171, § 8, 67 Stat. 130; Pub. L. 91–379, title I, § 102, Aug. 15, 1970, 84 Stat. 796; Pub. L. 102–558, title I, § 132, Oct. 28, 1992, 106 Stat. 4210; Pub. L. 103–337, div. C, title XXXIV, § 3411(b), Oct. 5, 1994, 108 Stat. 3110; Pub. L. 108–195, § 5, Dec. 19, 2003, 117 Stat. 2893.)

REFERENCES IN TEXT

Section 2503 of title 10, referred to in par. (2), was repealed and a new section 2503 relating to analysis of the technology and industrial base was enacted by Pub. L. 102–484, div. D, title XLII, §§ 4202(a), 4213(a), Oct. 23, 1992, 106 Stat. 2659, 2665.

Section 6681 of title 42, referred to in par. (4), was omitted from the Code.

Section 2508 of title 10, referred to in par. (4), was renumbered section 2522 of title 10 by Pub. L. 102–190, div. A, title VIII, § 821(b)(1), Dec. 5, 1991, 105 Stat. 1431, and was repealed and a new section relating to defense advanced manufacturing technology partnerships was enacted and renumbered section 2522 by Pub. L. 102–484, div. D, title XLII, §§ 4202(a), 4232(a), (b), Oct. 23, 1992, 106 Stat. 2659, 2687, and was subsequently repealed.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in par. (14), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended. The Act was renamed the ''Robert T. Stafford Disaster Relief and Emergency Assistance Act'' by Pub. L. 106–390, title III, § 301, Oct. 30, 2000, 1114 Stat. 1572. Title VI of the Act is classified generally to subchapter IV–B (§ 5195 et seq.) of chapter 68 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2003—Pars. (3) to (13). Pub. L. 108–195 § 5(1), (2), added par. (3) and redesignated former pars. (3) to (12) as (4) to (13), respectively. Former par. (13) redesignated (14).

Par. (14). Pub. L. 108–195, § 5(1), (3), redesignated par. (13) as (14) and inserted ''and critical infrastructure protection and restoration'' before period at end of last sentence. Former par. (14) redesignated (15).

Pars. (15) to (18). Pub. L. 108–195, § 5(1), redesignated pars. (14) to (17) as (15) to (18), respectively.

1994—Par. (13). Pub. L. 103–337 inserted at end ''Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.''

1992—Pub. L. 102–558 amended section generally, substituting present provisions for provisions defining terms ''person'', ''materials'', ''facilities'', ''national defense'', ''wages, salaries, and other compensation'', and ''defense contractor''.

1970—Subsec. (d). Pub. L. 91–379, § 102(1), inserted reference to space in definition of national defense.

Subsec. (f). Pub. L. 91–379, § 102(2), added subsec. (f).

1953—Subsec. (d). Act June 30, 1953, amended subsec. (d) generally which, among other changes, inserted references to construction, military assistance to foreign nations and stockpiling, and struck out specific reference to ''operations or activities in connection with the Mutual Defense Assistance Act of 1949, as amended''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2153. Civilian personnel

Any officer or agency head may—

(1) appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates,

except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule, as the President deems appropriate to carry out this Act [sections 2061 to 2171 of this Appendix].

(Sept. 8, 1950, ch. 932, title VII, § 703, 64 Stat. 816; July 31, 1951, ch. 275, title I, § 109(a), (b), 65 Stat. 138; Pub. L. 102–558, title I, § 133, Oct. 28, 1992, 106 Stat. 4212.)

REFERENCES IN TEXT

The provisions of title 5, United States Code, governing appointments in the competitive service, referred to in par. (1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Pub. L. 102–558 amended section generally, substituting present provisions for provisions relating to delegation of Presidential authority, creation of new agencies, appointment and compensation of officers and personnel, and State representation in regional offices.

1951—Subsec. (a). Act July 31, 1951, § 109(a), provided that executive head of one agency under this act shall be paid at a rate comparable to that paid heads of executive departments.

Subsec. (b). Act July 31, 1951, § 109(b), to provide for State representation in regional offices.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

COMPENSATION OF CERTAIN OFFICIALS IN DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Compensation for certain officials in Domestic and International Business Administration fixed at certain prescribed rates by Ex. Ord. No. 11759, Jan. 15, 1974, 39 F.R. 2077, formerly set out as a note under section 1511 of Title 15, Commerce and Trade.

COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR, BUREAU OF DOMESTIC COMMERCE

Compensation for Director and Deputy Director, Bureau of Domestic Commerce, Department of Commerce, was fixed at certain prescribed rates by Ex. Ord. No. 11567, Nov. 16, 1970, 35 F.R. 17701, which was superseded by Ex. Ord. No. 11759, Jan. 15, 1974, 39 F.R. 2077, formerly set out as a note under section 1511 of Title 15, Commerce and Trade.

EXECUTIVE ORDER NO. 10193

Ex. Ord. No. 10193, Dec. 16, 1950, 15 F.R. 9031, which provided for conduct of mobilization effort of the Government, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out below.

EXECUTIVE ORDER NO. 10200

Ex. Ord. No. 10200, Jan. 3, 1951, 16 F.R. 61, as amended by Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789; Ex. Ord. No. 10433, Feb. 4, 1953, 18 F.R. 761, which related to establishment of Defense Production Administration, was revoked by Ex. Ord. No. 10480, Aug. 18, 1953, 18 F.R. 4939, formerly set out below.

EXECUTIVE ORDER NO. 10224

Ex. Ord. No. 10224, Mar. 15, 1951, 16 F.R. 2543, as amended by Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513, which provided for establishment of the National Advisory Board on Mobilization Policy was revoked by section 7(1) of Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061, which was subsequently superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out as a note under section 2271 of this Appendix.

EXECUTIVE ORDER NO. 10281

Ex. Ord. No. 10281, Aug. 28, 1951, 16 F.R. 8789, which related to defense materials procurement and supply, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out below.

EXECUTIVE ORDER NO. 10308

Ex. Ord. No. 10308, Dec. 3, 1951, 16 F.R. 12303, creating the Committee on Government Contract Compliance, was revoked and the Committee abolished by Ex. Ord. No. 10479, Aug. 17, 1953, 18 F.R. 4899, which was subsequently revoked by Ex. Ord. No. 10925, Mar. 7, 1961, 26 F.R. 1977.

EXECUTIVE ORDER NO. 10433

Ex. Ord. No. 10433, Feb. 4, 1953, 18 F.R. 761, which provided for merger of Defense Production Administration with the Office of Defense Mobilization, was revoked by

Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out below.

EXECUTIVE ORDER NO. 10461

Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513 which related to transfer of functions effected by Reorganization Plan No. 3 of 1953, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out as a note under section 2271 of this Appendix.

EXECUTIVE ORDER NO. 10480

Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, as amended by Ex. Ord. No. 10489, Sept. 26, 1953, 18 F.R. 6201; Ex. Ord. No. 10537, June 22, 1954, 19 F.R. 3807; Ex. Ord. No. 10574, Nov. 8, 1954, 19 F.R. 7249; Ex. Ord. No. 10662, Mar. 14, 1956, 21 F.R. 1673; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 10819, May 11, 1959, 24 F.R. 3779; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11062, Nov. 19, 1962, 27 F.R. 11447; Ex. Ord. No. 11956, Jan. 13, 1977, 42 F.R. 2947; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12381, § 4, Sept. 8, 1982, 47 F.R. 39795; Ex. Ord. No. 12521, June 24, 1985, 50 F.R. 26335; Ex. Ord. No. 12649, Aug. 11, 1988, 53 F.R. 30639; Ex. Ord. No. 12773, Sept. 26, 1991, 56 F.R. 49387, which provided for administration of defense mobilization program, was revoked by section 904(a)(3) of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29533, set out below.

EXECUTIVE ORDER NO. 10660

Ex. Ord. No. 10660, Feb. 15, 1956, 21 F.R. 1117, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which established a National Defense Executive Reserve, was superseded by Ex. Ord. No. 11179, Sept. 22, 1964, 29 F.R. 13239, formerly set out below.

EXECUTIVE ORDER NO. 11179

Ex. Ord. No. 11179, Sept. 22, 1964, 29 F.R. 13239, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which established National Defense Executive Reserve, was revoked by section 904(a)(5) of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29533, set out below.

EX. ORD. NO. 12919. NATIONAL DEFENSE INDUSTRIAL RESOURCES PREPAREDNESS

Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, as amended by Ex. Ord. No. 13286, § 24, Feb. 28, 2003, 68 F.R. 10624, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended (64 Stat. 798; 50 U.S.C. App. 2061, *et seq.*), and section 301 of title 3, United States Code, and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

PART I—PURPOSE, POLICY AND IMPLEMENTATION

SECTION 101. *Purpose*. This order delegates authorities and addresses national defense industrial resource policies and programs under the Defense Production Act of 1950, as amended (''the Act''), except for the amendments to Title III of the Act [50 U.S.C. App. 2091 et seq.] in the Energy Security Act of 1980 [Pub. L. 96–294] and telecommunication authorities under Executive Order No. 12472 [42 U.S.C. 5195 note].

SEC. 102. *Policy*. The United States must have an industrial and technology base capable of meeting national defense requirements, and capable of contributing to the technological superiority of its defense equipment in peacetime and in times of national emergency. The domestic industrial and technological base is the foundation for national defense preparedness. The authorities provided in the Act shall be used to strengthen this base and to ensure it is capable of responding to all threats to the national security of the United States.

SEC. 103. *General Functions*. Federal departments and agencies responsible for defense acquisition (or for industrial resources needed to support defense acquisition) shall:

(a) Identify requirements for the full spectrum of national security emergencies, including military, industrial, and essential civilian demand;

(b) Assess continually the capability of the domestic industrial and technological base to satisfy requirements in peacetime and times of national emergency, specifically evaluating the availability of adequate industrial resource and production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

(c) Be prepared, in the event of a potential threat to the security of the United States, to take actions necessary to ensure the availability of adequate industrial resources and production capability, including services and critical technology for national defense requirements;

(d) Improve the efficiency and responsiveness, to defense requirements, of the domestic industrial base; and

(e) Foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment to enhance industrial base efficiency and responsiveness.

SEC. 104. *Implementation*. (a) The National Security Council is the principal forum for consideration and resolution of national security resource preparedness policy.

(b) The Secretary of Homeland Security (''the Secretary'') shall:

(1) Serve as an advisor to the National Security Council on issues of national security resource preparedness and on the use of the authorities and functions delegated by this order;

(2) Provide for the central coordination of the plans and programs incident to authorities and functions delegated under this order, and provide guidance and procedures approved by the Assistant to the President for National Security Affairs to the Federal departments and agencies under this order;

(3) Establish procedures, in consultation with Federal departments and agencies assigned functions under this order, to resolve in a timely and effective manner conflicts and issues that may arise in implementing the authorities and functions delegated under this order; and

(4) Report to the President periodically concerning all program activities conducted pursuant to this order.

(c) The head of every Federal department and agency assigned functions under this order shall ensure that the performance of these functions is consistent with National Security Council policy and guidelines.

PART II—PRIORITIES AND ALLOCATIONS

SEC. 201. *Delegations of Priorities and Allocations*. (a) The authority of the President conferred by section 101 of the Act [50 U.S.C. App. 2071] to require acceptance and priority performance of contracts or orders (other than contracts of employment) to promote the national defense over performance of any other contracts or orders, and to allocate materials, services, and facilities as deemed necessary or appropriate to promote the national defense, is delegated to the following agency heads:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer;

(2) The Secretary of Energy with respect to all forms of energy;

(3) The Secretary of Health and Human Services with respect to health resources;

(4) The Secretary of Transportation with respect to all forms of civil transportation;

(5) The Secretary of Defense with respect to water resources; and

(6) The Secretary of Commerce for all other materials, services, and facilities, including construction materials.

(b) The Secretary of Commerce, in consultation with the heads of those departments and agencies specified in subsection 201(a) of this order, shall administer the Defense Priorities and Allocations System (''DPAS'') regulations that will be used to implement the authority of the President conferred by section 101 of the Act as delegated to the Secretary of Commerce in subsection 201(a)(6) of this order. The Secretary of Commerce will redelegate to the Secretary of Defense, and the heads of other departments and agencies as appropriate, authority for the priority rating of contracts and orders for all materials, services, and facilities needed in support of programs approved under section 202 of this order. The Secretary of Commerce shall act as appropriate upon Special Priorities Assistance requests in a time frame consistent with the urgency of the need at hand.

(c) The Secretary shall attempt to resolve issues or disagreements on priorities or allocations between Federal departments or agencies in a time frame consistent with the urgency of the issue at hand and, if not resolved, such issues will be referred to the Assistant to the President for National Security Affairs for final determination.

(d) The head of each Federal department or agency assigned functions under subsection 201(a) of this order, when necessary, shall make the finding required under subsection 101(b) of the Act. This finding shall be submitted for the President's approval through the Assistant to the President for National Security Affairs. Upon such approval the head of the Federal department or agency that made the finding may use the authority of subsection 101(a) of the Act to control the general distribution of any material (including applicable services) in the civilian market.

(e) The Assistant to the President for National Security Affairs is hereby delegated the authority under subsection 101(c)(3) of the Act, and will be assisted by the Secretary in ensuring the coordinated administration of the Act.

SEC. 202. *Determinations*. The authority delegated by section 201 of this order may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense:

(a) By the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, stockpiling, outer space, and directly related activities;

(b) By the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; and

(c) By the Secretary with respect to essential civilian needs supporting national defense, including civil defense and continuity of government and directly related activities.

SEC. 203. *Maximizing Domestic Energy Supplies*. The authority of the President to perform the functions provided by subsection 101(c) of the Act [50 U.S.C. App. 2071(c)] is delegated to the Secretary of Commerce, who shall redelegate to the Secretary of Energy the authority to make the findings described in subsection 101(c)(2)(A) that the materials (including equipment), services, and facilities are critical and essential. The Secretary of Commerce shall make the finding described in subsection 101(c)(2)(A) of the Act that the materials (including equipment), services, or facilities are scarce, and the finding described in subsection 101(c)(2)(B) that it is necessary to use the authority provided by subsection 101(c)(1).

SEC. 204. *Chemical and Biological Warfare*. The authority of the President conferred by subsection 104(b) of the Act [50 U.S.C. App. 2074(b)] is delegated to the Secretary of Defense. This authority may not be further delegated by the Secretary.

PART III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 301. (a) *Financing Institution Guarantees*. To expedite or expand production and deliveries or services under government contracts for the procurement of industrial resources or critical technology items essential to the national defense, the head of each Federal department or agency engaged in procurement for the national defense (referred to as ''agency head'' in this part) and the President and Chairman of the Export-Import Bank of the United States (in cases involving capacity expansion, technological development, or production in foreign countries) are authorized to guarantee in whole or in part any public or private financing institution, subject to provisions of section 301 of the Act [50 U.S.C. App. 2091]. Guarantees shall be made in consultation with the Department of the Treasury as to the terms and conditions thereof. The Director of the Office of Management and Budget (''OMB'') shall be informed when such guarantees are to be made.

(b) *Direct Loan Guarantees*. To expedite or expand production and deliveries or services under government contracts for the procurement of industrial resources or critical technology items essential to the national defense, each agency head is authorized to make direct loan guarantees from funds appropriated to their agency for Title III [50 U.S.C. App. 2091 et seq.].

(c) *Fiscal Agent*. Each Federal Reserve Bank is designated and authorized to act, on behalf of any guaranteeing agency, as fiscal agent in the making of guarantee contracts and in otherwise carrying out the purposes of section 301 of the Act.

(d) *Regulations*. The Board of Governors of the Federal Reserve System is authorized, after consultation with heads of guaranteeing departments and agencies, the Secretary of the Treasury, and the Director, OMB, to prescribe regulations governing procedures, forms, rates of interest, and fees for such guarantee contracts.

SEC. 302. *Loans*. (a) To expedite production and deliveries or services to aid in carrying out government contracts for the procurement of industrial resources or a critical technology item for the national defense, an agency head is authorized, subject to the provisions of section 302 of the Act [50 U.S.C. App. 2092], to submit to the Secretary of the Treasury or the President and Chairman of the Export-Import Bank of the United States (in cases involving capacity expansion, technological development, or production in foreign countries) applications for loans.

(b) To expedite or expand production and deliveries or services under government contracts for the procurement of industrial resources or critical technology items essential to the national defense, each agency head may make direct loans from funds appropriated to their agency for Title III.

(c) After receiving a loan application and determining that financial assistance is not otherwise available on reasonable terms, the Secretary of the Treasury or the President and Chairman of the Export-Import Bank of the United States (in cases involving capacity expansion, technological development, or production in foreign countries) may make loans, subject to provisions of section 302 of the Act.

SEC. 303. *Purchase Commitments*. (a) In order to carry out the objectives of the Act, and subject to the provisions of section 303 [50 U.S.C. App. 2093] thereof, an agency head is authorized to make provision for purchases of, or commitments to purchase, an industrial resource or a critical technology item for government use or resale.

(b) Materials acquired under section 303 of the Act that exceed the needs of the programs under the Act may be transferred to the National Defense Stockpile, if such transfer is determined by the Secretary of Defense as the National Defense Stockpile Manager to be in the public interest.

SEC. 304. *Subsidy Payments*. In order to ensure the supply of raw or non-processed materials from high-cost sources, an agency head is authorized to make subsidy

payments, after consultation with the Secretary of the Treasury and the Director, OMB, and subject to the provisions of section 303(c) of the Act [50 U.S.C. App. 2093(c)].

SEC. 305. *Determinations and Findings*. When carrying out the authorities in sections 301 through 303 of this order, an agency head is authorized to make the required determinations, judgments, statements, certifications, and findings, in consultation with the Secretary of Defense, Secretary of Energy or Director, FEMA, as appropriate. The agency head shall provide a copy of the determination, judgment, statement, certification, or finding to the Director, OMB, to the Secretary and, when appropriate, to the Secretary of the Treasury.

SEC. 306. *Strategic and Critical Materials*. (a) The Secretary of the Interior, in consultation with the Secretary of Defense as the National Defense Stockpile Manager and subject to the provisions of section 303 of the Act [50 U.S.C. App. 2093], is authorized to encourage the exploration, development, and mining of critical and strategic materials and other materials.

(b) An agency head is authorized, pursuant to section 303(g) of the Act, to make provision for the development of substitutes for strategic and critical materials, critical components, critical technology items, and other industrial resources to aid the national defense.

(c) An agency head is authorized, pursuant to section 303(a)(1)(B) of the Act, to make provisions to encourage the exploration, development, and mining of critical and strategic materials and other materials.

SEC. 307. *Government-owned Equipment*. An agency head is authorized, pursuant to section 303(e) of the Act [50 U.S.C. App. 2093(e)], to install additional equipment, facilities, processes, or improvements to facilities owned by the government and to install government-owned equipment in industrial facilities owned by private persons.

SEC. 308. *Identification of Shortfalls*. Except during periods of national emergency or after a Presidential determination in accordance with sections 301(e)(1)(D)(ii), 302(c)(4)(B), or 303(a)(7)(B) of the Act [50 U.S.C. App. 2091(e)(1)(D)(ii), 2092(c)(4)(B), 2093(a)(7)(B)], no guarantee, loan or other action pursuant to sections 301, 302, and 303 of the Act to correct an industrial shortfall shall be taken unless the shortfall has been identified in the Budget of the United States or amendments thereto.

SEC. 309. *Defense Production Act Fund Manager*. The Secretary of Defense is designated the Defense Production Act Fund Manager, in accordance with section 304(f) of the Act [50 U.S.C. App. 2094(f)], and shall carry out the duties specified in that section, in consultation with the agency heads having approved Title III projects and appropriated Title III funds.

SEC. 310. *Critical Items List*. (a) Pursuant to section 107(b)(1)(A) of the Act [50 U.S.C. App. 2077(b)(1)(A)], the Secretary of Defense shall identify critical components and critical technology items for each item on the Critical Items List of the Commanders-in-Chief of the Unified and Specified Commands and other items within the inventory of weapon systems and defense equipment.

(b) Each agency head shall take appropriate action to ensure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency. ''Appropriate action'' may include restricting contract solicitations to reliable sources, restricting contract solicitations to domestic sources (pursuant to statutory authority), stockpiling critical components, and developing substitutes for critical components or critical technology items.

SEC. 311. *Strengthening Domestic Capability*. An agency head, in accordance with section 107(a) of the Act [50 U.S.C. App. 2077(a)], may utilize the authority of Title III of the Act [50 U.S.C. App. 2091 et seq.] or any other provision of law, in consultation with the Secretary of Defense, to provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

SEC. 312. *Modernization of Equipment*. An agency head, in accordance with section 108(b) of the Act [50 U.S.C. App. 2078(b)], may utilize the authority of Title III of the Act to guarantee the purchase or lease of advance manufacturing equipment and any related services with respect to any such equipment for purposes of the Act.

PART IV—IMPACT OF OFFSETS

SEC. 401. *Offsets*. (a) The responsibilities and authority conferred upon the President by section 309 of the Act [50 U.S.C. App. 2099] with respect to offsets are delegated to the Secretary of Commerce, who shall function as the President's Executive Agent for carrying out this authority.

(b) The Secretary of Commerce shall prepare the annual report required by section 309(a) of the Act in consultation with the Secretaries of Defense, Treasury, Labor, State, the United States Trade Representative, the Arms Control and Disarmament Agency, the Director of Central Intelligence, and the heads of other departments and agencies as required. The heads of Federal departments and agencies shall provide the Secretary of Commerce with such information as may be necessary for the effective performance of this function.

(c) The offset report shall be subject to the normal interagency clearance process conducted by the Director, OMB, prior to the report's submission by the President to Congress.

PART V—VOLUNTARY AGREEMENTS AND ADVISORY COMMITTEES

SEC. 501. *Appointments*. The authority of the President under sections 708(c) and (d) of the Act [50 U.S.C. App. 2158(c), (d)] is delegated to the heads of each Federal department or agency, except that, insofar as that authority relates to section 101 of the Act [50 U.S.C. App. 2071], it is delegated only to the heads of each Federal department or agency assigned functions under section 201(a) of this order. The authority delegated under this section shall be exercised pursuant to the provisions of section 708 of the Act, and copies and the status of the use of such delegations shall be furnished to the Director, FEMA [the Secretary].

SEC. 502. *Advisory Committees*. The authority of the President under section 708(d) of the Act [50 U.S.C. App. 2158(d)] and delegated in section 501 of this order (relating to establishment of advisory committees) shall be exercised only after consultation with, and in accordance with, guidelines and procedures established by the Administrator of General Services.

PART VI—EMPLOYMENT OF PERSONNEL

SEC. 601. *National Defense Executive Reserve*. (a) In accordance with section 710(e) of the Act [50 U.S.C. App. 2160(e)], there is established in the Executive Branch a National Defense Executive Reserve (''NDER'') composed of persons of recognized expertise from various segments of the private sector and from government (except full-time federal employees) for training for employment in executive positions in the Federal Government in the event of an emergency that requires such employment.

(b) The head of any department or agency may establish a unit of the NDER in the department or agency and train members of that unit.

(c) The head of each department or agency with an NDER unit is authorized to exercise the President's authority to employ civilian personnel in accordance with section 703(a) of the Act [50 U.S.C. App. 2153(a)] when activating all or a part of its NDER unit. The exercise of this authority shall be subject to the provisions of subsections 601(d) and (e) of this order and shall not be redelegated.

(d) The head of a department or agency may activate an NDER unit, in whole or in part, upon the written determination that an emergency affecting the national security or defense preparedness of the United States exists and that the activation of the unit is necessary to carry out the emergency program functions of the department or agency.

(e) At least 72 hours prior to activating the NDER unit, the head of the department or agency shall notify, in writing, the Assistant to the President for National Security Affairs of the impending activation and provide a copy of the determination required under subsection 601(d) of this order.

(f) The Secretary shall coordinate the NDER program activities of departments and agencies in establishing units of the Reserve; provide for appropriate guidance for recruitment, training, and activation; and issue necessary rules and guidance in connection with the program.

(g) This order suspends any delegated authority, regulation, or other requirement or condition with respect to the activation of any NDER unit, in whole or in part, or appointment of any NDER member that is inconsistent with the authorities delegated herein, provided that the aforesaid suspension applies only as long as sections 703(a) and 710(e) of the Act are in effect.

SEC. 602. *Consultants*. The head of each department or agency assigned functions under this order is delegated authority under sections 710(b) and (c) of the Act [50 U.S.C. App. 2160(b), (c)] to employ persons of outstanding experience and ability without compensation and to employ experts, consultants, or organizations. The authority delegated by this section shall not be redelegated.

PART VII—LABOR SUPPLY

SEC. 701. *Secretary of Labor*. The Secretary of Labor, identified in this section as the Secretary, shall:

(a) Collect, analyze, and maintain data needed to make a continuing appraisal of the nation's labor requirements and the supply of workers for purposes of national defense. All agencies of the government shall cooperate with the Secretary in furnishing information necessary for this purpose, to the extent permitted by law;

(b) In response to requests from the head of a Federal department or agency engaged in the procurement for national defense, consult with and advise that department or agency with respect to (1) the effect of contemplated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, and (3) such other matters as will assist in making the exercise of priority and allocations functions consistent with effective utilization and distribution of labor;

(c) Formulate plans, programs, and policies for meeting defense and essential civilian labor requirements;

(d) Project skill shortages to facilitate meeting defense and essential civilian needs and establish training programs;

(e) Determine the occupations and skills critical to meeting the labor requirements of defense and essential civilian activities and, with the assistance of the Secretary of Defense, the Director of Selective Service, and such other persons as the Secretary may designate, develop policies regulating the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves; and

(f) Administer an effective labor-management relations policy to support the activities and programs under this order with the cooperation of other Federal agencies, including the National Labor Relations Board and the Federal Mediation and Conciliation Service.

PART VIII—DEFENSE INDUSTRIAL BASE INFORMATION AND REPORTS

SEC. 801. *Foreign Acquisition of Companies*. The Secretary of the Treasury, in cooperation with the Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Department of Agriculture, the Attorney General, the Department of Homeland Security, and the Director of Central Intelligence, shall complete and furnish a report to the President and then to Congress in accordance with the requirements of section 721(k) of the Act [50 U.S.C. App. 2170(k)] concerning foreign efforts to acquire United States companies involved in research, development, or production of critical technologies and industrial espionage activities directed by foreign governments against private U.S. companies.

SEC. 802. *Defense Industrial Base Information System*. (a) The Secretary of Defense and the heads of other appropriate Federal departments and agencies, as determined by the Secretary of Defense, shall establish an information system on the domestic defense industrial base in accordance with the requirements of section 722 of the Act [50 U.S.C. App. 2171].

(b) In establishing the information system required by subsection (a) of this order, the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate Federal departments and agencies, as determined by the Secretary of Defense in consultation with the Secretary of Commerce, shall consult with each other for the purposes of performing the duties listed in section 722(d)(1) of the Act.

(c) The Secretary of Defense shall convene a task force consisting of the Secretary of Commerce and the Secretary of each military department and the heads of other appropriate Federal departments and agencies, as determined by the Secretary of Defense in consultation with the Secretary of Commerce, to carry out the duties under section 722(d)(2) of the Act.

(d) The Secretary of Defense shall report to Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components and critical technology items. The plans shall include an assessment of the performance and cost-effectiveness of procedures specified in section 722(b) of the Act.

(e) The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Secretary to improve the usefulness of information derived from the Census of Manufacturers in carrying out section 722 of the Act.

(f) The Secretary of Defense shall perform an analysis of the production base for not more than two major weapons systems of each military department in establishing the information system under section 722 of the Act. Each analysis shall identify the critical components of each system.

(g) The Secretary of Defense, in consultation with the Secretary of Commerce, and the heads of other Federal departments and agencies as appropriate, shall issue a biennial report on critical components and technology in accordance with section 722(e) of the Act.

PART IX—GENERAL PROVISIONS

SEC. 901. *Definitions*. In addition to the definitions in section 702 of the Act [50 U.S.C. App. 2152], the following definitions apply throughout this order:

(a) ''Civil transportation'' includes movement of persons and property by all modes of transportation in interstate, intrastate, or foreign commerce within the United States, its territories and possessions, and the District of Columbia, and, without limitation, related public storage and warehousing, ports, services, equipment and facilities, such as transportation carrier shop and repair facilities. However, ''civil transportation'' shall not include transportation owned or controlled by the Department of Defense, use of petroleum and gas pipelines, and coal slurry pipelines used only to supply energy production facilities directly. As applied herein, ''civil transportation'' shall include direction, control, and coordination of civil transportation capacity regardless of ownership.

(b) ''Energy'' means all forms of energy including petroleum, gas (both natural and manufactured), electricity, solid fuels (including all forms of coal, coke,

coal chemicals, coal liquification, and coal gasification), and atomic energy, and the production, conservation, use, control, and distribution (including pipelines) of all of these forms of energy.

(c) ''Farm equipment'' means equipment, machinery, and repair parts manufactured for use on farms in connection with the production or preparation for market use of food resources.

(d) ''Fertilizer'' means any product or combination of products that contain one or more of the elements—nitrogen, phosphorus, and potassium—for use as a plant nutrient.

(e) ''Food resources'' means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being ingested by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. ''Food resources'' also means all starches, sugars, vegetable and animal or marine fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but does not mean any such material after it loses its identity as an agricultural commodity or agricultural product.

(f) ''Food resource facilities'' means plants, machinery, vehicles (including on-farm), and other facilities required for the production, processing, distribution, and storage (including cold storage) of food resources, livestock and poultry feed and seed, and for the domestic distribution of farm equipment and fertilizer (excluding transportation thereof).

(g) ''Functions'' include powers, duties, authority, responsibilities, and discretion.

(h) ''Head of each Federal department or agency engaged in procurement for the national defense'' means the heads of the Departments of Defense, Energy, and Commerce, as well as those departments and agencies listed in Executive Order No. 10789 [50 U.S.C. 1431 note].

(i) ''Heads of other appropriate Federal departments and agencies'' as used in part VIII of this order means the heads of such other Federal agencies and departments that acquire information or need information with respect to making any determination to exercise any authority under the Act.

(j) ''Health resources'' means materials, facilities, health supplies, and equipment (including pharmaceutical, blood collecting and dispensing supplies, biological, surgical textiles, and emergency surgical instruments and supplies) required to prevent the impairment of, improve, or restore the physical and mental health conditions of the population.

(k) ''Metals and minerals'' means all raw materials of mineral origin (excluding energy) including their refining, smelting, or processing, but excluding their fabrication.

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

(m) ''Water resources'' means all usable water, from all sources, within the jurisdiction of the United States, which can be managed, controlled, and allocated to meet emergency requirements.

SEC. 902. *General*. (a) Except as otherwise provided in subsection 902(c) of this order, the authorities vested in the President by title VII of the Act [50 U.S.C. App. 2151 et seq.] may be exercised and performed by the head of each department and agency in carrying out the delegated authorities under the Act and this order.

(b) The authorities which may be exercised and performed pursuant to subsection 902(a) of this order shall include (1) the power to redelegate authorities, and to authorize the successive redelegation of authorities, to departments and agencies, officers, and employees of the government, and (2) the power of subpoena with respect to authorities delegated in parts II, III, and IV of this order, provided that the subpoena power shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been defined either by the appropriate officer identified in subsection 902(a) of this order or by such other person or persons as the officer shall designate.

(c) Excluded from the authorities delegated by subsection 902(a) of this order are authorities delegated by parts V, VI, and VIII of this order and the authority with respect to fixing compensation under section 703(a) of the Act [50 U.S.C. App. 2153(a)].

SEC. 903. *Authority*. All previously issued orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent with this order or are subsequently amended or revoked under proper authority. Nothing in this order shall affect the validity or force of anything done under previous delegations or other assignment of authority under the Act.

SEC. 904. *Effect on other Orders*. (a) The following are superseded or revoked:

(1) Section 3, Executive Order No. 8248 of September 8, 1939, (4 FR 3864).

(2) Executive Order No. 10222 of March 8, 1951 (16 FR 2247) [50 U.S.C. App. 2256 note].

(3) Executive Order No. 10480 of August 14, 1953 (18 FR 4939) [formerly set out above].

(4) Executive Order No. 10647 of November 28, 1955 (20 FR 8769) [50 U.S.C. App. 2160 note].

(5) Executive Order No. 11179 of September 22, 1964 (29 FR 13239) [formerly set out above].

(6) Executive Order No. 11355 of May 26, 1967 (32 FR 7803) [50 U.S.C. App. 2160 note].

(7) Sections 7 and 8, Executive Order No. 11912 of April 13, 1976 (41 FR 15825, 15826–27) [42 U.S.C. 6201 note].

(8) Section 3, Executive Order No. 12148 of July 20, 1979 (44 FR 43239, 43241) [42 U.S.C. 5195 note].

(9) Executive Order No. 12521 of June 24, 1985 (50 FR 26335).

(10) Executive Order No. 12649 of August 11, 1988 (53 FR 30639).

(11) Executive Order No. 12773 of September 26, 1991 (56 FR 49387), except that part of the order that amends section 604 of Executive Order [No.] 10480.

(b) Executive Order No. 10789 of November 14, 1958 [50 U.S.C. 1431 note], is amended by deleting ''and in view of the existing national emergency declared by Proclamation No. 2914 of December 16, 1950,'' as it appears in the first sentence.

(c) Executive Order No. 11790 [15 U.S.C. 761 note], as amended, relating to the Federal Energy Administration Act of 1974 [15 U.S.C. 761 et seq.], is amended by deleting ''Executive Order No. 10480'' where it appears in section 4 and substituting this order's number.

(d) Subject to subsection 904(c) of this order, to the extent that any provision of any prior Executive order is inconsistent with the provisions of this order, this order shall control and such prior provision is amended accordingly.

SEC. 905. *Judicial Review*. This order is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

§ 2154. Regulations and orders

(a) In general

Subject to section 709 [section 2159 of this Appendix] and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appro-

priate to carry out this Act [sections 2061 to 2171 of this Appendix].

(b) Procurement regulations

Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act [41 U.S.C. 421], and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act [41 U.S.C. 405, 421].

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

AMENDMENTS

1992—Pub. L. 102–558 amended section generally, substituting present provisions for provisions authorizing promulgation of rules, regulations, and orders by the President in order to carry out sections 2061 to 2170 of this Appendix.

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

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§2155. Investigations; records; reports; subpoenas; right to counsel

(a) The President shall be entitled, while this Act [sections 2061 to 2171 of this Appendix] is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act [said sections] and the regulations or orders issued thereunder. The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

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

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

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

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

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

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–195 inserted after first sentence "The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense."

1992—Subsec. (a). Pub. L. 102–558, §142(1), substituted "subpoena" for "subpena" in two places.

Subsec. (b). Pub. L. 102–558, §142(1), (2), redesignated subsec. (c) as (b) and substituted "subpoena" for "subpena".

Subsec. (c). Pub. L. 102–558, §142(2), (3), redesignated subsec. (d) as (c) and substituted "$10,000" for "$1,000". Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102–558, § 142(2), (4), redesignated subsec. (e) as (d) and struck out second undesignated par. which read as follows: ''All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.'' Former subsec. (d) redesignated (c).

Subsecs. (e), (f). Pub. L. 102–558, § 142(2), (5), redesignated subsec. (f) as (e) and substituted ''subpoenaed'' for ''subpenaed''. Former subsec. (e) redesignated (d).

1970—Subsec. (b). Pub. L. 91–452 struck out subsec. (b) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination, and that any such immunity granted would not be construed to vest in any individual any right to priorities assistance, to the allocation of materials, or to any other benefit within the power of the President to grant under sections 2061 to 2166 of this Appendix.

1953—Subsec. (e). Act June 30, 1953, added second par.

1952—Subsec. (f). Act June 30, 1952, added subsec. (f).

1951—Subsec. (a). Act July 31, 1951, made it clear that President has authority to administer oaths and affirmations.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2156. Jurisdiction of courts; injunctions; venue; process; effect of termination of provisions

(a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act [sections 2061 to 2171 of this Appendix], he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act [sections 2061 to 2171 of this Appendix] or any rule, regulation, order, or subpena thereunder, and of all civil actions under this Act [said sections] to enforce any liability or duty created by, or to enjoin any violation of, this Act [said sections] or any rule, regulation, order, or subpena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act [said sections], or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act [said sections]. All litigation arising under this Act [said sections] or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General.

(Sept. 8, 1950, ch. 932, title VII, § 706, 64 Stat. 817; July 31, 1951, ch. 275, title I, § 109(e), 65 Stat. 139.)

AMENDMENTS

1951—Subsec. (a). Act July 31, 1951, broadened relief a court may grant when Government seeks to enjoin violations.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2157. Liability for compliance with invalid regulations; discrimination against orders or contracts affected by priorities or allocations

No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act [sections 2061 to 2171 of this Appendix], notwithstanding that any such rule, regulation, or

order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act [sections 2071 to 2078 of this Appendix] or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner.

(Sept. 8, 1950, ch. 932, title VII, §707, 64 Stat. 818; June 30, 1952, ch. 530, title I, §118, 66 Stat. 306.)

AMENDMENTS

1952—Act June 30, 1952, in first sentence struck out ''his'' before ''compliance with''.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§2158. Voluntary agreements and plans of action for preparedness programs and expansion of production capacity and supply

(a) Immunity from civil and criminal liability or defense to action under antitrust laws; exceptions

Except as specifically provided in subsection (j) of this section, no provision of this Act [sections 2061 to 2171 of this Appendix] shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) Definitions

For purposes of this Act [sections 2061 to 2171 of this Appendix]—

(1) Antitrust laws

The term ''antitrust laws'' has the meaning given to such term in subsection (a) of the first section of the Clayton Act [15 U.S.C. 12(a)], except that such term includes section 5 of the Federal Trade Commission Act [15 U.S.C. 45] to the extent that such section 5 applies to unfair methods of competition.

(2) Plan of action

The term ''plan of action'' means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.

(c) Prerequisites for agreements and plans of action; delegation of authority to Presidential designees

(1) Upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements and plans of action to help provide for the defense of the United States through the development of preparedness programs and the expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

(2) The authority granted to the President in paragraph (1) and subsection (d) may be delegated by him (A) to individuals who are appointed by and with the advice and consent of the Senate, or are holding offices to which they have been appointed by and with the advice and consent of the Senate, (B) upon the condition that such individuals consult with the Attorney General and with the Federal Trade Commission not less than ten days before consulting with any persons under paragraph (1), and (C) upon the condition that such individuals obtain the prior approval of the Attorney General, after consultation by the Attorney General with the Federal Trade Commission, to consult under paragraph (1).

(d) Advisory committees; establishment; applicable provisions; membership; notice and participation in meetings; verbatim transcript; availability to public

(1) To achieve the objectives of subsection (c)(1) of this section, the President or any individual designated pursuant to subsection (c)(2) may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section and except as provided in subsection (n), any such advisory committee shall be subject to the provisions of the Federal Advisory Committee Act, whether or not such Act or any of its provisions expire or terminate during the term of this Act [sections 2061 to 2171 of this Appendix] or of such committees, and in all cases such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of paragraphs (1), (3), and (4) of section 552(b) of title 5, United States Code.

(e) Rules; promulgation by Presidential designees; consultation by Attorney General with Chairman of Federal Trade Commission; approval of Attorney General; procedures; incorporation of standards and procedures for development of agreements and plans of action

(1) The individual or individuals referred to in subsection (c)(2) shall, after approval of the Attorney General, after consultation by the Attorney General with the Chairman of the Federal Trade Commission, promulgate rules, in accordance with section 553 of title 5, United States Code, incorporating standards and procedures by which voluntary agreements and plans of action may be developed and carried out.

(2) In addition to the requirements of section 553 of title 5, United States Code—

(A) general notice of the proposed rulemaking referred to in paragraph (1) shall be

published in the Federal Register, and such notice shall include—

(i) a statement of the time, place, and nature of the proposed rulemaking proceedings;

(ii) reference to the legal authority under which the rule is being proposed; and

(iii) either the terms of substance of the proposed rule or a description of the subjects and issues involved;

(B) the required publication of a rule shall be made not less than thirty days before its effective date; and

(C) the individual or individuals referred to in paragraph (1) shall give interested persons the right to petition for the issuance, amendment, or repeal of a rule.

(3) The rules promulgated pursuant to this subsection incorporating standards and procedures by which voluntary agreements may be developed shall provide, among other things, that—

(A) such agreements shall be developed at meetings which include—

(i) the Attorney General or his delegate,

(ii) the Chairman of the Federal Trade Commission or his delegate, and

(iii) an individual designated by the President in subsection (c)(2) or his delegate,

and which are chaired by the individual referred to in clause (iii);

(B) at least seven days prior to any such meeting, notice of the time, place, and nature of the meeting shall be published in the Federal Register;

(C) interested persons may submit written data and views concerning the proposed voluntary agreement, with or without opportunity for oral presentation;

(D) interested persons may attend any such meeting unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in section 552b(c) of title 5, United States Code;

(E) a full and verbatim transcript shall be made of any such meeting and shall be transmitted by the chairman of the meeting to the Attorney General and to the Chairman of the Federal Trade Commission;

(F) any voluntary agreement resulting from the meetings shall be transmitted by the chairman of the meetings to the Attorney General, the Chairman of the Federal Trade Commission, and the Congress; and

(G) any transcript referred to in subparagraph (E) and any voluntary agreement referred to in subparagraph (F) shall be available for public inspection and copying, subject to paragraphs (1), (3), and (4) of section 552(b) of title 5, United States Code.

(f) Commencement of agreements and plans of action; expiration date; extensions

(1) A voluntary agreement or plan of action may not become effective unless and until—

(A) the individual referred to in subsection (c)(2) who is to administer the agreement or plan approves it and certifies, in writing, that the agreement or plan is necessary to carry out the purposes of subsection (c)(1) and submits a copy of such agreement or plan to the Congress; and

(B) the Attorney General (after consultation with the Chairman of the Federal Trade Commission) finds, in writing, that such purpose may not reasonably be achieved through a voluntary agreement or plan of action having less anticompetitive effects or without any voluntary agreement or plan of action and publishes such finding in the Federal Register.

(2) Each voluntary agreement or plan of action which becomes effective under paragraph (1) shall expire two years after the date it becomes effective (and at two-year intervals thereafter, as the case may be), unless (immediately prior to such expiration date) the individual referred to in subsection (c)(2) who administers the agreement or plan and the Attorney General (after consultation with the Chairman of the Federal Trade Commission) make the certification or finding, as the case may be, described in paragraph (1) with respect to such voluntary agreement or plan of action and publish such certification or finding in the Federal Register, in which case, the voluntary agreement or plan of action may be extended for an additional period of two years.

(g) Monitoring of agreements and plans of action by Attorney General and Chairman of Federal Trade Commission

The Attorney General and the Chairman of the Federal Trade Commission shall monitor the carrying out of any voluntary agreement or plan of action to assure—

(1) that the agreement or plan is carrying out the purposes of subsection (c)(1);

(2) that the agreement or plan is being carried out under rules promulgated pursuant to subsection (e);

(3) that the participants are acting in accordance with the terms of the agreement or plan; and

(4) the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(h) Required provisions of rules for implementation of agreements and plans of action

The rules promulgated under subsection (e) with respect to the carrying out of voluntary agreements and plans of action shall provide—

(1) for the maintenance, by participants in any voluntary agreement or plan of action, of documents, minutes of meetings, transcripts, records, and other data related to the carrying out of any voluntary agreement or plan of action;

(2) that participants in any voluntary agreement or plan of action agree, in writing, to make available to the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action, the Attorney General and the Chairman of the Federal Trade Commission for inspection and copying at reasonable times and upon reasonable notice any item maintained pursuant to paragraph (1);

(3) that any item made available to the individual designated by the President in sub-

section (c)(2) to administer the voluntary agreement or plan of action, the Attorney General, or the Chairman of the Federal Trade Commission pursuant to paragraph (2) shall be available from such individual, the Attorney General, or the Chairman of the Federal Trade Commission, as the case may be, for public inspection and copying, subject to paragraph (1), (3), or (4) of section 552(b) of title 5, United States Code;

(4) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action, the Attorney General, and the Chairman of the Federal Trade Commission, or their delegates, may attend meetings to carry out any voluntary agreement or plan of action;

(5) that a Federal employee (other than an individual employed pursuant to section 3109 of title 5 of the United States Code) shall attend meetings to carry out any voluntary agreement or plan of action;

(6) that participants in any voluntary agreement or plan of action provide the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action, the Attorney General, and the Chairman of the Federal Trade Commission with adequate prior notice of the time, place, and nature of any meeting to be held to carry out the voluntary agreement or plan of action;

(7) for the attendance by interested persons of any meeting held to carry out any voluntary agreement or plan of action, unless the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in section 552b(c) of title 5, United States Code;

(8) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action has published in the Federal Register prior notification of the time, place, and nature of any meeting held to carry out any voluntary agreement or plan of action, unless he finds that the matter or matters to be discussed at such meeting falls within the purview of matters described in section 552b(c) of title 5, United States Code, in which case, notification of the time, place, and nature of such meeting shall be published in the Federal Register within ten days of the date of such meeting;

(9) that—

(A) the Attorney General (after consultation with the Chairman of the Federal Trade Commission and the individual designated by the President in subsection (c)(2) to administer a voluntary agreement or plan of action), or

(B) the individual designated by the President in subsection (c)(2), to administer a voluntary agreement or plan of action (after consultation with the Attorney General and the Chairman of the Federal Trade Commission),

may terminate or modify, in writing, the voluntary agreement or plan of action at any time, and that effective, immediately upon such termination or modification, any antitrust immunity conferred upon the participants in the voluntary agreement or plan of action by subsection (j) shall not apply to any act or omission occurring after the time of such termination or modification;

(10) that participants in any voluntary agreement or plan of action be reasonably representative of the appropriate industry or segment of such industry; and

(11) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action shall provide prior written notification of the time, place, and nature of any meeting to carry out a voluntary agreement or plan of action to the Attorney General, the Chairman of the Federal Trade Commission and the Congress.

(i) Rules; promulgation by Attorney General and Chairman of Federal Trade Commission

The Attorney General and the Chairman of the Federal Trade Commission shall each promulgate such rules as each deems necessary or appropriate to carry out his responsibility under this section.

(j) Defenses

(1) In general

Subject to paragraph (4), there shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section that—

(A) such action was taken—

(i) in the course of developing a voluntary agreement initiated by the President or a plan of action adopted under any such agreement; or

(ii) to carry out a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement, and

(B) such person—

(i) complied with the requirements of this section and any regulation prescribed under this section; and

(ii) acted in accordance with the terms of the voluntary agreement or plan of action.

(2) Scope of defense

Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense established in paragraph (1) shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or was within the scope of, an approved voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement and approved in accordance with this section. The defense established in paragraph (1) shall not be available unless the President or the President's designee has authorized and actively su-

pervised the voluntary agreement or plan of action.

(3) Burden of persuasion

Any person raising the defense established in paragraph (1) shall have the burden of proof to establish the elements of the defense.

(4) Exception for actions taken to violate the antitrust laws

The defense established in paragraph (1) shall not be available if the person against whom the defense is asserted shows that the action was taken for the purpose of violating the antitrust laws.

(k) Surveys and studies by Attorney General and Federal Trade Commission; content; annual report to Congress and President by Attorney General

The Attorney General and the Federal Trade Commission shall each make surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this section. Such surveys shall include studies of the voluntary agreements and plans of action authorized by this section. The Attorney General shall (after consultation with the Federal Trade Commission) submit to the Congress and the President at least once every year reports setting forth the results of such studies of voluntary agreements and plans of action.

(*l*) Annual report to Congress and President by Presidential designees; contents

The individual or individuals designated by the President in subsection (c)(2) shall submit to the Congress and the President at least once every year reports describing each voluntary agreement or plan of action in effect and its contribution to achievement of the purpose of subsection (c)(1).

(m) Jurisdiction to enjoin statutory exemption or suspension and order for production of transcripts, etc.; procedures

On complaint, the United States District Court for the District of Columbia shall have jurisdiction to enjoin any exemption or suspension pursuant to subsections (d)(2), (e)(3)(D) and (G), and (h)(3), (7), and (8), and to order the production of transcripts, agreements, items, or other records maintained pursuant to this section by the Attorney General, the Federal Trade Commission or any individual designated under subsection (c)(2), where the court determines that such transcripts, agreements, items, or other records have been improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such transcripts, agreements, items, or other records in camera to determine whether such transcripts, agreements, items, or other records or any parts thereof shall be withheld under any of the exemption or suspension provisions referred to in this subsection, and the burden is on the Attorney General, the Federal Trade Commission, or such designated individual, as the case may be, to sustain its action.

(n) Exemption from Advisory Committee Act provisions

Notwithstanding any other provision of law, any activity conducted under a voluntary agreement or plan of action approved pursuant to this section, when conducted in compliance with the requirements of this section, any regulation prescribed under this subsection, and the provisions of the voluntary agreement or plan of action, shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

(*o*) Preemption of contract law in emergencies

In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.

(Sept. 8, 1950, ch. 932, title VII, § 708, 64 Stat. 818; June 30, 1952, ch. 530, title I, § 116(c), 66 Stat. 305; Aug. 9, 1955, ch. 655, § 6, 69 Stat. 581; Pub. L. 87–305, § 5(b), Sept. 26, 1961, 75 Stat. 667; Pub. L. 91–151, title I, § 9, Dec. 23, 1969, 83 Stat. 376; Pub. L. 94–152, § 3, Dec. 16, 1975, 89 Stat. 810; Pub. L. 102–99, § 5, Aug. 17, 1991, 105 Stat. 487.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsecs. (d)(1) and (n), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–99, § 5(1), struck out ''and subsection (j) of section 708A'' after ''subsection (j) of this section''.

Subsec. (b). Pub. L. 102–99, § 5(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''As used in this section and section 708A the term 'antitrust laws' means—

''(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

''(2) the Act entitled 'An act to supplement existing laws against unlawful restraints and monopolies and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

''(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

''(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9);

''(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

''(6) the Act entitled 'An Act to promote export trade and for other purposes', approved April 10, 1918 (15 U.S.C. 61–65).''

Subsec. (c)(1). Pub. L. 102–99, § 5(3), inserted ''and plans of action'' after ''voluntary agreements'' and substituted ''Upon'' for ''Except as otherwise provided in section 708A(*o*), upon''.

Subsec. (c)(2). Pub. L. 102–99, § 5(4), struck out at end ''For the purpose of carrying out the objectives of title I of this Act, the authority granted in paragraph (1) of this subsection shall not be delegated to more than one individual.''

Subsec. (d)(1). Pub. L. 102–99, § 5(5), inserted ''and except as provided in subsection (n)'' after ''specified in

this section'' and struck out '', and the meetings of such committees shall be open to the public'' after ''representatives of the public''.

Subsec. (d)(2). Pub. L. 102–99, §5(6), substituted ''paragraphs (1), (3), and (4) of section 552(b)'' for ''section 552(b)(1) and (b)(3)''.

Subsec. (e)(1). Pub. L. 102–99, §5(7), substituted ''voluntary agreements and plans of action'' for ''voluntary agreements''.

Subsec. (e)(3)(D). Pub. L. 102–99, §5(8), substituted ''section 552b(c)'' for ''subsection (b)(1) or (b)(3) of section 552''.

Subsec. (e)(3)(F). Pub. L. 102–99, §5(9), inserted reference to Congress.

Subsec. (e)(3)(G). Pub. L. 102–99, §5(10), substituted ''paragraphs (1), (3), and (4) of section 552(b)'' for ''subsections (b)(1) and (b)(3) of section 552''.

Subsec. (f)(1). Pub. L. 102–99, §5(11)(A), inserted ''or plan of action'' after ''voluntary agreement''.

Subsec. (f)(1)(A). Pub. L. 102–99, §5(12), inserted ''and submits a copy of such agreement or plan to the Congress'' after ''subsection (c)(1)''.

Pub. L. 102–99, §5(11)(B), inserted ''or plan'' after ''the agreement'' wherever appearing.

Subsec. (f)(1)(B). Pub. L. 102–99, §5(13), inserted before period ''and publishes such finding in the Federal Register''.

Pub. L. 102–99, §5(11)(A), inserted ''or plan of action'' after ''voluntary agreement'' wherever appearing.

Subsec. (f)(2). Pub. L. 102–99, §5(14), inserted ''and publish such certification or finding in the Federal Register'' before '', in which case''.

Pub. L. 102–99, §5(11), inserted ''or plan'' after ''the agreement'', and ''or plan of action'' after ''voluntary agreement'' wherever appearing.

Subsec. (g). Pub. L. 102–99, §5(11)(A), inserted ''or plan of action'' after ''voluntary agreement''.

Subsec. (g)(1) to (3). Pub. L. 102–99, §5(11)(B), inserted ''or plan'' after ''the agreement''.

Subsec. (h). Pub. L. 102–99, §5(15)(A), inserted ''and plans of action'' after ''voluntary agreements''.

Subsec. (h)(1), (2). Pub. L. 102–99, §5(15)(B), inserted ''or plan of action'' after ''voluntary agreement'' wherever appearing.

Subsec. (h)(3). Pub. L. 102–99, §5(16), substituted ''paragraph (1), (3), or (4) of section 552(b)'' for ''subsections (b)(1) and (b)(3) of section 552''.

Pub. L. 102–99, §5(15)(B), inserted ''or plan of action'' after ''voluntary agreement''.

Subsec. (h)(4) to (6). Pub. L. 102–99, §5(15)(B), inserted ''or plan of action'' after ''voluntary agreement'' wherever appearing.

Subsec. (h)(7), (8). Pub. L. 102–99, §5(15)(B), (17), inserted ''or plan of action'' after ''voluntary agreement'' wherever appearing and substituted ''section 552b(c)'' for ''subsection (b)(1) or (b)(3) of section 552''.

Subsec. (h)(9), (10). Pub. L. 102–99, §5(15)(B), inserted ''or plan of action'' after ''voluntary agreement'' wherever appearing.

Subsec. (h)(11). Pub. L. 102–99, §5(15)(C)–(E), added par. (11).

Subsec. (j). Pub. L. 102–99, §5(18), added subsec. (j) and struck out former subsec. (j) which read as follows: ''There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

''(1) such act or omission to act was taken in good faith by that person—

''(A) in the course of developing a voluntary agreement under this section, or

''(B) to carry out a voluntary agreement under this section; and

''(2) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.''

Subsec. (k). Pub. L. 102–99, §5(19), inserted ''and plans of action'' after ''voluntary agreements'' wherever appearing.

Subsec. (*l*). Pub. L. 102–99, §5(20), inserted ''or plan of action'' after ''voluntary agreement''.

Subsecs. (n), (*o*). Pub. L. 102–99, §5(21), added subsecs. (n) and (*o*).

1975—Subsec. (a). Pub. L. 94–152 substituted provisions relating to immunity from civil and criminal liability under the antitrust laws for provisions authorizing President to approve voluntary programs and agreements under section 2061 et seq. of this Appendix.

Subsec. (b). Pub. L. 94–152 substituted definition of ''antitrust laws'' for provisions exempting under certain conditions acts or omissions to act pursuant to section 2061 et seq. of this Appendix from the antitrust laws or the Federal Trade Commission Act.

Subsec. (c). Pub. L. 94–152 restructured subsec. (c) into pars. (1) and (2), and, as so restructured, inserted provisions of par. (1) authorizing President to consult with leaders of industry, finance, agriculture and labor with a view to developing voluntary agreements to help provide for the defense of the United States whenever he finds conditions exist which pose a threat to the national defense or preparedness programs and transferred existing provisions to par. (2), and, as transferred, substituted provisions which authorized President to delegate authority granted to him in par. (1) of this subsection and under subsec. (d) of this section, for provisions authorizing delegation of authority of subsec. (b) of this section.

Subsec. (d). Pub. L. 94–152 substituted provisions relating to establishment, membership, meetings, transcripts, etc. of advisory committees, for provisions relating to application of this section to acts or omissions to act after withdrawal of any request or finding under this section or withdrawal of approval of Attorney General.

Subsec. (e). Pub. L. 94–152 substituted provisions relating to promulgation of rules for voluntary agreements, procedures for promulgation and required provisions, for provisions relating to monitoring by Attorney General of agreements in force and reports to President and Congress.

Subsecs. (f) to (m). Pub. L. 94–152 added subsecs. (f) to (m).

1969—Subsec. (b). Pub. L. 91–151, §9(a), struck out provision under which exemption from prohibitions of antitrust laws and application of Federal Trade Commission Act had been limited to only those voluntary agreements covering military equipment purchased by Defense Department.

Subsec. (f). Pub. L. 91–151, §9(b), struck out subsec. (f) which prohibited approval of voluntary credit control agreements under this section after June 30, 1952.

1961—Subsec. (e). Pub. L. 87–305 struck out '', and the reports hereafter required,'' after ''Such surveys'' and ''within ninety days after the approval of this Act [Sept. 8, 1950], and'' after ''President'' and substituted ''studies of voluntary agreements and programs authorized by this section'' for ''such surveys and including such recommendations as he may deem desirable''.

1955—Subsec. (b). Act Aug. 9, 1955, §6(1), inserted proviso.

Subsec. (d). Act Aug. 9, 1955, §6(2), exempted subsequent acts or omissions to act upon withdrawal by Attorney General of his approval of voluntary agreement or program.

Subsec. (e). Act Aug. 9, 1955, §6(3), (4), included studies of voluntary agreements and programs in surveys and reports, and required Attorney General to report to Congress at least once every three months.

1952—Subsec. (f). Act June 30, 1952, added subsec. (f).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–99 effective Oct. 20, 1990, see section 7 of Pub. L. 102–99, set out as a note under section 2071 of this Appendix.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 9 of Pub. L. 94–152, as amended by Pub. L. 94–153, Dec. 16, 1975, 89 Stat. 822; Pub. L. 94–220, Feb. 27,

1976, 90 Stat. 195, provided that: ''This Act and the amendments made by it [enacting section 2158a of this Appendix, amending sections 2160, 2162, 2166, 2168, and 2169 of this Appendix, and enacting provisions set out as notes under this section and section 2061 of this Appendix] shall take effect at the close of November 30, 1975, except that the amendment made by section 3 [amending this section] shall take effect upon the one hundred and twentieth day beginning after the date of its enactment [Dec. 16, 1975].''

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of the close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Provision for termination of section on June 30, 1972, eliminated in amendment by Pub. L. 92–15, § 2, May 18, 1971, 85 Stat. 38, of section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section necessary to effect changes in composition of, or to take other action respecting voluntary agreements and programs relating to, small business production pools approved prior to July 31, 1953, delegated to Administrator of Small Business Administration by Ex. Ord. No. 10493, Oct. 14, 1953, 18 F.R. 6583, set out as a note under section 640 of Title 15, Commerce and Trade.

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15.

For delegation of authority of President under subsecs. (c) and (d) of this section to heads of each Federal department or agency, see sections 501 and 502 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, set out as a note under section 2153 of this Appendix.

CONTINUATION IN EFFECT OF EXISTING VOLUNTARY AGREEMENTS

Section 4 of Pub. L. 94–152 provided that:

''(a) Any voluntary agreement—

''(1) entered into under section 708 of the Defense Production Act of 1950 [this section] prior to the effective date of this Act [see Effective Date of 1975 Amendment note below], and

''(2) in effect immediately prior to such date may continue in effect (except as otherwise provided in section 708A(*o*) of the Defense Production Act of 1950, as amended by this Act) [former section 2158a(*o*) of this Appendix] and shall be carried out in accordance with such section 708, as amended by this Act, and such section 708A.

''(b) No provision of the Defense Production Act of 1950, as amended by this Act [see Short Title of 1975 Amendment note set out under section 2061 of this Appendix] shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the date of enactment of this Act [Dec. 16, 1975], (2) outside the scope and purpose or not in compliance with the terms and conditions of the Defense Production Act of 1950 [see section 2061 of this Appendix], or (3) subsequent to the expiration or repeal of the Defense Production Act of 1950.

''(c) Effective on the date of enactment of this Act [Dec. 16, 1975], the immunity conferred by section 708 or 708A of the Defense Production Act of 1950, as amended by this Act [this section and section 2158a of this Appendix], shall not apply to any action taken or authorized to be taken by or under the Emergency Petroleum Allocation Act of 1973 [section 751 et seq. of Title 15, Commerce and Trade].''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2158a. Repealed. Pub. L. 102–99, § 4, Aug. 17, 1991, 105 Stat. 487

Section, act Sept. 8, 1950, ch. 932, title VII, § 708A, as added Dec. 16, 1975, Pub. L. 94–152, § 3, 89 Stat. 815, related to voluntary agreements and plans of action for international agreements for international allocation of petroleum products and related information systems.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 20, 1990, see section 7 of Pub. L. 102–99, set out as an Effective Date of 1991 Amendment note under section 2071 of this Appendix.

§ 2159. Public participation in rulemaking

(a) Exemption from Administrative Procedure Act

Any regulation issued under this Act [sections 2061 to 2171 of this Appendix] shall not be subject to sections 551 through 559 of title 5, United States Code.

(b) Opportunity for notice and comment

(1) In general

Except as provided in subsection (c), any regulation issued under this Act [sections 2061 to 2171 of this Appendix] shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

(2) Waiver for temporary provisions

The requirements of paragraph (1) may be waived, if—

(A) the officer authorized to issue the regulation finds that urgent and compelling circumstances make compliance with such requirements impracticable;

(B) the regulation is issued on a temporary basis; and

(C) the publication of such temporary regulation is accompanied by the finding made under subparagraph (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days before any regulation becomes final.

(3) Consideration of public comments

All comments received during the public comment period specified pursuant to para-

graph (1) or (2) shall be considered and the publication of the final regulation shall contain written responses to such comments.

(c) Public comment on procurement regulations

Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act [sections 2061 to 2171 of this Appendix] shall be subject to section 22 of the Office of Federal Procurement Policy Act [41 U.S.C. 418b].

(Sept. 8, 1950, ch. 932, title VII, §709, 64 Stat. 819; Pub. L. 102–558, title I, §136(a), Oct. 28, 1992, 106 Stat. 4216.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (a), was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof principally in subchapter II (§551 et seq.) of chapter 5, and chapter 7 (§701 et seq.), of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Pub. L. 102–558 amended section generally. Prior to amendment, section read as follows: ''The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 thereof. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 136(b) of Pub. L. 102–558 provided that: ''Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation issued in proposed or final form on or before the date of enactment of this Act [Oct. 28, 1992].''

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§2160. Employment of personnel; appointment policies; nucleus executive reserve; use of confidential information by employees; printing and distribution of reports

(a) Repealed. June 28, 1955, ch. 189, §12(c)(1), 69 Stat. 180.

(b)(1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061 to 2171 of this Appendix] and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act [said sections] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Appointees under this subsection shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection is exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914[1] of title 18, United States Code, and section 190[1] of the Revised Statutes (5 U.S.C. 99), except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act [sections 2061 to 2171 of this Appendix];

[1] See References in Text note below.

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer.

(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of that Act with the appointing department or agency.

(7) At least once every three months the Director of the Office of Personnel Management shall survey appointments made under this subsection and shall report his or her findings to the President and make such recommendations as he or she may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061 to 2171 of this Appendix] to employ experts and consultants or organizations thereof as authorized by section 55a[2] of title 5 of the United States Code [5 U.S.C. 3109]. Individuals so employed may be compensated at rates not in excess of $50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed $15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914[2] of title 18 of the United States Code and section 190[2] of the Revised Statutes (5 U.S.C. 99).

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914[2] of title 18 of the United States Code and section 190[2] of the Revised Statutes (5 U.S.C. 99).

(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and per diem in lieu of subsistence, in accordance with title 5 of the United States Code (with respect to individuals serving without pay, while away from their homes or regular places of business), for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914[2] of title 18 of the United States Code and section 190[2] of the Revised Statutes (5 U.S.C. 99).

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than $10,000 or imprisoned not more than one year, or both. As used in this section, the term ''speculate'' shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act [sections 2061 to 2171 of this Appendix].

(Sept. 8, 1950, ch. 932, title VII, § 710, 64 Stat. 819; July 31, 1951, ch. 275, title I, § 109(f), 65 Stat. 139; June 28, 1955, ch. 189, § 12(c)(1), 69 Stat. 180; Aug. 9, 1955, ch. 655, §§ 7, 8, 69 Stat. 582, 583; Pub. L. 94–152, § 5, Dec. 16, 1975, 89 Stat. 820; Pub. L. 102–558, title I, § 143, Oct. 28, 1992, 106 Stat. 4217.)

ANNUAL SUBMISSION OF REPORTS

Pub. L. 89–348, § 2(11), Nov. 8, 1965, 79 Stat. 1313, modified the provisions of subsection (b)(7) of this section to require annual instead of quarterly submission of the report to the Congress.

REFERENCES IN TEXT

Sections 281 and 283 of title 18, referred to in subsecs. (b)(4), (c), (d), and (e), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as they may apply to retired officers of the armed forces of the United States, and were supplanted by sections 203 and 205 of Title 18, Crimes and Criminal Procedure. For further details, see Exemptions note set out under section 203 of Title 18.

Sections 284, 434, and 1914 of title 18, referred to in subsecs. (b)(4), (c), (d), and (e), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, and were sup-

[2] See References in Text note below.

planted by sections 207, 208, and 209, respectively, of Title 18.

Section 190 of the Revised Statutes (5 U.S.C. 99), referred to in subsecs. (b)(4), (c), (d), and (e), was repealed by Pub. L. 87–849, §3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

Sections 101 and 107 of the Ethics in Governments Act of 1978, referred to in subsec. (b)(6)(B), are sections 101 and 107 of Pub. L. 95–521, which are set out in the Appendix to Title 5, Government Organization and Employees.

Section 55a of title 5, referred to in subsec. (c), which was based on section 15 of act Aug. 2, 1946, ch. 744, 60 Stat. 810, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as section 3109 of Title 5.

AMENDMENTS

1992—Subsec. (b)(6). Pub. L. 102–558, §143(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The heads of the departments or agencies making appointments under this subsection shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within sixty days preceding his appointment has been an officer or director, or in which he owns, or within sixty days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within sixty days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such sixty-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.''

Subsec. (b)(7). Pub. L. 102–558, §143(b)(1), substituted ''Director of the Office of Personnel Management'' for ''Chairman of the United States Civil Service Commission'' and ''his or her findings'' for ''his findings'', struck out ''and the Joint Committee on Defense Production'' after ''to the President'', and substituted ''he or she may'' for ''he may''.

Subsec. (b)(8). Pub. L. 102–558, §143(b)(2), substituted ''reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code'' for ''transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment''.

1975—Subsec. (e). Pub. L. 94–152 substituted provisions authorizing per diem in lieu of subsistence in accordance with provisions of title 5 of the United States Code with respect to individuals serving without pay while away from their homes or regular places of business, for provisions authorizing $15 per diem in lieu of subsistence.

1955—Subsec. (a). Act June 28, 1955, repealed subsec. (a) which authorized President to place positions and employ persons temporarily in grades 16, 17, and 18 of the General Schedule established by Classification Act of 1949.

Subsec. (b). Act Aug. 9, 1955, §7, imposed additional restrictions on employment of persons without compensation by establishing guides to be used by President, requiring written certification, publication of statements, and a survey of appointments.

Subsecs. (e) to (g). Act Aug. 9, 1955, §8, added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1951—Subsec. (f). Act July 31, 1951, added subsec. (f).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–152 effective at close of Nov. 30, 1975, see section 9 of Pub. L. 94–152, as amended, set out as a note under section 2158 of this Appendix.

EFFECTIVE DATE OF 1955 AMENDMENTS

Amendment by act Aug. 9, 1955, effective as of close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

Amendment by act June 28, 1955, effective June 28, 1955, see section 13(b) of act June 28, 1955.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out under section 761 of Title 15, Commerce and Trade.

The head of each department or agency assigned functions under Ex. Ord. No. 12919 (relating to national defense industrial resources preparedness) delegated authority under subsecs. (b) and (c) of this section to employ persons of outstanding experience and ability without compensation and to employ experts, consultants, or organizations, with authority so delegated not to be redelegated, pursuant to section 602 of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525, set out as a note under section 2153 of this Appendix.

EXECUTIVE ORDER NO. 10182

Ex. Ord. No. 10182, Nov. 21, 1950, 15 F.R. 8013, as amended by Ex. Ord. No. 10205, Jan. 16, 1951, 16 F.R. 419, which provided for appointments and exemptions, was revoked by Ex. Ord. No. 10647, Nov. 28, 1955, 20 F.R. 8769, formerly set out below.

EXECUTIVE ORDER NO. 10647

Ex. Ord. No. 10647, Nov. 28, 1955, 20 F.R. 8769, as amended by Ex. Ord. No. 11355, May 26, 1967, 32 F.R. 7803; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which delegated authority to make appointments, was revoked by section 904(a)(4) of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29533, set out as a note under section 2153 of this Appendix.

§2161. Authorization of appropriations; availability of funds

(a) Authorization

Except as provided in subsection (b), there are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act [sections 2061 to 2171 of this Appendix] (including sections 302 and 303 [sections 2092 and 2093 of this Appendix], but excluding sections 305 and 306 [sections 2095 and 2096 of this Appendix]) by the President and such agencies as he may designate or create. Funds made available pursuant to this paragraph for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Office of Management and Budget, to any agency designated to assist in

carrying out this Act [said sections]. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

(b) Title III authorization

There are authorized to be appropriated for each of fiscal years 1996 through 2008, such sums as may be necessary to carry out title III [sections 2091 to 2099a of this Appendix].

(Sept. 8, 1950, ch. 932, title VII, § 711, 64 Stat. 820; Pub. L. 93–426, § 3, Sept. 30, 1974, 88 Stat. 1167; Pub. L. 96–294, title I, § 105(a), June 30, 1980, 94 Stat. 632; Pub. L. 98–265, § 5, Apr. 17, 1984, 98 Stat. 151; Pub. L. 99–441, § 3, Oct. 3, 1986, 100 Stat. 1117; Pub. L. 101–137, § 9(b), Nov. 3, 1989, 103 Stat. 826; Pub. L. 102–99, § 3, Aug. 17, 1991, 105 Stat. 487; Pub. L. 102–558, title I, §§ 144, 152, 161, Oct. 28, 1992, 106 Stat. 4218, 4219; Pub. L. 104–64, § 3, Dec. 18, 1995, 109 Stat. 689; Pub. L. 105–261, div. A, title X, § 1072(b), Oct. 17, 1998, 112 Stat. 2137; Pub. L. 106–65, div. A, title X, § 1063(b), Oct. 5, 1999, 113 Stat. 769; Pub. L. 106–363, § 2, Oct. 27, 2000, 114 Stat. 1407; Pub. L. 107–47, § 3, Oct. 5, 2001, 115 Stat. 260; Pub. L. 108–195, § 2(b), Dec. 19, 2003, 117 Stat. 2892.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–195 substituted ''2008'' for ''2003''.

2001—Subsec. (b). Pub. L. 107–47 substituted ''2003'' for ''2001''.

2000—Subsec. (b). Pub. L. 106–363 substituted ''2001'' for ''2000''.

1999—Subsec. (b). Pub. L. 106–65 substituted ''fiscal years 1996 through 2000'' for ''the fiscal years 1996, 1997, 1998, and 1999''.

1998—Subsec. (b). Pub. L. 105–261 substituted ''1998, and 1999'' for ''and 1998''.

1995—Subsec. (a). Pub. L. 104–64, § 3(1), struck out paragraph designation ''(1)'' and former par. (1) heading ''In general'' and in text substituted ''Except as provided in subsection (b),'' for ''Except as provided in subsection (c),''.

Subsecs. (b) to (d). Pub. L. 104–64, § 3(2), added subsec. (b) and struck out former subsec. (b) which authorized appropriations to carry out provisions of section 2095(k)(2) of this Appendix, former subsec. (c) which authorized appropriations for fiscal year 1991 to carry out provisions of sections 2091 to 2093 of this Appendix, and former subsec. (d) which authorized appropriations for fiscal years 1993, 1994, and 1995 to carry out sections 2091 to 2099a of this Appendix.

1992—Subsec. (a). Pub. L. 102–558, § 152(2)(A), inserted heading.

Subsec. (a)(1). Pub. L. 102–558, § 152(2)(A), (B), inserted par. heading, substituted ''Except as provided in subsection (c),'' for ''Except as provided in paragraph (2) and paragraph (4)'', and struck out ''and for payment of interest under subsection (b) of this section'' after ''sections 302 and 303''.

Pub. L. 102–558, § 144, substituted ''Office of Management and Budget'' for ''Bureau of the Budget''.

Subsec. (a)(2). Pub. L. 102–558, § 152(2)(C), struck out par. (2) which read as follows:

''(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

''(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

''(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.''

Subsec. (a)(3). Pub. L. 102–558, § 152(2)(D), redesignated par. (3) as subsec. (b). See below.

Subsec. (a)(4). Pub. L. 102–558, § 152(2)(E), redesignated subpar. (A) as subsec. (c) (see below) and struck out subpar. (B) which read as follows: ''The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1987, 1988, and 1989 may not exceed $150,000,000.''

Subsec. (b). Pub. L. 102–558, § 152(1), (2)(D), redesignated par. (3) of subsec. (a) as subsec. (b), inserted heading, struck out ''There are'' before ''hereby'', and struck out former subsec. (b) which read as follows: ''Interest shall accrue on (1) the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 (except for storage maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 and any net losses incurred by an agency in carrying out its functions under sections 302 and 303 when the head of the agency determines that such net losses have occurred; and (2) the current market value of the inventory of materials procured under section 303 as of the first day of each fiscal year commencing with the fiscal year beginning July 1, 1975. At the close of each fiscal year there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity.''

Subsec. (c). Pub. L. 102–558, § 152(2)(E), redesignated subpar. (A) of par. (4) of subsec. (a) as subsec. (c) and inserted heading.

Subsec. (d). Pub. L. 102–558, § 161, added subsec. (d).

1991—Subsec. (a)(4). Pub. L. 102–99 amended par. (4) generally. Prior to amendment, par. (4) read as follows:

''(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

''(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.''

1989—Subsec. (a)(4). Pub. L. 101–137 amended par. (4) generally. Prior to amendment, par. (4) read as follows:

''(A) There are authorized to be appropriated for fiscal years 1987, 1988, and 1989 not to exceed $150,000,000 to carry out the provisions of section 303, except that not more than $30,000,000 is authorized to be appropriated for fiscal year 1987.

''(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1987, 1988, and 1989 may not exceed $150,000,000.''

1986—Subsec. (a)(4). Pub. L. 99–441 amended par. (4) generally. Prior to amendment, par. (4) read as follows:

''(A) There are authorized to be appropriated to carry out the provisions of section 303 not to exceed $100,000,000 for fiscal years 1985 and 1986, except that not more than $25,000,000 is authorized to be appropriated for fiscal year 1985.

''(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1985 and 1986 may not exceed $100,000,000.''

1984—Subsec. (a)(1), (4). Pub. L. 98–265 inserted ''and paragraph (4)'' after ''paragraph (2)'' in par. (1) and added par. (4).

1980—Subsec. (a). Pub. L. 96–294, § 105(a), designated existing provisions as par. (1), inserted exclusions of sections 305 and 306, reference to funds made available pursuant to this paragraph, and exception for par. (2), and added pars. (2) and (3).

1974—Pub. L. 93–426 designated existing provisions as subsec. (a), inserted reference to sections 302 and 303 of this Appendix, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–99 effective Oct. 20, 1990, see section 7 of Pub. L. 102–99, set out as a note under section 2071 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DELEGATION OF FUNCTIONS

Functions of President under act Sept. 8, 1950 [section 2061 et seq. of this Appendix], relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

§ 2162. Repealed. Pub. L. 102–558, title I, § 153, Oct. 28, 1992, 106 Stat. 4219

Section, acts Sept. 8, 1950, ch. 932, title VII, § 712, 64 Stat. 820; June 30, 1952, ch. 530, title I, § 119, 66 Stat. 306; Aug. 9, 1955, ch. 655, § 9, 69 Stat. 583; June 29, 1956, ch. 474, §§ 3, 5, 70 Stat. 408, 409; June 30, 1966, Pub. L. 89–482, § 2, 80 Stat. 235; July 1, 1968, Pub. L. 90–370, § 2, 82 Stat. 279; Dec. 16, 1975, Pub. L. 94–152, § 6, 89 Stat. 820, established a Joint Committee on Defense Production.

EFFECTIVE DATE OF REPEAL

Repeal deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

§ 2163. Territorial application of Act

The provisions of this Act [sections 2061 to 2171 of this Appendix] shall be applicable to the United States, its Territories and possessions, and the District of Columbia.

(Sept. 8, 1950, ch. 932, title VII, § 713, 64 Stat. 821.)

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2163a. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 656

Section, act Sept. 8, 1950, ch. 932, title VII, § 714, as added July 31, 1951, ch. 275, title I, § 110(a) 65 Stat. 139; amended June 30, 1952, ch. 530, title I, § 121(a) 66 Stat. 306; June 30, 1953, ch. 171, § 10, 67 Stat. 131, created Small Defense Plants Administration, and related generally to encouragement and aid to small-business concerns with respect to defense production. It terminated at close of July 31, 1953, by terms of section 2166(a) of this Appendix. For provisions relating to aid to small business, see section 631 et seq. of Title 15, Commerce and Trade.

REVOLVING FUND CONTINUATION

Act July 16, 1953, ch. 204, § 1, 67 Stat. 176, provided in part that the revolving fund established under the Small Defense Plants Administration was to remain available through July 31, 1953, for payment of obligations and direct costs under contracts entered into during fiscal year 1953.

§ 2164. Separability

If any provision of this Act [sections 2061 to 2171 of this Appendix] or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act [said sections], and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Sept. 8, 1950, ch. 932, title VII, § 715, formerly § 714, 64 Stat. 821; renumbered § 715, July 31, 1951, ch. 275, title I, § 110(b), 65 Stat. 144.)

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

§ 2165. Repealed. Pub. L. 102–558, title I, § 154, Oct. 28, 1992, 106 Stat. 4219

Section, acts Sept. 8, 1950, ch. 932, title VII, § 716, formerly § 715, 64 Stat. 821; renumbered § 716, July 31, 1951, ch. 275, title I, § 110(b), 65 Stat. 144, related to persons disqualified from employment and penalties.

EFFECTIVE DATE OF REPEAL

Repeal deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

§ 2166. Termination of Act

(a) Title I [sections 2071 to 2078 of this Appendix] (except section 104),[1] title III [sections 2091 to 2099a of this Appendix], and title VII [sections 2151 to 2171 of this Appendix] (except sections 707, 708, and 721 [sections 2157, 2158, and 2170 of this Appendix]), and all authority conferred thereunder, shall terminate at the close of September 30, 2008: *Provided*, That all authority hereby or hereafter extended under title III of this Act [sections 2091 to 2099 of this Appendix] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. Section 714 of this Act [section 2163a of this Appendix], and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104,[1] and title II [section 2081 of this Appendix], and title VI [sections 2131 to 2137 of this Appendix] of this Act, and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Title IV [sections 2101 to 2112 of this Appendix]

[1] See References in Text note below.

and V [sections 2121 to 2123 of this Appendix] of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act [sections 2061 to 2171 of this Appendix] prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act [said sections] and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act [said sections] may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act [sections 2061 to 2171 of this Appendix], or of any agency or corporation utilized under this Act [said sections], shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act [said sections] prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act [said sections], or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act [said sections], including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act [section 2091 of this Appendix] shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act [sections 2061 to 2171 of this Appendix], the termination of title VI [sections 2132 to 2137 of this Appendix] or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act [section 2132 or 2135 of this Appendix], or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 [7 U.S.C. 671 et seq.] shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952] with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act [sections 2061 to 2171 of this Appendix], no termination date shall be applicable to this subsection.

(Sept. 8, 1950, ch. 932, title VII, § 717, formerly § 716, 64 Stat. 822; June 30, 1951, ch. 198, § 1, 65 Stat. 110; renumbered § 717, July 31, 1951, ch. 275, title I, §§ 110(b), 111, 65 Stat. 144; June 30, 1952, ch. 530, title I, §§ 120, 121(b), 66 Stat. 306; June 30, 1953, ch. 170, § 20, 67 Stat. 126; June 30, 1953, ch. 171, §§ 11, 12, 67 Stat. 131; June 30, 1955, ch. 251, § 5, 69 Stat. 225; Aug. 9, 1955, ch. 655, § 10, 69 Stat. 583; June 29, 1956, ch. 474, § 1, 70 Stat. 408; Pub. L. 85–471, June 28, 1958, 72 Stat. 241; Pub. L. 86–560, § 1, June 30, 1960, 74 Stat. 282; Pub. L. 87–505, June 28, 1962, 76 Stat. 112; Pub. L. 88–343, § 1, June 30, 1964, 78 Stat. 235; Pub. L. 89–482, § 1, June 30, 1966, 80 Stat. 235; Pub. L. 90–370, § 1, July 1, 1968, 82 Stat. 279; Pub. L. 91–300, June 30, 1970, 84 Stat. 367; Pub. L. 91–371, Aug. 1, 1970, 84 Stat. 694; Pub. L. 91–379, title I, § 101, Aug. 15, 1970, 84 Stat. 796; Pub. L. 92–15, § 2, May 18, 1971, 85 Stat. 38; Pub. L. 92–325, § 2, June 30, 1972, 86 Stat. 390; Pub. L. 93–323, June 30, 1974, 88 Stat. 280; Pub. L. 93–367, Aug. 7, 1974, 88 Stat. 419; Pub. L. 93–426, § 4, Sept. 30, 1974, 88 Stat. 1167; Pub. L. 94–42, § 1, June 28, 1975, 89 Stat. 232; Pub. L. 94–100, § 1, Oct. 1, 1975, 89 Stat. 483; Pub. L. 94–152, § 2, Dec. 16, 1975, 89 Stat. 810; Pub. L. 95–37, § 2, June 1, 1977, 91 Stat. 178; Pub. L. 96–77, Sept. 29, 1979, 93 Stat. 588; Pub. L. 96–188, Jan. 28, 1980, 94 Stat. 3; Pub. L. 96–225, Apr. 3, 1980, 94 Stat. 310; Pub. L. 96–250, May 26, 1980, 94 Stat. 371; Pub. L. 96–294, title I, § 105(b), June 30, 1980, 94 Stat. 633; Pub. L. 97–47, § 1, Sept. 30, 1981, 95 Stat. 954; Pub. L. 97–336, Oct. 15, 1982, 96 Stat. 1630; Pub. L. 98–12, Mar. 29, 1983, 97 Stat. 53; Pub. L. 98–181, title VII, § 703, Nov. 30, 1983, 97 Stat. 1267; Pub. L. 98–265, § 2, Apr. 17, 1984, 98 Stat. 149; Pub. L. 99–441, § 2, Oct. 3, 1986, 100 Stat. 1117; Pub. L. 101–137, § 9(a), Nov. 3, 1989, 103 Stat. 826; Pub. L. 101–351, § 1, Aug. 9, 1990, 104 Stat. 404; Pub. L. 101–407, § 1, Oct. 4, 1990, 104 Stat. 882; Pub. L. 101–411, § 1, Oct. 6, 1990, 104 Stat. 893; Pub. L. 102–99, §§ 2, 8, Aug. 17, 1991, 105 Stat. 487, 490; Pub. L. 102–193, § 1, Dec. 6, 1991, 105 Stat. 1593; Pub. L. 102–558, title I, § 162, Oct. 28, 1992, 106 Stat. 4219; Pub. L. 104–64, § 2, Dec. 18, 1995, 109 Stat. 689; Pub. L. 105–261, div. A, title X, § 1072(a), Oct. 17, 1998, 112 Stat. 2137; Pub. L. 106–65, div. A, title X, § 1063(a), Oct. 5, 1999, 113 Stat. 769; Pub. L. 106–363, § 1, Oct. 27, 2000, 114 Stat. 1407; Pub. L. 107–47, § 2, Oct. 5, 2001, 115 Stat. 260; Pub. L. 108–195, § 2(a), Dec. 19, 2003, 117 Stat. 2892.)

REFERENCES IN TEXT

Section 104 of this Act, referred to in subsec. (a), was classified to section 2074 of this Appendix and termi-

nated June 30, 1953, by terms of subsec. (a) of this section. A new section 104 was added by act Oct. 28, 1992, Pub. L. 102–558, title I, §112, 106 Stat. 4202, and is classified to section 2074 of this Appendix.

The Agricultural Marketing Agreement Act of 1937, referred to in subsec. (d), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§671 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 674 of Title 7 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–195, in first sentence, substituted ''sections 707, 708, and 721'' for ''sections 708 and 721'' and ''September 30, 2008'' for ''September 30, 2003''.

2001—Subsec. (a). Pub. L. 107–47 substituted ''September 30, 2003'' for ''September 30, 2001''.

2000—Subsec. (a). Pub. L. 106–363 substituted ''September 30, 2001'' for ''September 30, 2000''.

1999—Subsec. (a). Pub. L. 106–65 substituted ''September 30, 2000'' for ''September 30, 1999''.

1998—Subsec. (a). Pub. L. 105–261 substituted ''September 30, 1999'' for ''September 30, 1998''.

1995—Subsec. (a). Pub. L. 104–64, which directed substitution in first sentence of ''Title I (except section 104), title III, and title VII (except sections 708 and 721), and all authority conferred thereunder, shall terminate at the close of September 30, 1998'' for ''Title I (except section 104), title III, and title VII (except sections 708, 714, 719, and 721) of this Act, and all authority conferred thereunder shall terminate at the close of September 30, 1995'' was executed by making the substitution for text which included comma after ''thereunder'', to reflect the probable intent of Congress.

1992—Subsec. (a). Pub. L. 102–558 substituted ''September 30, 1995'' for ''March 1, 1992''.

1991—Subsec. (a). Pub. L. 102–193 substituted ''March 1, 1992'' for ''September 30, 1991''.

Pub. L. 102–99 substituted ''September 30, 1991'' for ''October 20, 1990'' and ''sections 708, 714, 719, and 721'' for ''sections 708, 714, and 719''.

1990—Subsec. (a). Pub. L. 101–411 extended termination date from Oct. 5, 1990, to Oct. 20, 1990.

Pub. L. 101–407 extended termination date from Sept. 30, 1990, to Oct. 5, 1990.

Pub. L. 101–351 extended termination date from Aug. 10, 1990, to Sept. 30, 1990.

1989—Subsec. (a). Pub. L. 101–137 extended termination date from Sept. 30, 1989, to Aug. 10, 1990.

1986—Subsec. (a). Pub. L. 99–441 extended termination date from Sept. 30, 1986, to Sept. 30, 1989.

1984—Subsec. (a). Pub. L. 98–265 extended termination date from Mar. 30, 1984, to Sept. 30, 1986.

1983—Subsec. (a). Pub. L. 98–181 extended termination date from Sept. 30, 1983, to Mar. 30, 1984.

Pub. L. 98–12 extended termination date from Mar. 31, 1983, to Sept. 30, 1983.

1982—Pub. L. 97–336 extended termination date from Sept. 30, 1982, to Mar. 31, 1983.

1981—Subsec. (a). Pub. L. 97–47 extended termination date from Sept. 30, 1981, to Sept. 30, 1982.

1980—Subsec. (a). Pub. L. 96–294 extended termination date from Aug. 27, 1981, to Sept. 30, 1981.

Pub. L. 96–250 extended termination date from May 27, 1980, to Aug. 27, 1980.

Pub. L. 96–225 extended termination date from Mar. 28, 1980, to May 27, 1980.

Pub. L. 96–188 extended termination date from Jan. 28, 1980, to Mar. 28, 1980.

1979—Subsec. (a). Pub. L. 96–77 extended termination date from Sept. 30, 1979, to Jan. 28, 1980.

1977—Subsec. (a). Pub. L. 95–37 extended termination date from Sept. 30, 1977, to Sept. 30, 1979.

1975—Subsec. (a). Pub. L. 94–152 extended termination date from Nov. 30, 1975, to Sept. 30, 1977, and inserted proviso that all authority now or subsequently extended under Title III of this Act [sections 2091 to 2094 of this Appendix] shall be effective for any fiscal year only to such extent and amounts as are provided for in advance in appropriation Acts.

Pub. L. 94–100 extended termination date from Sept. 30, 1975, to Nov. 30, 1975.

Pub. L. 94–42 extended termination date from June 30, 1975, to Sept. 30, 1975.

1974—Subsec. (a). Pub. L. 93–426 extended termination date from June 30, 1974, to June 30, 1975.

Pub. L. 93–367 extended termination date from July 30, 1974, to Sept. 30, 1974.

Pub. L. 93–323 extended termination date from June 30, 1974, to July 30, 1974.

1972—Subsec. (a). Pub. L. 92–325 substituted ''June 30, 1974'' for ''June 30, 1972''.

1971—Subsec. (a). Pub. L. 92–15 inserted parenthetical reference to section ''708''.

1970—Subsec. (a). Pub. L. 91–379 substituted ''June 30, 1972'' for ''August 15, 1970'' and ''sections 714 and 719'' for ''section 714''.

Pub. L. 91–371 extended termination date from July 30, 1970, to Aug. 15, 1970.

Pub. L. 91–300 extended termination date from June 30, 1970, to July 30, 1970.

1968—Subsec. (a). Pub. L. 90–370 extended termination date from June 30, 1968, to June 30, 1970.

1966—Subsec. (a). Pub. L. 89–482 extended termination date from June 30, 1966, to June 30, 1968.

1964—Subsec. (a). Pub. L. 88–343 extended termination date from June 30, 1964, to June 30, 1966.

1962—Subsec. (a). Pub. L. 87–505 extended termination date from June 30, 1962, to June 30, 1964.

1960—Subsec. (a). Pub. L. 86–560 extended termination date from June 30, 1960, to June 30, 1962.

1958—Subsec. (a). Pub. L. 85–471 extended termination date from June 30, 1958, to June 30, 1960.

1956—Subsec. (a). Act June 29, 1956, extended termination date from June 30, 1956, to June 30, 1958.

1955—Subsec. (a). Act Aug. 9, 1955, extended termination date from July 31, 1955, to June 30, 1956.

Act June 30, 1955, extended termination date from June 30, 1955, to July 31, 1955.

1953—Subsec. (a). Act June 30, 1953, ch. 171, §11, changed termination dates as follows: (1) Title I except section 2074 of this Appendix, from June 30, 1953, to June 30, 1955; (2) Title III, from June 30, 1953, to June 30, 1955; Title VII (except section 2163a of this Appendix), from June 30, 1953 to June 30, 1955.

Subsec. (c). Act June 30, 1953, ch. 171, §12, inserted ''or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection''.

Act June 30, 1953, ch. 170, added second par.

1952—Subsec. (a). Act June 30, 1952, §121(b), extended termination dates from Apr. 30, 1952, to Apr. 30, 1953, and from June 30, 1952, to June 30, 1953.

Subsec. (d). Act June 30, 1952, §120, added subsec. (d).

1951—Subsec. (a). Acts July 31, 1951, §111, and June 30, 1951. Act July 31, 1951, struck out subsec. (a) relating to termination of certain titles of act Sept. 8, 1950, and substituted present subsec. (a). Act June 30, 1951, extended termination date from June 30, 1951, to July 31, 1951.

Subsec. (b). Act July 31, 1951, redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to termination date of certain titles of act Sept. 8, 1950. Former subsec. (b) was amended by act June 30, 1951, to extend termination date from June 30, 1951, to July 31, 1951.

Subsecs. (c), (d). Act July 31, 1951, §111, redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L.

102–558, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1991 AMENDMENTS

Section 2 of Pub. L. 102–193 provided that: ''This Act [amending this section] shall take effect on September 30, 1991.''

Amendment by Pub. L. 102–99 effective Oct. 20, 1990, see section 7 of Pub. L. 102–99, set out as a note under section 2071 of this Appendix.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–294 effective June 30, 1980, see section 107 of Pub. L. 96–294, set out as a note under section 2062 of this Appendix.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–152 effective at close of Nov. 30, 1975, see section 9 of Pub. L. 94–152, as amended, set out as a note under section 2158 of this Appendix.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective as of close of July 31, 1955, see section 11 of act Aug. 9, 1955, set out as a note under section 2062 of this Appendix.

§ 2167. Repealed. Pub. L. 102–558, title I, § 155, Oct. 28, 1992, 106 Stat. 4219

Section, act Sept. 8, 1950, ch. 932, title VII, § 718, as added July 1, 1968, Pub. L. 90–370, § 3, 82 Stat. 279, authorized a feasibility study of application of uniform cost accounting standards to defense procurement contracts.

EFFECTIVE DATE OF REPEAL

Repeal deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

§ 2168. Repealed. Pub. L. 100–679, § 5(b), Nov. 17, 1988, 102 Stat. 4063

Section, act Sept. 8, 1950, ch. 932, title VII, § 719, as added Aug. 15, 1970, Pub. L. 91–379, title I, § 103, 84 Stat. 796; amended Dec. 16, 1975, Pub. L. 94–152, § 7, 89 Stat. 820; Nov. 8, 1985, Pub. L. 99–145, title IX, § 934(b), 99 Stat. 700; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, § 1342(f), 100 Stat. 3991, related to formation, functions, appointment and compensation of staff, etc., of Cost Accounting Standards Board. See section 422 of Title 41, Public Contracts.

§ 2169. Repealed. Pub. L. 102–558, title I, § 156, Oct. 28, 1992, 106 Stat. 4219

Section, act Sept. 8, 1950, ch. 932, title VII, § 720, as added Sept. 30, 1974, Pub. L. 93–426, § 5, 88 Stat. 1167; amended Mar. 21, 1975, Pub. L. 94–9, 89 Stat. 15; Aug. 5, 1975, Pub. L. 94–72, 89 Stat. 399; Dec. 16, 1975, Pub. L. 94–152, § 8, 89 Stat. 820, established a National Commission on Supplies and Shortages.

EFFECTIVE DATE OF REPEAL

Repeal deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

§ 2170. Authority to review certain mergers, acquisitions, and takeovers

(a) Definitions

For purposes of this section, the following definitions shall apply:

(1) Committee; chairperson

The terms ''Committee'' and ''chairperson'' mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

(2) Control

The term ''control'' has the meaning given to such term in regulations which the Committee shall prescribe.

(3) Covered transaction

The term ''covered transaction'' means any merger, acquisition, or takeover that is proposed or pending after August 23, 1988, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.

(4) Foreign government-controlled transaction

The term ''foreign government-controlled transaction'' means any covered transaction that could result in the control of any person engaged in interstate commerce in the United States by a foreign government or an entity controlled by or acting on behalf of a foreign government.

(5) Clarification

The term ''national security'' shall be construed so as to include those issues relating to ''homeland security'', including its application to critical infrastructure.

(6) Critical infrastructure

The term ''critical infrastructure'' means, subject to rules issued under this section, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

(7) Critical technologies

The term ''critical technologies'' means critical technology, critical components, or critical technology items essential to national defense, identified pursuant to this section, subject to regulations issued at the direction of the President, in accordance with subsection (h).

(8) Lead agency

The term ''lead agency'' means the agency, or agencies, designated as the lead agency or agencies pursuant to subsection (k)(5) for the review of a transaction.

(b) National security reviews and investigations

(1) National security reviews

(A) In general

Upon receiving written notification under subparagraph (C) of any covered transaction, or pursuant to a unilateral notification initiated under subparagraph (D) with respect to any covered transaction, the President, acting through the Committee—

(i) shall review the covered transaction to determine the effects of the transaction on the national security of the United States; and

(ii) shall consider the factors specified in subsection (f) for such purpose, as appropriate.

(B) Control by foreign government

If the Committee determines that the covered transaction is a foreign government-

controlled transaction, the Committee shall conduct an investigation of the transaction under paragraph (2).

(C) Written notice

(i) In general

Any party or parties to any covered transaction may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the Chairperson of the Committee.

(ii) Withdrawal of notice

No covered transaction for which a notice was submitted under clause (i) may be withdrawn from review, unless a written request for such withdrawal is submitted to the Committee by any party to the transaction and approved by the Committee.

(iii) Continuing discussions

A request for withdrawal under clause (ii) shall not be construed to preclude any party to the covered transaction from continuing informal discussions with the Committee or any member thereof regarding possible resubmission for review pursuant to this paragraph.

(D) Unilateral initiation of review

Subject to subparagraph (F), the President or the Committee may initiate a review under subparagraph (A) of—

(i) any covered transaction;

(ii) any covered transaction that has previously been reviewed or investigated under this section, if any party to the transaction submitted false or misleading material information to the Committee in connection with the review or investigation or omitted material information, including material documents, from information submitted to the Committee; or

(iii) any covered transaction that has previously been reviewed or investigated under this section, if—

(I) any party to the transaction or the entity resulting from consummation of the transaction intentionally materially breaches a mitigation agreement or condition described in subsection (*l*)(1)(A);

(II) such breach is certified to the Committee by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

(III) the Committee determines that there are no other remedies or enforcement tools available to address such breach.

(E) Timing

Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the acceptance of written notice under subparagraph (C) by the chairperson, or beginning on the date of the initiation of the review in accordance with subparagraph (D), as applicable.

(F) Limit on delegation of certain authority

The authority of the Committee to initiate a review under subparagraph (D) may not be delegated to any person, other than the Deputy Secretary or an appropriate Under Secretary of the department or agency represented on the Committee.

(2) National security investigations

(A) In general

In each case described in subparagraph (B), the Committee shall immediately conduct an investigation of the effects of a covered transaction on the national security of the United States, and take any necessary actions in connection with the transaction to protect the national security of the United States.

(B) Applicability

Subparagraph (A) shall apply in each case in which—

(i) a review of a covered transaction under paragraph (1) results in a determination that—

(I) the transaction threatens to impair the national security of the United States and that threat has not been mitigated during or prior to the review of a covered transaction under paragraph (1);

(II) the transaction is a foreign government-controlled transaction; or

(III) the transaction would result in control of any critical infrastructure of or within the United States by or on behalf of any foreign person, if the Committee determines that the transaction could impair national security, and that such impairment to national security has not been mitigated by assurances provided or renewed with the approval of the Committee, as described in subsection (*l*), during the review period under paragraph (1); or

(ii) the lead agency recommends, and the Committee concurs, that an investigation be undertaken.

(C) Timing

Any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

(D) Exception

(i) In general

Notwithstanding subparagraph (B)(i), an investigation of a foreign government-controlled transaction described in subclause (II) of subparagraph (B)(i) or a transaction involving critical infrastructure described in subclause (III) of subparagraph (B)(i) shall not be required under this paragraph, if the Secretary of the Treasury and the head of the lead agency jointly determine, on the basis of the review of the transaction under paragraph (1), that the transaction will not impair the national security of the United States.

(ii) Nondelegation

The authority of the Secretary or the head of an agency referred to in clause (i) may not be delegated to any person, other

than the Deputy Secretary of the Treasury or the deputy head (or the equivalent thereof) of the lead agency, respectively.

(E) Guidance on certain transactions with national security implications

The Chairperson shall, not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007, publish in the Federal Register guidance on the types of transactions that the Committee has reviewed and that have presented national security considerations, including transactions that may constitute covered transactions that would result in control of critical infrastructure relating to United States national security by a foreign government or an entity controlled by or acting on behalf of a foreign government.

(3) Certifications to Congress

(A) Certified notice at completion of review

Upon completion of a review under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit a certified notice to the members of Congress specified in subparagraph (C)(iii).

(B) Certified report at completion of investigation

As soon as is practicable after completion of an investigation under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit to the members of Congress specified in subparagraph (C)(iii) a certified written report (consistent with the requirements of subsection (c)) on the results of the investigation, unless the matter under investigation has been sent to the President for decision.

(C) Certification procedures

(i) In general

Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be submitted to the members of Congress specified in clause (iii), and shall include—

(I) a description of the actions taken by the Committee with respect to the transaction; and

(II) identification of the determinative factors considered under subsection (f).

(ii) Content of certification

Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, and shall state that, in the determination of the Committee, there are no unresolved national security concerns with the transaction that is the subject of the notice or report.

(iii) Members of Congress

Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be transmitted—

(I) to the Majority Leader and the Minority Leader of the Senate;

(II) to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of any committee of the Senate having oversight over the lead agency;

(III) to the Speaker and the Minority Leader of the House of Representatives;

(IV) to the chair and ranking member of the Committee on Financial Services of the House of Representatives and of any committee of the House of Representatives having oversight over the lead agency; and

(V) with respect to covered transactions involving critical infrastructure, to the members of the Senate from the State in which the principal place of business of the acquired United States person is located, and the member from the Congressional District in which such principal place of business is located.

(iv) Signatures; limit on delegation

(I) In general

Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, which signature requirement may only be delegated in accordance with subclause (II).

(II) Limitation on delegation of certifications

The chairperson and the head of the lead agency may delegate the signature requirement under subclause (I)—

(aa) only to an appropriate employee of the Department of the Treasury (in the case of the Secretary of the Treasury) or to an appropriate employee of the lead agency (in the case of the lead agency) who was appointed by the President, by and with the advice and consent of the Senate, with respect to any notice provided under paragraph (1) following the completion of a review under this section; or

(bb) only to a Deputy Secretary of the Treasury (in the case of the Secretary of the Treasury) or a person serving in the Deputy position or the equivalent thereof at the lead agency (in the case of the lead agency), with respect to any report provided under subparagraph (B) following an investigation under this section.

(4) Analysis by Director of National Intelligence

(A) In general

The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction. The Director of National Intelligence shall also seek and incorporate the views of all affected or appropriate intelligence agencies with respect to the transaction.

(B) Timing

The analysis required under subparagraph (A) shall be provided by the Director of Na-

tional Intelligence to the Committee not later than 20 days after the date on which notice of the transaction is accepted by the Committee under paragraph (1)(C), but such analysis may be supplemented or amended, as the Director considers necessary or appropriate, or upon a request for additional information by the Committee. The Director may begin the analysis at any time prior to acceptance of the notice, in accordance with otherwise applicable law.

(C) Interaction with intelligence community

The Director of National Intelligence shall ensure that the intelligence community remains engaged in the collection, analysis, and dissemination to the Committee of any additional relevant information that may become available during the course of any investigation conducted under subsection (b) with respect to a transaction.

(D) Independent role of Director

The Director of National Intelligence shall be a nonvoting, ex officio member of the Committee, and shall be provided with all notices received by the Committee under paragraph (1)(C) regarding covered transactions, but shall serve no policy role on the Committee, other than to provide analysis under subparagraphs (A) and (C) in connection with a covered transaction.

(5) Submission of additional information

No provision of this subsection shall be construed as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction, while any review or investigation of the transaction is ongoing.

(6) Notice of results to parties

The Committee shall notify the parties to a covered transaction of the results of a review or investigation under this section, promptly upon completion of all action under this section.

(7) Regulations

Regulations prescribed under this section shall include standard procedures for—

(A) submitting any notice of a covered transaction to the Committee;

(B) submitting a request to withdraw a covered transaction from review;

(C) resubmitting a notice of a covered transaction that was previously withdrawn from review; and

(D) providing notice of the results of a review or investigation to the parties to the covered transaction, upon completion of all action under this section.

(c) Confidentiality of information

Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

(d) Action by the President

(1) In general

Subject to paragraph (4), the President may take such action for such time as the President considers appropriate to suspend or prohibit any covered transaction that threatens to impair the national security of the United States.

(2) Announcement by the President

The President shall announce the decision on whether or not to take action pursuant to paragraph (1) not later than 15 days after the date on which an investigation described in subsection (b) is completed.

(3) Enforcement

The President may direct the Attorney General of the United States to seek appropriate relief, including divestment relief, in the district courts of the United States, in order to implement and enforce this subsection.

(4) Findings of the President

The President may exercise the authority conferred by paragraph (1), only if the President finds that—

(A) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security; and

(B) provisions of law, other than this section and the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], do not, in the judgment of the President, provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

(5) Factors to be considered

For purposes of determining whether to take action under paragraph (1), the President shall consider, among other factors each of the factors described in subsection (f), as appropriate.

(e) Actions and findings nonreviewable

The actions of the President under paragraph (1) of subsection (d) and the findings of the President under paragraph (4) of subsection (d) shall not be subject to judicial review.

(f) Factors to be considered

For purposes of this section, the President or the President's designee may, taking into account the requirements of national security, consider—

(1) domestic production needed for projected national defense requirements,

(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services,

(3) the control of domestic industries and commercial activity by foreign citizens as it

affects the capability and capacity of the United States to meet the requirements of national security,

(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

(A) identified by the Secretary of State—

(i) under section 6(j) of the Export Administration Act of 1979 [section 2405(j) of this Appendix], as a country that supports terrorism;

(ii) under section 6(*l*) of the Export Administration Act of 1979 [section 2405(*l*) of this Appendix], as a country of concern regarding missile proliferation; or

(iii) under section 6(m) of the Export Administration Act of 1979 [section 2405(m) of this Appendix], as a country of concern regarding the proliferation of chemical and biological weapons;

(B) identified by the Secretary of Defense as posing a potential regional military threat to the interests of the United States; or

(C) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)] on the ''Nuclear Non-Proliferation-Special Country List'' (15 C.F.R. Part 778, Supplement No. 4) or any successor list;

(5) the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security;

(6) the potential national security-related effects on United States critical infrastructure, including major energy assets;

(7) the potential national security-related effects on United States critical technologies;

(8) whether the covered transaction is a foreign government-controlled transaction, as determined under subsection (b)(1)(B);

(9) as appropriate, and particularly with respect to transactions requiring an investigation under subsection (b)(1)(B), a review of the current assessment of—

(A) the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines, which shall draw on, but not be limited to, the annual report on ''Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments'' required by section 403 of the Arms Control and Disarmament Act [22 U.S.C. 2593a];

(B) the relationship of such country with the United States, specifically on its record on cooperating in counter-terrorism efforts, which shall draw on, but not be limited to, the report of the President to Congress under section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004; and

(C) the potential for transshipment or diversion of technologies with military applications, including an analysis of national export control laws and regulations;

(10) the long-term projection of United States requirements for sources of energy and other critical resources and material; and

(11) such other factors as the President or the Committee may determine to be appropriate, generally or in connection with a specific review or investigation.

(g) Additional information to Congress; confidentiality

(1) Briefing requirement on request

The Committee shall, upon request from any Member of Congress specified in subsection (b)(3)(C)(iii), promptly provide briefings on a covered transaction for which all action has concluded under this section, or on compliance with a mitigation agreement or condition imposed with respect to such transaction, on a classified basis, if deemed necessary by the sensitivity of the information. Briefings under this paragraph may be provided to the congressional staff of such a Member of Congress having appropriate security clearance.

(2) Application of confidentiality provisions

(A) In general

The disclosure of information under this subsection shall be consistent with the requirements of subsection (c). Members of Congress and staff of either House of Congress or any committee of Congress, shall be subject to the same limitations on disclosure of information as are applicable under subsection (c).

(B) Proprietary information

Proprietary information which can be associated with a particular party to a covered transaction shall be furnished in accordance with subparagraph (A) only to a committee of Congress, and only when the committee provides assurances of confidentiality, unless such party otherwise consents in writing to such disclosure.

(h) Regulations

(1) In general

The President shall direct, subject to notice and comment, the issuance of regulations to carry out this section.

(2) Effective date

Regulations issued under this section shall become effective not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007.

(3) Content

Regulations issued under this subsection shall—

(A) provide for the imposition of civil penalties for any violation of this section, including any mitigation agreement entered into or conditions imposed pursuant to subsection (*l*);

(B) to the extent possible—

(i) minimize paperwork burdens; and

(ii) coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law; and

(C) provide for an appropriate role for the Secretary of Labor with respect to mitigation agreements.

(i) Effect on other law

No provision of this section shall be construed as altering or affecting any other authority,

process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of Federal law, including the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or any other authority of the President or the Congress under the Constitution of the United States.

(j) Technology risk assessments

In any case in which an assessment of the risk of diversion of defense critical technology is performed by a designee of the President, a copy of such assessment shall be provided to any other designee of the President responsible for reviewing or investigating a merger, acquisition, or takeover under this section.

(k) Committee on Foreign Investment in the United States

(1) Establishment

The Committee on Foreign Investment in the United States, established pursuant to Executive Order No. 11858, shall be a multi agency committee to carry out this section and such other assignments as the President may designate.

(2) Membership

The Committee shall be comprised of the following members or the designee of any such member:

(A) The Secretary of the Treasury.

(B) The Secretary of Homeland Security.

(C) The Secretary of Commerce.

(D) The Secretary of Defense.

(E) The Secretary of State.

(F) The Attorney General of the United States.

(G) The Secretary of Energy.

(H) The Secretary of Labor (nonvoting, ex officio).

(I) The Director of National Intelligence (nonvoting, ex officio).

(J) The heads of any other executive department, agency, or office, as the President determines appropriate, generally or on a case-by-case basis.

(3) Chairperson

The Secretary of the Treasury shall serve as the chairperson of the Committee.

(4) Assistant Secretary for the Department of the Treasury

There shall be established an additional position of Assistant Secretary of the Treasury, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary appointed under this paragraph shall report directly to the Undersecretary of the Treasury for International Affairs. The duties of the Assistant Secretary shall include duties related to the Committee on Foreign Investment in the United States, as delegated by the Secretary of the Treasury under this section.

(5) Designation of lead agency

The Secretary of the Treasury shall designate, as appropriate, a member or members of the Committee to be the lead agency or agencies on behalf of the Committee—

(A) for each covered transaction, and for negotiating any mitigation agreements or other conditions necessary to protect national security; and

(B) for all matters related to the monitoring of the completed transaction, to ensure compliance with such agreements or conditions and with this section.

(6) Other members

The chairperson shall consult with the heads of such other Federal departments, agencies, and independent establishments in any review or investigation under subsection (a), as the chairperson determines to be appropriate, on the basis of the facts and circumstances of the covered transaction under review or investigation (or the designee of any such department or agency head).

(7) Meetings

The Committee shall meet upon the direction of the President or upon the call of the chairperson, without regard to section 552b of title 5, United States Code (if otherwise applicable).

***(l)* Mitigation, tracking, and postconsummation monitoring and enforcement**

(1) Mitigation

(A) In general

The Committee or a lead agency may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction in order to mitigate any threat to the national security of the United States that arises as a result of the covered transaction.

(B) Risk-based analysis required

Any agreement entered into or condition imposed under subparagraph (A) shall be based on a risk-based analysis, conducted by the Committee, of the threat to national security of the covered transaction.

(2) Tracking authority for withdrawn notices

(A) In general

If any written notice of a covered transaction that was submitted to the Committee under this section is withdrawn before any review or investigation by the Committee under subsection (b) is completed, the Committee shall establish, as appropriate—

(i) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any resubmission of any written notice under this section with respect to such transaction and further action by the President under this section;

(ii) specific time frames for resubmitting any such written notice; and

(iii) a process for tracking any actions that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (ii) is resubmitted.

(B) Designation of agency

The lead agency, other than any entity of the intelligence community (as defined in

the National Security Act of 1947 [50 U.S.C. 401 et seq.]), shall, on behalf of the Committee, ensure that the requirements of subparagraph (A) with respect to any covered transaction that is subject to such subparagraph are met.

(3) Negotiation, modification, monitoring, and enforcement

(A) Designation of lead agency

The lead agency shall negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction, based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency. Nothing in this paragraph shall prohibit other departments or agencies in assisting the lead agency in carrying out the purposes of this paragraph.

(B) Reporting by designated agency

(i) Modification reports

The lead agency in connection with any agreement entered into or condition imposed with respect to a covered transaction shall—

(I) provide periodic reports to the Committee on any material modification to any such agreement or condition imposed with respect to the transaction; and

(II) ensure that any material modification to any such agreement or condition is reported to the Director of National Intelligence, the Attorney General of the United States, and any other Federal department or agency that may have a material interest in such modification.

(ii) Compliance

The Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that will allow the Committee to adequately assure compliance, without—

(I) unnecessarily diverting Committee resources from assessing any new covered transaction for which a written notice has been filed pursuant to subsection (b)(1)(C), and if necessary, reaching a mitigation agreement with or imposing a condition on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason; or

(II) placing unnecessary burdens on a party to a covered transaction.

(m) Annual report to Congress

(1) In general

The chairperson shall transmit a report to the chairman and ranking member of the committee of jurisdiction in the Senate and the House of Representatives, before July 31 of each year on all of the reviews and investigations of covered transactions completed under subsection (b) during the 12-month period covered by the report.

(2) Contents of report relating to covered transactions

The annual report under paragraph (1) shall contain the following information, with respect to each covered transaction, for the reporting period:

(A) A list of all notices filed and all reviews or investigations completed during the period, with basic information on each party to the transaction, the nature of the business activities or products of all pertinent persons, along with information about any withdrawal from the process, and any decision or action by the President under this section.

(B) Specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and decisions or actions by the President under this section.

(C) Cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

(D) Information on whether companies that withdrew notices to the Committee in accordance with subsection (b)(1)(C)(ii) have later refiled such notices, or, alternatively, abandoned the transaction.

(E) The types of security arrangements and conditions the Committee has used to mitigate national security concerns about a transaction, including a discussion of the methods that the Committee and any lead agency are using to determine compliance with such arrangements or conditions.

(F) A detailed discussion of all perceived adverse effects of covered transactions on the national security or critical infrastructure of the United States that the Committee will take into account in its deliberations during the period before delivery of the next report, to the extent possible.

(3) Contents of report relating to critical technologies

(A) In general

In order to assist Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall include in the annual report submitted under paragraph (1)—

(i) an evaluation of whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

(ii) an evaluation of whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

(B) Release of unclassified study

All appropriate portions of the annual report under paragraph (1) may be classified.

An unclassified version of the report, as appropriate, consistent with safeguarding national security and privacy, shall be made available to the public.

(n) Certification of notices and assurances

Each notice, and any followup information, submitted under this section and regulations prescribed under this section to the President or the Committee by a party to a covered transaction, and any information submitted by any such party in connection with any action for which a report is required pursuant to paragraph (3)(B) of subsection (*l*), with respect to the implementation of any mitigation agreement or condition described in paragraph (1)(A) of subsection (*l*), or any material change in circumstances, shall be accompanied by a written statement by the chief executive officer or the designee of the person required to submit such notice or information certifying that, to the best of the knowledge and belief of that person—

(1) the notice or information submitted fully complies with the requirements of this section or such regulation, agreement, or condition; and

(2) the notice or information is accurate and complete in all material respects.

(Sept. 8, 1950, ch. 932, title VII, §721, as added Pub. L. 100–418, title V, §5021, Aug. 23, 1988, 102 Stat. 1425; amended Pub. L. 102–484, div. A, title VIII, §837(a)–(c), (e), Oct. 23, 1992, 106 Stat. 2463–2465; Pub. L. 102–558, title I, §163, Oct. 28, 1992, 106 Stat. 4219; Pub. L. 103–359, title VIII, §809(d), Oct. 14, 1994, 108 Stat. 3454; Pub. L. 110–49, §§2–7(b), 8–10, July 26, 2007, 121 Stat. 246, 252–257, 259.)

REFERENCES IN TEXT

For the effective date of the Foreign Investment and National Security Act of 2007, referred to in subsecs. (b)(2)(E) and (h)(2), see section 12 of Pub. L. 110–49, set out as an Effective Date of 2007 Amendment note under section 5315 of Title 5, Government Organization and Employees.

The International Emergency Economic Powers Act, referred to in subsecs. (d)(4)(B) and (i), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

Section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004, referred to in subsec. (f)(9)(B), is section 7120 of Pub. L. 108–458, title VII, Dec. 17, 2004, 118 Stat. 3803, which is not classified to the Code.

Executive Order 11858, referred to in subsec. (k)(1), is set out as a note under this section.

The National Security Act of 1947, referred to in (*l*)(2)(B), is act July 26, 1947, ch. 343, 61 Stat. 495. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50, War and National Defense, and Tables.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–49, §2, added subsec. (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: ''The President or the President's designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination.''

Subsec. (b). Pub. L. 110–49, §2, added subsec. (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: ''The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover which could result in control of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

''(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

''(2) shall be completed not later than 45 days after its commencement.''

Subsec. (d). Pub. L. 110–49, §6, added subsec. (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: ''Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.''

Subsec. (e). Pub. L. 110–49, §6, added subsec. (e) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: ''The President may exercise the authority conferred by subsection (c) only if the President finds that—

''(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

''(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

''The provisions of subsection (d) of this section shall not be subject to judicial review.''

Subsec. (f). Pub. L. 110–49, §4(1), struck out ''among other factors'' after ''consider'' in introductory provisions.

Subsec. (f)(4)(B), (C). Pub. L. 110–49, §4(2)(A)–(C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(6) to (11). Pub. L. 110–49, §4(2)(D)–(4), added pars. (6) to (11).

Subsec. (g). Pub. L. 110–49, §7(a), amended subsec. (g) generally. Prior to amendment, text of subsec. (g) read as follows: ''The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f). Such report shall be consistent with the requirements of subsection (c) of this Act.''

Subsec. (h). Pub. L. 110–49, § 9, amended subsec. (h) generally. Prior to amendment, text of subsec. (h) read as follows: ''The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.''

Subsec. (i). Pub. L. 110–49, § 10, amended subsec. (i) generally. Prior to amendment, text of subsec. (i) read as follows: ''Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.''

Subsec. (k). Pub. L. 110–49, § 3, added subsec. (k) and struck out former subsec. (k) which defined ''critical technologies'' and required the the President and such agencies as the President shall designate to submit quadrennial reports, which could be classified, to Congress concerning credible evidence of a coordinated strategy by 1 or more countries or companies to acquire U.S. companies involved in critical technologies or foreign industrial espionage activities directed at obtaining commercial secrets related to critical technologies.

Subsec. (*l*). Pub. L. 110–49, § 5, added subsec. (*l*).

Subsec. (m). Pub. L. 110–49, § 7(b), added subsec. (m).

Subsec. (n). Pub. L. 110–49, § 8, added subsec. (n).

1994—Subsec. (k)(1)(B). Pub. L. 103–359 inserted ''or directly assisted'' after ''directed''.

1992—Subsecs. (b) to (e). Pub. L. 102–484, § 837(a), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 102–484, § 837(a)(1), (b), redesignated subsec. (e) as (f) and added pars. (4) and (5). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 102–484, § 837(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).''

Pub. L. 102–484, § 837(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h), (i). Pub. L. 102–484, § 837(a)(1), redesignated subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (j). Pub. L. 102–484, § 837(e), added subsec. (j).

Subsec. (k). Pub. L. 102–558 added subsec. (k).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–49 applicable after the end of the 90-day period beginning on July 26, 2007, see section 12 of Pub. L. 110–49, set out as a note under section 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as a note under section 2062 of this Appendix.

STUDY AND REPORT ON FOREIGN DIRECT INVESTMENTS IN UNITED STATES

Pub. L. 110–49, § 7(c), July 26, 2007, 121 Stat. 258, provided that:

''(1) STUDY REQUIRED.—Before the end of the 120-day period beginning on the date of enactment of this Act [July 26, 2007] and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study on foreign direct investments in the United States, especially investments in critical infrastructure and industries affecting national security, by—

''(A) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which comply with any boycott of Israel; or

''(B) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which do not ban organizations designated by the Secretary of State as foreign terrorist organizations.

''(2) REPORT.—Before the end of the 30-day period beginning upon the date of completion of each study under paragraph (1), and thereafter in each annual report under section 721(m) of the Defense Production Act of 1950 [50 U.S.C. App. 2170(m)] (as added by this section), the Secretary of the Treasury shall submit a report to Congress, for transmittal to all appropriate committees of the Senate and the House of Representatives, containing the findings and conclusions of the Secretary with respect to the study described in paragraph (1), together with an analysis of the effects of such investment on the national security of the United States and on any efforts to address those effects.''

EX. ORD. NO. 11858. FOREIGN INVESTMENT IN THE UNITED STATES

Ex. Ord. No. 11858, May 7, 1975, 40 F.R. 20263, as amended by Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 989; Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779; Ex. Ord. No. 12860, Sept. 3, 1993, 58 F.R. 47201; Ex. Ord. No. 13286, § 57, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of the following:

(1) The Secretary of State.

(2) The Secretary of the Treasury.

(3) The Secretary of Defense.

(4) The Secretary of Commerce.

(5) The United States Trade Representative.

(6) The Chairman of the Council of Economic Advisers.

(7) The Attorney General.

(8) The Secretary of Homeland Security.

(9) The Director of the Office of Management and Budget.

(9)[sic] the Director of the Office of Science and Technology Policy.

(10) the Assistant to the President for National Security Affairs.

(11) the Assistant to the President for Economic Policy.

The Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests;

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary; and

(5) coordinate the views of the Executive Branch and discharge the responsibilities with respect to Section 721(a) and (e) of the Defense Production Act of 1950 [50 U.S.C. App. 2170(a), (e)], as amended (50 U.S.C. App. 2061 *et seq.*) (''Defense Production Act'').

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

SEC. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

SEC. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a) [31 U.S.C. 5302], to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this order. This authority shall be in effect for one year, unless revoked prior thereto.

SEC. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this order.

SEC. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this order. Information or documentary material filed pursuant to Section 1(b)(5) or Section 7 of this Order shall be treated in accordance with paragraph (b) of Section 721 of the Defense Production Act [50 U.S.C. App. 2170(b)].

SEC. 6. Nothing in this order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this order shall not in any way supersede or prejudice any other process provided by law.

SEC. 7. (1) *Investigations*. (a) The Committee is designated to receive notices and other information, to determine whether investigations should be undertaken, and to make investigations, pursuant to Section 721(a) of the Defense Production Act [50 U.S.C. App. 2170(a)]. (b) If the Committee determines that an investigation should be undertaken, such investigation shall commence no later than 30 days after receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. Such investigation shall be completed no later than 45 days after such determination. (c) If one or more Committee members differ with a Committee decision not to undertake an investigation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision within 25 days after receipt by the Committee of written notification of the proposed or pending merger, acquisition, or takeover. (d) A unanimous decision by the Committee not to undertake an investigation with regard to a notice shall conclude action under this section on such notice. The Chairman shall advise the President of said decision.

(2) *Report to the President*. Upon completion or termination of any investigation, the Committee shall report to the President and present a recommendation. Any such report shall include information relevant to subparagraphs (1) and (2) of Section 721(d) of the Defense Production Act [50 U.S.C. App. 2170(d)(1), (2)]. If the Committee is unable to reach a unanimous recommendation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for his decision.

SEC. 8. The Chairman of the Committee, in consultation with other members of the Committee, is hereby delegated the authority to issue regulations to implement Section 721 of the Defense Production Act [50 U.S.C. App. 2170].

INTERIM DIRECTIVE REGARDING DISPOSITION OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

Memorandum of the President of the United States, Oct. 26, 1988, 53 F.R. 43999, provided:

Memorandum for the Secretary of the Treasury

By virtue of the authority vested in me by the Constitution and statutes of the United States, including without limitation Section 301 of Title 3 of the United States Code, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), and the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, August 23, 1988) (the ''Act'') [see Tables for classification], it is ordered as follows:

Pending the issuance of an Executive order to implement the Act, the Secretary of the Treasury is hereby designated and empowered to perform the following-described functions of the President: The authority vested in the President by Section 721 of the Defense Production Act of 1950, as amended [this section], relative to mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of the Act [Aug. 23, 1988] by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States.

The Secretary of the Treasury shall consult with the Committee on Foreign investment in the United States, established pursuant to Executive Order No. 11858 [set out above] and chaired by the representative of the Secretary of the Treasury, to take such actions or make such recommendations as requested by the Secretary of the Treasury.

The delegation provided herein shall terminate, and this interim directive shall be without any further effect, except as may be provided in the Executive order implementing the Act, upon the effective date of such order.

This interim directive shall be published in the Federal Register.

RONALD REAGAN.

§2170a. Prohibition on purchase of United States defense contractors by entities controlled by foreign governments

(a) In general

No entity controlled by a foreign government may merge with, acquire, or take over a company engaged in interstate commerce in the United States that—

(1) is performing a Department of Defense contract, or a Department of Energy contract under a national security program, that cannot be performed satisfactorily unless that company is given access to information in a proscribed category of information; or

(2) during the previous fiscal year, was awarded—

(A) Department of Defense prime contracts in an aggregate amount in excess of $500,000,000; or

(B) Department of Energy prime contracts under national security programs in an aggregate amount in excess of $500,000,000.

(b) Inapplicability to certain cases

The limitation in subsection (a) shall not apply if a merger, acquisition, or takeover is not suspended or prohibited pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(c) Definitions

In this section:

(1) The term ''entity controlled by a foreign government'' includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the President.

(2) The term ''proscribed category of information'' means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

(Pub. L. 102–484, div. A, title VIII, § 835, Oct. 23, 1992, 106 Stat. 2461.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Defense Production Act of 1950 which comprises sections 2061 to 2171 of this Appendix.

§ 2170b. Reports on foreign industrial espionage

(a) In general

(1) Submission and contents

In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) Date of submission

The President shall submit the report required under this subsection not later than six months after the date of the enactment of this Act [Oct. 14, 1994].

(b) Annual update

(1) Submittal to congressional intelligence committees

Not later each year than the date provided in section 507 of the National Security Act of 1947 [50 U.S.C. 415b], the President shall submit to the congressional intelligence committees a report updating the information referred to in subsection (a)(1)(D).

(2) Submittal to congressional leadership

Not later than April 14 each year, the President shall submit to the congressional leadership a report updating the information referred to in subsection (a)(1)(D).

(3) Definitions

In this subsection:

(A) Congressional intelligence committees

The term ''congressional intelligence committees'' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(B) Congressional leadership

The term ''congressional leadership'' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

(c) Form of reports

To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) Omitted

(e) Definition

For the purposes of this section, ''foreign industrial espionage'' means industrial espionage

conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

(Pub. L. 103–359, title VIII, § 809, Oct. 14, 1994, 108 Stat. 3454; Pub. L. 107–306, title VIII, § 811(b)(5)(A), Nov. 27, 2002, 116 Stat. 2423.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 103–359, Oct. 14, 1994, 108 Stat. 3423, known as the Intelligence Authorization Act for Fiscal Year 1995. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 809 of Pub. L. 103–359. Subsec. (d) of section 809 of Pub. L. 103–359 amended section 2170 of this Appendix.

Section was enacted as part of the Counterintelligence and Security Enhancements Act of 1994 and also as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the Defense Production Act of 1950 which comprises sections 2061 to 2171 of this Appendix.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–306 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Not later than one year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.''

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (b) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

§ 2171. Defense industrial base information system

(a) Establishment required

(1) In general

The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

(A) meets the requirements of this section; and

(B) includes a systematic continuous procedure, to collect and analyze information necessary to evaluate—

(i) the adequacy of domestic industrial capacity to furnish critical components and critical technology items essential to the national security of the United States;

(ii) dependence on foreign sources for critical components and critical technology items essential to defense production; and

(iii) the reliability of foreign sources for critical components and critical technology items.

(2) Incorporation of DINET

The Defense Information Network (or DINET), as established and maintained by the Secretary of Defense on the date of enactment of the Defense Production Act Amendments of 1992 [Oct. 28, 1992], shall be incorporated into the system established pursuant to paragraph (1).

(3) Use of information

Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act [sections 2061 to 2171 of this Appendix] and a procedure for using such information shall be integrated into the decision-making process with regard to the exercise of any such authority.

(b) Sources of information

(1) Foreign dependence

(A) Scope of information review

The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors, or at lower tiers if a critical component is identified at such lower tier.

(B) Use of existing data collection and review capabilities

To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

(C) Initial emphasis on priority lists

In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of critical components and critical technology items.

(2) Production base analysis

(A) Comprehensive review

The analysis of the production base for any major system acquisition included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

(i) include a review of all subcontractors and suppliers, beginning with any raw material, special alloy, or composite material involved in the production of a completed system;

(ii) identify each contractor and subcontractor (or supplier) at each level of production for such major system acquisition which represents a potential for delaying or preventing the system's production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign source or sole source for any item required in the production, including critical components; and

(iii) include information to permit appropriate management of accelerated or surge production.

(B) Initial requirement for study of production bases for not more than 6 major weapon systems

In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require an analysis of the production base for not more than 2 weapons of each military department which are major systems (as defined in section 2302(5) of title 10, United States Code). Each such analysis shall identify the critical components of each system.

(3) Consultation regarding the census of manufacturers

(A) In general

The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Administrator of the Federal Emergency Management Agency to improve the usefulness of information derived from the Census of Manufacturers in carrying out this section.

(B) Issues to be addressed

The consultation required under subparagraph (A) shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to carry out this section.

(c) Strategic plan for developing comprehensive system

(1) Plan required

Not later than December 31, 1993, the President shall provide for the establishment of and report to the Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components and critical technology items.

(2) Assessment of certain procedures

In establishing the plan pursuant to paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b), and shall seek to build upon such procedures, as appropriate.

(d) Capabilities of system

(1) In general

In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate—

(A) to consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system required by this section in a manner which allows the coordinated and efficient entry of information on the domestic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

(B) to assure access to the information on the system, as appropriate, for all participating Federal agencies, including each military department;

(C) to coordinate standards, definitions, and specifications for information on defense production, which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department, as the President determines to be appropriate; and

(D) to assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

(2) Task force on military-civilian participation

Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act [sections 2061 to 2171 of this Appendix] and chapter 148 of title 10, United States Code.

(e) Report on subcontractor and supplier base

(1) Report required

The President shall issue a report (in accordance with paragraph (4)[1] which includes—

(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

(B) an assessment of those subsectors of the economy of the United States which—

(i) support production of any component, technology, or technology item listed pursuant to subparagraph (A); or

(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

(2) Matters to be considered

The assessment made under paragraph (1)(B) shall include consideration of—

(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

[1] So in original. Probably should be followed by a closing parenthesis.

(C) the extent to which the production or acquisition of various items of military material is dependent on foreign sources; and

(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including—

(i) stability of defense requirements;

(ii) acquisition policies;

(iii) vertical integration of various segments of the industrial base;

(iv) superiority of foreign technology and production efficiencies;

(v) foreign government support of nondomestic sources; and

(vi) offset arrangements.

(3) Policy recommendations

The report required by paragraph (1) may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

(4) Time for issuance

The report required by paragraph (1) shall be issued not later than July 1 of each even-numbered year which begins after 1992.

(5) Release of unclassified report

The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.

(Sept. 8, 1950, ch. 932, title VII, § 722, as added Pub. L. 102–558, title I, § 135, Oct. 28, 1992, 106 Stat. 4212; amended Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (b)(3)(A) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE

Section deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102–558, set out as an Effective Date of 1992 Amendment note under section 2062 of this Appendix.

TERMINATION DATE

Termination of section, see section 2166(a) of this Appendix.

DOMESTIC MINERALS PROGRAM EXTENSION

ACT AUG. 7, 1953, CH. 339, 67 STAT. 417

Sec.
2181. Congressional declaration of policy.
2182. Extension of termination dates of mineral purchase programs.
2183. Quarterly ore reports to purchase program producers.

§ 2181. Congressional declaration of policy

It is recognized that the continued dependence on overseas sources of supply for strategic or critical minerals and metals during periods of threatening world conflict or of political instability within those nations controlling the sources of supply of such materials gravely endangers the present and future economy and security of the United States. It is therefore declared to be the policy of the Congress that each department and agency of the Federal Government charged with responsibilities concerning the discovery, development, production, and acquisition of strategic or critical minerals and metals shall undertake to decrease further and to eliminate where possible the dependency of the United States on overseas sources of supply of each such material.

(Aug. 7, 1953, ch. 339, § 2, 67 Stat. 417.)

SHORT TITLE

Section 1 of act Aug. 7, 1953, provided: ''That this Act [enacting sections 2181 to 2183 of this Appendix] may be cited as the 'Domestic Minerals Program Extension Act of 1953'.''

§ 2182. Extension of termination dates of mineral purchase programs

In accordance with the declaration of policy set forth in section 2 of this Act [section 2181 of this Appendix], the termination dates of all purchase programs designed to stimulate the domestic production of tungsten, manganese, chromite, mica, asbestos, beryl, and columbium-tantalum-bearing ores and concentrates and established by regulations issued pursuant to the Defense Production Act of 1950, as amended [sections 2061 to 2171 of this Appendix], shall be extended an additional two years: *Provided*, That this section is not intended and shall not be construed to limit or restrict the regulatory agencies from extending the termination dates of these programs beyond the two-year extension periods provided by this section or from increasing the quantity of materials that may be delivered and accepted under these programs as permitted by existing statutory authority: *Provided further*, That the extended termination date provided by this section for the columbium-tantalum purchase program shall not apply to the purchase of columbium-tantalum-bearing ores and concentrates of foreign origin.

(Aug. 7, 1953, ch. 339, § 3, 67 Stat. 417.)

§ 2183. Quarterly ore reports to purchase program producers

In order that those persons who produce or who plan to produce under purchase programs established pursuant to Public Law 774 (Eighty-first Congress) [section 2061 to 2171 of this Appendix] and Public Law 96 (Eighty-second Congress) may be in position to plan their investment and production with due regard to requirements, the responsible agencies controlling such purchase programs are directed to publish at the end of each calendar quarter the amounts of each of the ores and concentrates referred to in section 3 [section 2182 of this Appendix] purchased in that quarter and the total amounts of each which have been purchased under the program.

(Aug. 7, 1953, ch. 339, § 4, 67 Stat. 417.)

REFERENCES IN TEXT

Public Law 774 (Eighty-first Congress), referred to in text, means act Sept. 8, 1950, ch. 932, 64 Stat. 798, as amended, known as the Defense Production Act of 1950, which is classified to sections 2061 et seq. of this Appendix. For complete classification of this Act to the Code, see section 2061 of this Appendix and Tables.

Public Law 96 (Eighty-second Congress), referred to in text, means act July 31, 1951, ch. 275, 65 Stat. 131, known as the Defense Production Act Amendments of 1951, which amended sections 1884, 1892 to 1896, 1898, 1899, 2071, 2072, 2074, 2081, 2093, 2094, 2102, 2103, 2105, 2109, 2122, 2123, 2131, 2133, 2135, 2151, 2153 to 2156, 2160, and 2163a to 2166 of this Appendix, repealed section 694f of former Title 38, Pensions, Bonuses, and Veterans' Relief, and enacted provisions set out as notes under sections 1907 and 2061 of this Appendix. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 2061 of this Appendix and Tables.

DOMESTIC TUNGSTEN, ASBESTOS, FLUORSPAR AND COLUMBIUM-TANTALUM PURCHASE PROGRAMS

ACT JULY 19, 1956, CH. 638, 70 STAT. 579

§§ 2191 to 2195. Omitted

CODIFICATION

Sections 2191 to 2195 terminated Dec. 31, 1958, pursuant to section 2194 of this Appendix.

Section 2191, act July 19, 1956, ch. 638, § 2, 70 Stat. 579, related to authorization of certain purchase programs by Department of the Interior.

Section 2192, act July 19, 1956, ch. 638, § 3, 70 Stat. 580, related to availability of materials purchased under sections 2191 to 2195 of this Appendix to the strategic stockpile.

Section 2193, act July 19, 1956, ch. 638, § 4, 70 Stat. 580, related to promulgation of regulations and delegation of certain functions.

Section 2194, act July 19, 1956, ch. 638, § 5, 70 Stat. 580, provided that programs established pursuant to sections 2191 to 2195 of this Appendix were to terminate on Dec. 31, 1958.

Section 2195, act July 19, 1956, ch. 638, § 6, 70 Stat. 580, authorized appropriations for purposes of sections 2191 to 2195 of this Appendix.

DEPENDENTS ASSISTANCE ACT OF 1950

ACT SEPT. 8, 1950, CH. 992, 64 STAT. 794

§§ 2201 to 2209. Omitted

CODIFICATION

Sections 2201 to 2209 terminated July 1, 1973, pursuant to section 2216 of this Appendix.

Section 2201, acts Sept. 8, 1950, ch. 922, § 1, 64 Stat. 794; Sept. 7, 1962, Pub. L. 87–649, § 10, 76 Stat. 496, provided for determination of dependency of parents.

Section 2202, acts Sept. 8, 1950, ch. 922, § 2, 64 Stat. 795; Sept. 7, 1962, Pub. L. 87–649, § 10, 76 Stat. 496, related to dependents of enlisted members in grades E–4 to E–1.

Section 2203, acts Sept. 8, 1950, ch. 922, § 3, 64 Stat. 795; July 10, 1962, Pub. L. 89–731, § 4(1), 76 Stat. 153; Sept. 7, 1962, Pub. L. 87–649, § 10, 76 Stat. 451; Dec. 16, 1967, Pub. L. 90–207, § 4, 81 Stat. 654; Sept. 28, 1971, Pub. L. 92–129, title II, § 206, 85 Stat. 359, related to quarters allowances for enlisted members.

Section 2204, acts Sept. 8, 1950, ch. 922, § 4, 64 Stat. 795; Sept. 7, 1962, Pub. L. 87–649, § 10, 76 Stat. 496; Sept. 28, 1971, Pub. L. 92–129, title II, § 207, 85 Stat. 359, related to quarters allowances and allotments of pay.

Section 2204(a)–(e) was formerly classified to section 252(g)–(k) of former Title 37, Pay and Allowances, prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87–649, § 1, Sept. 7, 1962, 76 Stat. 451.

Section 2205, act Sept. 8, 1950, ch. 922, § 5, 64 Stat. 796, provided that quarters allowance shall not be contingent on right to pay.

Section 2206, act Sept. 8, 1950, ch. 922, § 6, 64 Stat. 796, related to allowance and allotment without consent of enlisted member. See sections 553 and 602 of Title 37.

Section 2207, acts Sept. 8, 1950, ch. 922, § 7, 64 Stat. 796; July 10, 1962, Pub. L. 87–531, § 4(2), 76 Stat. 153; Sept. 28, 1971, Pub. L. 92–129, title II, § 208, 85 Stat. 359, provided for enlisted members not affected by act Sept. 8, 1950, ch. 922, as amended.

Section 2208, acts Sept. 8, 1950, ch. 922, § 8, 64 Stat. 796; July 10, 1962, Pub. L. 87–531, § 4(3), 76 Stat. 153, provided for aviation cadets.

Section 2209, act Sept. 8, 1950, ch. 922, § 9, 64 Stat. 796, related to members furnished Government quarters.

SHORT TITLE

Section 17 of act Sept. 8, 1950, ch. 922, 64 Stat. 797, provided that sections 2201 to 2216 of this Appendix were to be cited as the ''Dependents Assistance Act of 1950''.

REQUIREMENT OF ALLOTMENT OF PAY BY ENLISTED MEMBERS

Act Oct. 12, 1949, ch. 681, title III, § 302(h), 63 Stat. 812, as amended by act July 10, 1962, Pub. L. 87–531, § 3, 76 Stat. 152, provided that the payment of the basic quarters allowance provided for in section 2203 of this Appendix for certain enlisted men with dependents was to be made only for such period as the enlisted men had in effect allotments of pay not less than the sums of the basic allowances for quarters to which the members were entitled plus $40, for the support of the dependent or dependents on whose account the allowances were claimed, provided that such allotments were not to be required in certain cases, that such allotments could be modified in particular instances by regulation of the Secretary of the Department concerned, and that the minimum allotments required for any month were to be based on the lowest rates of basic quarters allowances to which the members were entitled and the lowest pay grades in which the members served during such month.

§§ 2210 to 2212. Repealed. Pub. L. 93–64, title I, § 101, July 9, 1973, 87 Stat. 147

Section 2210, act Sept. 8, 1950, ch. 922, § 10, 64 Stat. 796, authorized regulations and provided for determinations and waivers and delegation of authority.

Section 2211, act Sept. 8, 1950, ch. 922, § 11, 64 Stat. 797, provided for conclusiveness of determinations and waivers, modifications thereof, and waiver of erroneous payments. See section 5584 of Title 5, Government Organization and Employees, section 2774 of Title 10, Armed Forces, and section 716 of Title 32, National Guard.

Section 2212, act Sept. 8, 1950, ch. 922, § 12, 64 Stat. 797, related to allowance of credit by General Accounting Office for accounts of disbursing officers making erroneous payments. See section 5584 of Title 5, Government Organization and Employees, section 2774 of Title 10, Armed Forces, and section 716 of Title 32, National Guard.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as an Effective Date of 1973 Amendment note under section 401 of Title 37, Pay and Allowances of the Uniformed Services.

§§ 2213 to 2216. Omitted

CODIFICATION

Sections 2213 to 2216 terminated July 1, 1973, pursuant to section 2216 of this Appendix.

Section 2213, act Sept. 8, 1950, ch. 922, § 13, 64 Stat. 797, related to erroneous payments under Servicemen's Dependents Act of 1942.

Section 2213a, act Sept. 8, 1950, ch. 922, § 13a, as added July 24, 1956, ch. 697, 70 Stat. 634, provided penalty for fraudulent acceptance of benefits.

Section 2214, act Sept. 8, 1950, ch. 922, § 14, 64 Stat. 797, provided for discharge for hardship. See section 1173 of Title 10, Armed Forces.

Section 2215, act Sept. 8, 1950, ch. 922, § 15, 64 Stat. 797, related to effective date of act Sept. 8, 1950, ch. 922.

Section 2216, acts Sept. 8, 1950, ch. 922, § 16, 64 Stat. 797; Mar. 23, 1953, ch. 8, 67 Stat. 6; June 30, 1955, ch. 250, title I, § 103, 69 Stat. 224; Mar. 23, 1959, Pub. L. 86–4, § 3, 73 Stat. 13; Mar. 28, 1963, Pub. L. 82–2, § 3, 77 Stat. 4; June 30, 1967, Pub. L. 90–40, § 3, 81 Stat. 105; Sept. 28, 1971, Pub. L. 92–129, title I, § 105, 85 Stat. 355, provided for termination on July 1, 1973, of sections 2201 to 2209 and 2213 to 2216 of this Appendix.

CIVIL DEFENSE

ACT JAN. 12, 1951, CH. 1228, 64 STAT. 1245

TITLE I—GENERAL PROVISIONS

Sec.
2251 to 2264. Repealed.

TITLE II—ORGANIZATION OF ADMINISTRATION

2271, 2272. Repealed.

TITLE III—POWERS AND DUTIES

2281 to 2284. Repealed.
2285. Real property transactions.
2286 to 2289. Repealed.

TITLE IV—EMERGENCY AUTHORITY

2291 to 2297. Repealed.

TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

2301 to 2303. Repealed.

TITLE I—GENERAL PROVISIONS

§§ 2251 to 2264. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), (b)(2), Oct. 5, 1994, 108 Stat. 3111

Section 2251, acts Jan. 12, 1951, ch. 1228, § 2, 64 Stat. 1246; Aug. 8, 1958, Pub. L. 85–606, § 2, 72 Stat. 532; July 14, 1976, Pub. L. 94–361, title VIII, § 804(a), 90 Stat. 931; Dec. 1, 1981, Pub. L. 97–86, title VIII, § 803(b), 95 Stat. 1112; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIV, § 3402(a), 107 Stat. 1962, provided that the purpose of sections 2251 to 2303 of this Appendix was to provide a system of civil defense. See section 5195 of Title 42, The Public Health and Welfare.

Section 2252, acts Jan. 12, 1951, ch. 1228, § 3, 64 Stat. 1246; Dec. 1, 1981, Pub. L. 97–86, title VIII, § 803(c), 95 Stat. 1112; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIV, § 3402(b), (f)(2), 107 Stat. 1963, 1964, defined terms used in sections 2251 to 2303 of this Appendix. See section 5195a of Title 42.

Section 2253, acts Jan. 12, 1951, ch. 1228, title IV, § 401, 64 Stat. 1254; June 28, 1955, ch. 189, § 12(c)(2), 69 Stat. 180; Aug. 8, 1958, Pub. L. 85–606, § 5, 72 Stat. 534; Aug. 19, 1964, Pub. L. 88–448, title IV, § 402(a)(30), 78 Stat. 494, related to powers and duties of Administrator in carrying out sections 2251 to 2303 of this Appendix. See section 5197 of Title 42.

Section 2254, act Jan. 12, 1951, ch. 1228, title IV, § 402, 64 Stat. 1255, related to exemption from certain employment restrictions.

Section 2255, acts Jan. 12, 1951, ch. 1228, title IV, § 403, 64 Stat. 1255; Mar. 5, 1952, ch. 78, § 1(b), 66 Stat. 13, directed Administrator to establish security restrictions with respect to access to information and property and provided for employee loyalty oaths. See section 5197a of Title 42.

Section 2256, act Jan. 12, 1951, ch. 1228, title IV, § 404, 64 Stat. 1256, related to transfer of functions, property, and personnel of Civil Defense Administration to Administration established by sections 2251 to 2303 of this Appendix.

Section 2257, act Jan. 12, 1951, ch. 1228, title IV, § 405, 64 Stat. 1256, related to utilization by Administrator of existing facilities. See section 5197b of Title 42.

Section 2258, act Jan. 12, 1951, ch. 1228, title IV, § 406, 64 Stat. 1256, directed Administrator to submit annual reports to Congress and the President. See section 5197c of Title 42.

Section 2259, act Jan. 12, 1951, ch. 1228, title IV, § 407, 64 Stat. 1256, related to applicability of sections 2251 to 2303 of this Appendix. See section 5197d of Title 42.

Section 2260, acts Jan. 12, 1951, ch. 1228, title IV, § 408, 64 Stat. 1257; Aug. 8, 1958, Pub. L. 85–606, § 6, 72 Stat. 534; Aug. 2, 1972, Pub. L. 92–360, § 1(2), 86 Stat. 503; July 14, 1976, Pub. L. 94–361, title VIII, § 804(b), 90 Stat. 931; Nov. 9, 1979, Pub. L. 96–107, title VII, § 702, 93 Stat. 810; Dec. 1, 1981, Pub. L. 97–86, title VIII, § 802, 95 Stat. 1111; Oct. 19, 1984, Pub. L. 98–525, title VIII, § 802, 98 Stat. 2572, related to appropriations and transfers of funds. See section 5197e of Title 42.

Section 2261, act Jan. 12, 1951, ch. 1228, title IV, § 409, 64 Stat. 1257, related to loans from Reconstruction Finance Corporation for civil defense projects.

Section 2262, act Jan. 12, 1951, ch. 1228, title IV, § 410, 64 Stat. 1257, related to effect of sections 2251 to 2303 of this Appendix on Atomic Energy Act of 1946. See section 5197f of Title 42.

Section 2263, act Jan. 12, 1951, ch. 1228, title IV, § 411, 64 Stat. 1257, related to investigations of espionage, sabotage, and subversive acts. See section 5197g of Title 42.

Section 2264, act June 2, 1951, ch. 121, Ch. XI, 65 Stat. 61, established a civil defense procurement fund.

SHORT TITLE

Section 1 of act Jan. 12, 1951, which provided that the act of Jan. 12, 1951, enacting sections 2251 to 2297 of this Appendix, was to be cited as the ''Federal Civil Defense Act of 1950'', prior to repeal by Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111.

SEPARABILITY

Section 412 of act Jan. 12, 1951, provided for separability of provisions for act of Jan. 12, 1951, prior to repeal by Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111.

APPLICABILITY OF REORGANIZATION PLAN NO. 1 OF 1958

Section 413 of act Jan. 12, 1951, as added by Pub. L. 85–606, § 7, provided that the applicability of Reorg. Plan No. 1 of 1958 (23 F.R. 4991) was to extend to any amendment of act Jan. 12, 1951, prior to repeal by Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111.

TITLE II—ORGANIZATION OF ADMINISTRATION

§§ 2271, 2272. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111

Section 2271, act Jan. 12, 1951, ch. 1228, title I, § 101, 64 Stat. 1247, related to establishment of Federal Civil Defense Administration.

Section 2272, act Jan. 12, 1951, ch. 1228, title I, § 102, 64 Stat. 1247, created the Civil Defense Advisory Council which was abolished by section 3(a)(3) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 Stat. 9579, 87 Stat. 1089, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

TITLE III—POWERS AND DUTIES

§§ 2281 to 2284. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111

Section 2281, acts Jan. 12, 1951, ch. 1228, title II, § 201, 64 Stat. 1248; Mar. 5, 1952, ch. 78, § 1(a), 66 Stat. 13; June

25, 1952, ch. 461, 66 Stat. 158; Aug. 2, 1956, ch. 888, § 1, 70 Stat. 949; Aug. 8, 1958, Pub. L. 85–606, § 3(a)(1), (2), (b), (c), 72 Stat. 532, 533; Oct. 4, 1961, Pub. L. 87–390, 75 Stat. 820; June 30, 1964, Pub. L. 88–335, 78 Stat. 231; June 10, 1968, Pub. L. 90–336, 82 Stat. 175; Aug. 2, 1972, Pub. L. 92–360, § 1(1), 86 Stat. 503; July 14, 1976, Pub. L. 94–361, title VIII, § 804(c), 90 Stat. 932; Dec. 1, 1981, Pub. L. 97–86, title VIII, § 803(d), 95 Stat. 1113; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIV, § 3402(c)(1), 107 Stat. 1964, related to functions and powers of Administrator. See section 5196 of Title 42, The Public Health and Welfare.

Section 2282, act Jan. 12, 1951, ch. 1228, title II, § 202, 64 Stat. 1251, defined ''national defense'' and ''defense'' for purposes of former section 2081 of this Appendix. See section 5195a(b) of Title 42.

Section 2283, act Jan. 12, 1951, ch. 1228, title II, § 203, 64 Stat. 1251, related to mutual aid pacts between States and neighboring countries. See section 5196a of Title 42.

Section 2284, act Jan. 12, 1951, ch. 1228, title II, § 204, 64 Stat. 1251, related to insignia, arm bands, and other distinctive articles to be worn or possessed by persons engaged in civil defense activities.

§ 2285. Real property transactions

(a) Reports to the Armed Services Committees

The Director of the Office of Civil and Defense Mobilization, or his designee, may not enter into any of the following listed transactions by or for the use of that agency until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives:

(1) An acquisition of fee title to any real property, if the estimated price is more than $50,000.

(2) A lease of any real property to the United States, if the estimated annual rental is more than $50,000.

(3) A lease of real property owned by the United States, if the estimated annual rental is more than $50,000.

(4) A transfer of real property owned by the United States to another Federal agency or to a State, if the estimated value is more than $50,000.

(5) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $50,000.

If a transaction covered by clause (1) or (2) is part of a project, the report must include a summarization of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made.

(b) Annual reports to Armed Services Committees

The Director of the Office of Civil and Defense Mobilization shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than $5,000 but not more than $50,000.

(c) Real property governed by this section

This section applies only to real property in the States of the Union, the District of Columbia, and Puerto Rico. It does not apply to real property for river and harbor projects or flood-control projects, or to leases of Government-owned real property for agricultural or grazing purposes.

(d) Recital of compliance in instrument of conveyance as conclusive

A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive.

(Aug. 10, 1956, ch. 1041, § 43, 70A Stat. 636; Pub. L. 86–70, § 37, June 25, 1959, 73 Stat. 150; Pub. L. 86–500, title V, § 512, June 8, 1960, 74 Stat. 187; Pub. L. 86–624, § 38, June 12, 1960, 74 Stat. 421; Pub. L. 96–470, title II, § 202(c), Oct. 19, 1980, 94 Stat. 2242.)

CODIFICATION

Section was formerly classified to section 171x of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

Section was not enacted as a part of the Federal Civil Defense Act of 1950 which formerly comprised sections 2251 to 2303 of this Appendix.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–470 substituted ''annually'' for ''quarterly''.

1960—Subsec. (a). Pub. L. 86–500 substituted ''Director of the Office of Civil and Defense Mobilization'' for ''Administrator of the Federal Civil Defense Administration'', prohibited the Director from entering into any of the transactions listed in subsec. (a) until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives, and increased the amounts in cls. (1) to (5) from $25,000 to $50,000.

Subsec. (b). Pub. L. 86–500 substituted ''Director of the Office of Civil and Defense Mobilization'' for ''Administrator'' and ''$50,000'' for ''$25,000''.

Subsec. (c). Pub. L. 86–624 substituted ''States of the Union, the District of Columbia'' for ''United States, Hawaii.''

Pub. L. 86–500 struck out '', Hawaii,'' after ''United States''.

Subsec. (d). Pub. L. 86–500 reenacted subsection without change.

1959—Subsec. (c). Pub. L. 86–70 struck out ''Alaska,'' after ''United States,''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (b) of this section is listed as the 10th item on page 169), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Functions of Federal Civil Defense Administration transferred to President by section 1 of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare. The Plan created a new agency in Executive Office of President known as Office of Defense and Civilian Mobilization.

Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861, amended Reorg. Plan No. 1 of 1958 by redesignating Office of Defense and Civilian Mobilization as Office of Civil and Defense Mobilization.

Pub. L. 87–296, Sept. 22, 1961, 75 Stat. 630, amended Reorg. Plan No. 1 of 1958 by redesignating Office of Civil and Defense Mobilization as Office of Emergency Planning.

Office of Emergency Planning renamed Office of Emergency Preparedness pursuant to section 402 of Pub. L. 90–608, Oct. 21, 1968, 82 Stat. 1194, which provided that references to Office of Emergency Planning after Oct. 21, 1968, should be deemed references to Office of Emergency Preparedness.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

Functions vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order, proclamation, or other directive issued by or on behalf of President or otherwise, with certain exceptions, transferred to Administrator of General Services, effective July 1, 1973, by Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175, formerly set out as a note under section 2271 of this Appendix.

Functions of Administrator of Federal Civil Defense Administration under this section, previously transferred to President, delegated to Director of Federal Emergency Management Agency by section 4–105 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43242, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2286. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111

Section, act Jan. 12, 1951, ch. 1228, title II, § 205, as added Aug. 8, 1958, Pub. L. 85–606, § 4, 72 Stat. 533; amended June 30, 1964, Pub. L. 88–335, 78 Stat. 231; June 10, 1968, Pub. L. 90–336, 82 Stat. 175; Aug. 2, 1972, Pub. L. 92–360, § 1(1), 86 Stat. 503; July 14, 1976, Pub. L. 94–361, title VIII, § 804(d), 90 Stat. 932; Dec. 1, 1981, Pub. L. 97–86, title VIII, § 803(a)(2), (e), 95 Stat. 1112, 1113; Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIV, § 3402(c)(2), (f)(3), 107 Stat. 1964, 1965, related to financial contributions to States for personnel and administrative expenses. See section 5196b of Title 42, The Public Health and Welfare.

§ 2287. Repealed. Pub. L. 97–214, § 7(8), July 12, 1982, 96 Stat. 173

Section, Pub. L. 89–568, title VI, § 610, Sept. 12, 1966, 80 Stat. 756; Pub. L. 90–110, title VIII, § 807, Oct. 21, 1967, 81 Stat. 308, related to fallout protection. Provisions similar to this section were contained in the Military Construction Authorization Act, 1966, Pub. L. 89–188, title VI, § 608, Sept. 16, 1965, 79 Stat. 818.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§§ 2288, 2289. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111

Section 2288, act Jan. 12, 1951, ch. 1228, title II, § 206, as added Sept. 8, 1980, Pub. L. 96–342, title VII, § 703(a)(1), 94 Stat. 1089, related to requirement for State matching funds for construction of emergency operating centers. See section 5196c of Title 42, The Public Health and Welfare.

Section 2289, act Jan. 12, 1951, ch. 1228, title II, § 207, as added Dec. 1, 1981, Pub. L. 97–86, title VIII, § 803(a)(1), 95 Stat. 1112; amended Nov. 30, 1993, Pub. L. 103–160, div. C, title XXXIV, § 3402(d)(1), 107 Stat. 1964, related to use of funds for attack-related civil defense and disaster-related civil defense. See section 5196d of Title 42.

TITLE IV—EMERGENCY AUTHORITY

§§ 2291 to 2297. Repealed. Pub. L. 103–337, div. C, title XXXIV, § 3412(a), Oct. 5, 1994, 108 Stat. 3111

Section 2291, act Jan. 12, 1951, ch. 1228, title III, § 301, 64 Stat. 1251, provided that sections 2291 to 2297 of this Appendix applied only during civil defense emergencies and related to proclamation and termination of these emergencies.

Section 2292, act Jan. 12, 1951, ch. 1228, title III, § 302, 64 Stat. 1251, related to utilization of Federal departments and agencies during civil defense emergencies.

Section 2293, act Jan. 12, 1951, ch. 1228, title III, § 303, 64 Stat. 1252, related to emergency powers of Administrator.

Section 2294, act Jan. 12, 1951, ch. 1228, title III, § 304, 64 Stat. 1253, related to governmental immunity from liability for death or injury to employees and to employee benefits.

Section 2295, act Jan. 12, 1951, ch. 1228, title III, § 305, 64 Stat. 1253, related to waiver of provisions of Administrative Procedure Act, sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

Section 2296, act Jan. 12, 1951, ch. 1228, title III, § 306, 64 Stat. 1253, related to compensation for acquisition of nongovernmental property, return of the property to the owner, and disposal of surplus property.

Section 2297, acts Jan. 12, 1951, ch. 1228, title III, § 307, 64 Stat. 1254; June 3, 1954, ch. 253, 68 Stat. 170; July 11, 1958, Pub. L. 85–514, 72 Stat. 356; June 27, 1962, Pub. L. 87–501, 76 Stat. 111; June 30, 1966, Pub. L. 89–483, 80 Stat. 235; June 30, 1970, Pub. L. 91–299, 84 Stat. 367, provided that sections 2291 to 2297 of this Appendix terminated on June 30, 1974, or on such earlier date as prescribed by concurrent resolution of Congress. Sections 2291 to 2297 terminated June 30, 1974, pursuant to section 2297 of this Appendix.

TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

§§ 2301 to 2303. Repealed. Pub. L. 103–160, div. C, title XXXIV, § 3402(e)(1), Nov. 30, 1993, 107 Stat. 1964

Section 2301, act Jan. 12, 1951, ch. 1228, title V, § 501, as added Sept. 8, 1980, Pub. L. 96–342, title VII, § 702(a), 94 Stat. 1088, related to sense of Congress concerning improved civil defense program.

Section 2302, act Jan. 12, 1951, ch. 1228, title V, § 502, as added Sept. 8, 1980, Pub. L. 96–342, title VII, § 702(a), 94 Stat. 1088, listed elements of improved civil defense program.

Section 2303, act Jan. 12, 1951, ch. 1228, title V, § 503, as added Sept. 8, 1980, Pub. L. 96–342, title VII, § 702(a), 94 Stat. 1089, granted administrative authority to develop and implement improved civil defense program.

EMERGENCY FOOD AID TO INDIA

ACT JUNE 15, 1951, CH. 138, 65 STAT. 69

§§ 2311 to 2316. Omitted

CODIFICATION

Sections 2311 to 2316 of this Appendix were omitted from the Code in view of the termination of the emergency need which they were enacted to meet.

Section 2311, act June 15, 1951, ch. 138, § 2, 65 Stat. 70, related to emergency food relief assistance to India on credit terms including payment by transfer to the United States of materials required by the United States due to deficiencies in its own resources, particularly those found to be strategic and critical.

Section 2312, act June 15, 1951, ch. 138, § 3, 65 Stat. 70, related to amount of money available for loan during the period ending June 30, 1952.

Section 2313, act June 15, 1951, ch. 138, § 4, 65 Stat. 70, related to permissible use of funds to meet the emergency need arising from the flood, drought, and other conditions existing in India in 1950.

Section 2314, act June 15, 1951, ch. 138, § 5, 65 Stat. 70, related to transportation of supplies, to advances by Reconstruction Finance Corporation to Department of Commerce for activation and operation of vessels for such transportation, and to repayment of advances.

Section 2315, act June 15, 1951, ch. 138, § 6, 65 Stat. 71, related to payment of charges for ocean freight of relief packages and to funds available for such payment.

Section 2316, act June 15, 1951, ch. 138, § 7, 65 Stat. 71, related to establishment of special deposit account in the United States Treasury created by repayments of interest by India on or before Jan. 1, 1957, to uses of funds in the account, and to disbursements from the account.

KOREAN COMBAT PAY

ACT JULY 10, 1952, CH. 630, TITLE VII, 66 STAT. 538

§§ 2351 to 2356. Repealed. Pub. L. 88–132, § 9(b), Oct. 2, 1963, 77 Stat. 216

Section 2351, act July 10, 1952, ch. 630, title VII, § 702, 66 Stat. 538, defined terms for purposes of sections 2351 to 2356 of this Appendix.

Section 2352, act July 10, 1952, ch. 630, title VII, § 703, 66 Stat. 539, related to conditions governing payment of combat pay to members and former members of the uniformed services.

Section 2353, act July 10, 1952, ch. 630, title VII, § 704, 66 Stat. 539, related to members of the uniformed services killed in action, injured in action, and missing in action.

Section 2354, act July 10, 1952, ch. 630, title VII, § 705, 66 Stat. 539, related to limitations on combat payments.

Section 2355, act July 10, 1952, ch. 630, title VII, § 706, 66 Stat. 539, related to regulations for the administration of sections 2351 to 2356 of this Appendix.

Section 2356, act July 10, 1952, ch. 630, title VII, § 707, 66 Stat. 539, related to determinations of fact, conclusiveness of findings, and availability of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

WORLD WAR II LICENSE AGREEMENTS

ACT AUG. 16, 1950, CH. 716, 64 STAT. 448

Sec.
2371. Modification or cancellation of certain license agreements granted Government during World War II.

§ 2371. Modification or cancellation of certain license agreements granted Government during World War II

Notwithstanding any other provision of law, the head of any department or other agency in the executive branch of the Government which subsequent to September 9, 1939, entered into any contract or agreement with the holder of any privately owned patent or any right thereunder whereby such holder granted to the United States, without payment of royalty or with reduction or limitation of royalty, any license under such patent or right, is authorized, upon application of the grantor of such license, to enter into such supplemental contract or agreement for the cancellation of the contract or agreement by which such license was granted as the head of such department or agency shall deem to be warranted by equities existing by reason of changes in circumstances occurring since the granting of such license.

(Aug. 16, 1950, ch. 716, 64 Stat. 448.)

CODIFICATION

Section was formerly classified to section 119 of former Title 35, Patents, prior to the general revision and enactment of Title 35, Patents, by act July 19, 1952, ch. 950, § 1, 66 Stat. 792.

EMERGENCY SHIP REPAIR PROGRAM

ACT AUG. 20, 1954, CH. 777, 68 STAT. 754

§§ 2391 to 2394. Repealed. Pub. L. 101–225, title III, § 307(16), Dec. 12, 1989, 103 Stat. 1925

Section 2391, act Aug. 20, 1954, ch. 777, § 2, 68 Stat. 754, set out purpose of Act as providing for the immediate improvement of merchant vessels in reserve fleet under jurisdiction of Secretary of Commerce, thereby stimulating shipbuilding and ship repair industries of Nation.

Section 2392, act Aug. 20, 1954, ch. 777, § 3, 68 Stat. 754, directed Secretary of Commerce, after consultation with Secretary of Defense, to formulate and carry out a modernization program for merchant vessels in national defense reserve under jurisdiction of Secretary of Commerce.

Section 2393, acts Aug. 20, 1954, ch. 777, § 4, 68 Stat. 754; Aug. 6, 1956, ch. 1012, 70 Stat. 1067, directed Secretary of Commerce to contract before July 1, 1958, for repair and modernization of vessels after inviting single bids or split bids or both and specified that expenditures not exceed $25,000,000, that contracts be with private shipbuilding or ship repair yards in the United States, and that contracts conform to the Federal Property and Administrative Services Act of 1949, 41 U.S.C. 251 et seq.

Section 2394, act Aug. 20, 1954, ch. 777, § 5, 68 Stat. 755, authorized appropriations not in excess of $25,000,000 to carry out this Act.

EXPORT REGULATION

PUB. L. 96–72, SEPT. 29, 1979, 93 STAT. 503

Sec.
2401. Congressional findings.
2402. Congressional declaration of policy.
2403. General provisions.
2403–1 to 2403a. Repealed or Omitted.
2404. National security controls.
2405. Foreign policy controls.
2406. Short supply controls.
2407. Foreign boycotts.
2408. Procedures for hardship relief from export controls.

Sec.
2409. Procedures for processing export license applications; other inquiries.
2410. Violations.
2410a. Multilateral export control violations.
2410b. Missile proliferation control violations.
2410c. Chemical and biological weapons proliferation sanctions.
2411. Enforcement.
2411a. Omitted.
2412. Administrative procedure and judicial review.
2413. Annual report.
2414. Administrative and regulatory authority.
2415. Definitions.
2416. Effect on other Acts.
2417. Authorization of appropriations.
2418. Effective date.
2419. Termination date.
2420. Savings provisions.

§2401. Congressional findings

The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the economic well-being of the United States and the stability of the world economy by increasing employment and production in the United States, and by earning foreign exchange, thereby contributing favorably to the trade balance. The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(3) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, consistent with the economic, security, and foreign policy objectives of the United States.

(4) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(5) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(6) Uncertainty of export control policy can inhibit the efforts of United States business and work to the detriment of the overall attempt to improve the trade balance of the United States.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

(9) Minimization of restrictions on exports of agricultural commodities and products is of critical importance to the maintenance of a sound agricultural sector, to a positive contribution to the balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.

(10) It is important that the administration of export controls imposed for foreign policy purposes give special emphasis to the need to control exports of goods and substances hazardous to the public health and the environment which are banned or severely restricted for use in the United States, and which, if exported, could affect the international reputation of the United States as a responsible trading partner.

(11) Availability to controlled countries of goods and technology from foreign sources is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

(12) Excessive dependence of the United States, its allies, or countries sharing common strategic objectives with the United States, on energy and other critical resources from potential adversaries can be harmful to the mutual and individual security of all those countries.

(Pub. L. 96–72, §2, Sept. 29, 1979, 93 Stat. 503; Pub. L. 99–64, title I, §102, July 12, 1985, 99 Stat. 120; Pub. L. 103–199, title II, §201(a), Dec. 17, 1993, 107 Stat. 2320.)

PRIOR PROVISIONS

A prior section 2401, Pub. L. 91–184, §2, Dec. 30, 1969, 83 Stat. 841; Pub. L. 92–412, title I, §102, Aug. 29, 1972, 86 Stat. 644; Pub. L. 93–500, §4(a), Oct. 29, 1974, 88 Stat. 1553, setting forth findings of Congress with respect to the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1993—Pars. (11) to (13). Pub. L. 103–199 redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11) which read as follows: ''The acquisition of national security sensitive goods and technology by the Soviet Union and other countries the actions or policies of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.''

1985—Par. (2). Pub. L. 99–64, §102(1), substituted ''by earning foreign exchange, thereby contributing favorably to the trade balance'' for ''by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation''.

Par. (3). Pub. L. 99–64, §102(2), substituted ''consistent with the economic, security, and foreign policy objectives of the United States'' for ''which would strengthen the Nation's economy''.

Par. (6). Pub. L. 99–64, §102(3), amended par. (6) generally, substituting ''inhibit the efforts of United States business and work'' for ''curtail the efforts of American business''.

Par. (9). Pub. L. 99–64, § 102(4), substituted ''a positive contribution to the balance of payments'' for ''achievement of a positive balance of payments''.

Pars. (10) to (13). Pub. L. 99–64, § 102(5), added pars. (10) to (13).

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–418, title II, § 2441, Aug. 23, 1988, 102 Stat. 1364, provided that: ''This part [part II (§§ 2441–2447) of subtitle D of title II of Pub. L. 100–418, enacting section 2410a of this Appendix, amending sections 2404 and 2413 of this Appendix and section 1864 of Title 19, Customs Duties, and enacting provisions set out as notes under section 2410a of this Appendix] may be cited as the 'Multilateral Export Control Enhancement Amendments Act'.''

SHORT TITLE OF 1985 AMENDMENT

Section 1 of Pub. L. 99–64 provided that: ''Titles I and II of this Act [enacting sections 4051 to 4053 of Title 15, Commerce and Trade, section 1864 of Title 19, Customs Duties, and section 466c of Title 46, Appendix, Shipping, amending this section and sections 2402, 2403, 2404 to 2406, 2409 to 2411, 2412 to 2417, and 2419 of this Appendix, sections 5314 and 5315 of Title 5, Government Organization and Employees, sections 2304 and 2778 of Title 22, Foreign Relations and Intercourse, and section 185 of Title 30, Mineral Lands and Mining, and enacting provisions set out as notes under sections 2404, 2405, and 2414 of this Appendix and section 5314 of Title 5] may be cited as the 'Export Administration Amendments Act of 1985'.''

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–145, § 1, Dec. 29, 1981, 95 Stat. 1727, provided: ''That this Act [amending sections 2405, 2410, 2411, and 2417 of this Appendix and enacting provisions set out as notes under sections 2405, 2410, and 2417 of this Appendix] may be cited as the 'Export Administration Amendments Act of 1981'.''

SHORT TITLE

Section 1 of Pub. L. 96–72 provided that: ''This Act [enacting this section and sections 2402 to 2420 of this Appendix, amending section 1732 of Title 7, Agriculture, sections 2778 and 3108 of Title 22, Foreign Relations and Intercourse, section 993 of Title 26, Internal Revenue Code, and sections 6212 and 6274 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 2406 and 2409 of this Appendix and section 3108 of Title 22] may be cited as the 'Export Administration Act of 1979'.''

EXECUTIVE ORDER NO. 11753

Ex. Ord. No. 11753, Dec. 20, 1973, 38 F.R. 34983, which established the President's Export Council, was revoked by section 1–402 of Ex. Ord. No. 12131, May 4, 1979, 44 F.R. 26842, set out below.

EX. ORD. NO. 12131. PRESIDENT'S EXPORT COUNCIL

Ex. Ord. No. 12131, May 4, 1979, 44 F.R. 26841, as amended by Ex. Ord. No. 12551, Feb. 21, 1986, 21 F.R. 6509; Ex. Ord. No. 12991, Mar. 6, 1996, 61 F.R. 9587; Ex. Ord. No. 13138, § 5, Sept. 30, 1999, 64 F.R. 53880; Ex. Ord. No. 13316, § 5, Sept. 17, 2003, 68 F.R. 55256, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to expand the membership of the President's Export Council, in accord with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), it is hereby ordered as follows:

1–1. ESTABLISHMENT AND MEMBERSHIP

1–101. There is established the President's Export Council.

1–102. The membership of the Council shall be as follows:

(a) The heads of the following executive agencies or their representatives:

(1) Department of State.
(2) Department of the Treasury.
(3) Department of Agriculture.
(4) Department of Commerce.
(5) Department of Labor.
(6) Department of Energy.
(7) Department of Homeland Security.
(8) Office of the United States Trade Representative.
(9) Export-Import Bank of the United States.
(10) Small Business Administration.

(b) Five members of the United States Senate, designated by the President of the Senate, and five members of the United States House of Representatives, designated by the Speaker of the House, to serve for a two-year term.

(c) Not to exceed 28 citizens appointed by the President. These individuals shall be selected from those who are not full,time Federal officers or employees. They shall include representatives of business and industry, agriculture, and labor.

1–103. The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

1–104. The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

1–2. FUNCTIONS

1–201. The Council shall serve as a national advisory body on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy, which was announced on September 26, 1978. It shall, through the Secretary of Commerce, report to the President on its activities and on its recommendations for expanding United States exports.

1–202. The Council should survey and evaluate the export expansion activities of the communities represented by the membership. It should identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade, and examine the needs of business, industry, and agriculture to expand their efforts. The Council should recommend specific solutions to these problems and needs.

1–203. The Council may act as liaison among the communities represented by the membership; and, may provide a forum for those communities on current and emerging problems and issues in the field of export expansion. The Council should encourage the business, industrial, and agricultural communities to enter new foreign markets and to expand existing export programs.

1–204. The Council shall provide advice on Federal plans and actions that affect export expansion policies which have an impact on those communities represented by the membership.

1–205. The Council may establish, with the concurrence of the Secretary of Commerce, an executive committee and such other subordinate committees it considers necessary for the performance of its functions. The Chairman of a subordinate committee shall be designated, with the concurrence of the Secretary of Commerce, by the Chairman of the Council from among the membership of the Council. Members of subordinate committees shall be appointed by the Secretary of Commerce.

1–3. ADMINISTRATIVE PROVISIONS

1–301. The Secretary of Commerce shall, to the extent permitted by law, provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

1–302. Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, in-

cluding per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

1–4. GENERAL PROVISIONS

1–401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Council, shall be performed by the Secretary of Commerce in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. Executive Order No. 11753 is revoked; however, nothing in this Order shall be deemed to require new charters for the Council, including its executive and subordinate committees, which were current immediately prior to the issuance of this Order.

1–403. The Council shall terminate on December 31, 1980, unless sooner extended.

EXTENSION OF TERM OF PRESIDENT'S EXPORT COUNCIL

Term of the President's Export Council extended until Dec. 31, 1982, by section 1–101(*l*) of Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the President's Export Council extended until Sept. 30, 1984, by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1985, by Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1987, by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1989, by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1991, by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1993, by Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1995, by Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(m), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2005, by Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2007, by Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Export Council extended until Sept. 30, 2009, by Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

§ 2402. Congressional declaration of policy

The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments or common strategic objectives.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the

export of goods or technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make reasonable and prompt efforts to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before imposing export controls. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls.

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments or common strategic objectives in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments or common strategic objectives, and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

(10) It is the policy of the United States that export trade by United States citizens be given a high priority and not be controlled except when such controls (A) are necessary to further fundamental national security, foreign policy, or short supply objectives, (B) will clearly further such objectives, and (C) are administered consistent with basic standards of due process.

(11) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.

(12) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange.

(13) It is the policy of the United States to control the export of goods and substances banned or severely restricted for use in the United States in order to foster public health and safety and to prevent injury to the foreign policy of the United States as well as to the credibility of the United States as a responsible trading partner.

(14) It is the policy of the United States to cooperate with countries which are allies of the United States and countries which share common strategic objectives with the United States in minimizing dependence on imports of energy and other critical resources from potential adversaries and in developing alternative supplies of such resources in order to minimize strategic threats posed by excessive hard currency earnings derived from such resource exports by countries with policies adverse to the security interests of the United States.

(Pub. L. 96–72, § 3, Sept. 29, 1979, 93 Stat. 504; Pub. L. 99–64, title I, § 103, July 12, 1985, 99 Stat. 121; Pub. L. 103–199, title II, § 201(b)(2), Dec. 17, 1993, 107 Stat. 2321.)

PRIOR PROVISIONS

A prior section 2402, Pub. L. 91–184, § 3, Dec. 30, 1969, 83 Stat. 841; Pub. L. 92–412, title I, § 103, Aug. 29, 1972, 86 Stat. 644; Pub. L. 93–500, §§ 2, 4(b), (c), 11, Oct. 29, 1974, 88 Stat. 1552, 1553, 1556; Pub. L. 95–52, title I, § 115, title II, § 202, June 22, 1977, 91 Stat. 241, 247, setting forth declaration of policy of Congress with respect to the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1993—Par. (15). Pub. L. 103–199 struck out par. (15) which read as follows: ''It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard Korean Air Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.''

1985—Par. (3). Pub. L. 99–64, § 103(1), inserted ''or common strategic objectives'' after ''defense treaty commitments''.

Par. (7). Pub. L. 99–64, § 103(2), substituted ''the President shall make reasonable and prompt efforts'' for ''the President shall make every reasonable effort'', and ''imposing export controls'' for ''resorting to the imposition of controls on exports from the United States''.

Par. (8). Pub. L. 99–64, § 103(3), substituted ''the President shall make reasonable and prompt efforts'' for ''the President shall make every reasonable effort'', and ''imposing export controls'' for ''resorting to the imposition of export controls''.

Par. (9). Pub. L. 99–64, § 103(4), inserted ''or common strategic objectives'' after ''commitments'' in two places, and inserted '', and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States''.

Pars. (12) to (15). Pub. L. 99–64, § 103(5), added pars. (12) to (15).

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

POLICY REGARDING KAL

Section 201(b)(1) of Pub. L. 103–199 provided that: ''The Congress finds that—

''(A) President Yeltsin should be commended for meeting personally with representatives of the families of the victims of the shootdown of Korean Airlines (KAL) Flight 7;

''(B) President Yeltsin's Government has met on two separate occasions with United States Government and family members to answer questions associated with the shootdown and has arranged for the families to interview Russians involved in the incident or the search and rescue operations that followed;

''(C) President Yeltsin's Government has also cooperated fully with the International Civil Aviation Organization (ICAO) to allow it to complete its investigation of the incident and has provided numerous materials requested by the ICAO, including radar data and so-called 'black boxes', the digital flight data and cockpit voice recorders from the flight;

''(D) the Export Administration Act of 1979 [sections 2401 to 2420 of this Appendix] continues to state that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the 'no exceptions' policy was rescinded by President Bush in 1990;

''(E) the Government of the United States is seeking compensation from the Russian Government on behalf of the families of the KAL victims, and the Congress expects the Administration to continue to pursue issues related to the shootdown, including that of compensation, with officials at the highest level of the Russian Government; and

''(F) in view of the cooperation provided by President Yeltsin and his government regarding the KAL incident and these other developments, it is appropriate to remove such language from the Export Administration Act of 1979.''

POLICY ON MISSILE TECHNOLOGY CONTROL

Pub. L. 101–510, div. A, title XVII, § 1701, Nov. 5, 1990, 104 Stat. 1738, provided that: ''It should be the policy of the United States to take all appropriate measures—

''(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

''(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

''(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

''(4) with respect to the Missile Technology Control Regime ('MTCR') and its participating governments—

''(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

''(B) to increase the number of countries that adhere to the MTCR; and

''(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.''

§ 2403. General provisions

(a) Types of licenses

Under such conditions as may be imposed by the Secretary which are consistent with the provisions of this Act [sections 2401 to 2420 of this Appendix], the Secretary may require any of the following types of export licenses:

(1) A validated license, authorizing a specific export, issued pursuant to an application by the exporter.

(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to, the following:

(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than controlled countries, except that the Secretary may establish a type of distribution license appropriate for consignees in the People's Republic of China. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to controlled countries. The Secretary shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. The Secretary's determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses issued under this Act [sections 2401 to 2420 of this Appendix]. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area, or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of a distribution license.

(B) A comprehensive operations license, authorizing exports and reexports of technology and related goods, including items from the list of militarily critical technologies developed pursuant to section 5(d) of this Act [section 2404(d) of this Appendix] which are included on the control list in accordance with that section, from a domestic concern to and among its foreign subsidiaries, affiliates, joint venturers, and licensees that have long-term, contractually defined relations with the exporter, are located in countries other than controlled countries (except the People's Republic of China), and are approved by the Secretary. The Secretary shall grant the license to manufacturing, laboratory, or related oper-

ations on the basis of approval of the exporter's systems of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act [section 2411(a) of this Appendix] and with the assistance of all appropriate agencies, shall periodically, but not less frequently than annually, perform audits of licensing procedures under this subparagraph in order to assure the integrity and effectiveness of those procedures.

(C) A project license, authorizing exports of goods or technology for a specified activity.

(D) A service supply license, authorizing exports of spare or replacement parts for goods previously exported.

(3) A general license, authorizing exports, without application by the exporter.

(4) Such other licenses as may assist in the effective and efficient implementation of this Act [sections 2401 to 2420 of this Appendix].

(b) Control list

The Secretary shall establish and maintain a list (hereinafter in this Act [sections 2401 to 2420 of this Appendix] referred to as the ''control list'') stating license requirements (other than for general licenses) for exports of goods and technology under this Act [sections 2401 to 2420 of this Appendix].

(c) Foreign availability

In accordance with the provisions of this Act [sections 2401 to 2420 of this Appendix], the President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in sufficient quantities and comparable in quality to those produced in the United States so as to render the controls ineffective in achieving their purposes, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. In complying with the provisions of this subsection, the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and the Secretary of Defense shall cooperate in gathering information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system.

(d) Right of export

No authority or permission to export may be required under this Act [sections 2401 to 2420 of this Appendix], or under regulations issued under this Act [sections 2401 to 2420 of this Appendix], except to carry out the policies set forth in section 3 of this Act [section 2402 of this Appendix].

(e) Delegation of authority

The President may delegate the power, authority, and discretion conferred upon him by this Act [sections 2401 to 2420 of this Appendix] to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act [sections 2401 to 2420 of this Appendix] may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State pursuant to the provisions of this Act [sections 2401 to 2420 of this Appendix].

(f) Notification of public; consultation with business

The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act [sections 2401 to 2420 of this Appendix] with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls, in order to obtain their views on United States export control policy and the foreign availability of goods and technology.

(g) Fees

No fee may be charged in connection with the submission or processing of an export license application.

(Pub. L. 96–72, § 4, Sept. 29, 1979, 93 Stat. 505; Pub. L. 99–64, title I, § 104, July 12, 1985, 99 Stat. 122; Pub. L. 100–418, title II, §§ 2411, 2412, Aug. 23, 1988, 102 Stat. 1347.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, known as the Export Administration Act of 1979, which enacted sections 2401 to 2420 of this Appendix, amended section 1732 of Title 7, Agriculture, sections 2778 and 3108 of Title 22, Foreign Relations and Intercourse, section 993 of Title 26, Internal Revenue Code, and sections 6212 and 6274 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 2401, 2406, and 2409 of this Appendix and section 3108 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of this Appendix and Tables.

PRIOR PROVISIONS

A prior section 2403, Pub. L. 91–184, § 4, Dec. 30, 1969, 83 Stat. 842; Pub. L. 92–412, title I, § 104(a), (b)(1), Aug. 29, 1972, 86 Stat. 644, 645; Pub. L. 93–500, §§ 3(a), 5(a), 7, 9, 10, 12, Oct. 29, 1974, 88 Stat. 1552–1557; Pub. L. 95–52, title I, §§ 103(a), (b)(1)–(3), (c), 104–110, 113(b), title II, § 201(b), June 22, 1977, 91 Stat. 235–239, 241, 246; Pub. L. 95–223, title III, § 301(a), (b)(1), Dec. 28, 1977, 91 Stat. 1629; Pub. L. 95–384. § 6(d)(2), Sept. 26, 1978, 92 Stat. 731; Pub. L. 95–435, § 5(d), Oct. 10, 1978, 92 Stat. 1052; Pub. L. 96–67, § 2, Sept. 21, 1979, 93 Stat. 415, setting forth provisions relating to authorities to effectuate policies and limitations on exercise of authorities, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (a)(2)(A). Pub. L. 100–418, § 2412(1), inserted exception authorizing the Secretary to establish a type of distribution license appropriate to consignees in the People's Republic of China.

Subsec. (a)(2)(B). Pub. L. 100–418, § 2412(2), inserted ''(except the People's Republic of China)'' after ''controlled countries''.

Subsec. (g). Pub. L. 100–418, §2411, added subsec. (g).

1985—Subsec. (a)(2). Pub. L. 99–64, §104(a), amended par. (2) generally, substituting provisions relating to validated licenses authorizing multiple exports including, but not limited to, distribution licenses, comprehensive operations licenses, project licenses, and service supply licenses, for former provisions which read: ''A qualified general license, authorizing multiple exports, issued pursuant to an application by the exporter.''

Subsec. (b). Pub. L. 99–64, §104(b), substituted ''Control list'' for ''Commodity control list'' in heading and, in text, substituted ''control list'' for ''commodity control list'' and ''stating license requirements (other than for general licenses) for exports of goods and technology under this Act'' for ''consisting of any goods or technology subject to export controls under this Act''.

Subsec. (c). Pub. L. 99–64, §104(c), substituted ''sufficient'' for ''significant'', inserted ''so as to render the controls ineffective in achieving their purposes'', and inserted provisions directing that, in complying with the provisions of this subsection, the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability, and that the Secretary and the Secretary of Defense shall cooperate in gathering information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system.

Subsec. (f). Pub. L. 99–64, §104(d), amended subsec. (f) generally, substituting ''representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls, in order to obtain their views on United States export control policy and the foreign availability of goods and technology'' for ''representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE ORDER NO. 11533

Ex. Ord. No. 11533, June 4, 1970, 35 F.R. 8799, as amended by Ex. Ord. No. 11907, Mar. 1, 1976, 41 F.R. 9085, which provided for the administration of the Export Administration Act of 1969, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out below.

EXECUTIVE ORDER NO. 11677

Ex. Ord. No. 11677, Aug. 1, 1972, 37 F.R. 15483, formerly set out as a note under this section, which provided for the regulation of exports, was revoked by Ex. Ord. No. 11683, Aug. 29, 1972, 37 F.R. 17813.

EXECUTIVE ORDER NO. 11683

Ex. Ord. No. 11683, Aug. 29, 1972, 37 F.R. 17813, which revoked Ex. Ord. No. 11677, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out below.

EXECUTIVE ORDER NO. 11798

Ex. Ord. No. 11798, Aug. 14, 1974, 39 F.R. 29567, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out below.

EXECUTIVE ORDER NO. 11818

Ex. Ord. No. 11818, Nov. 5, 1974, 39 F.R. 39429, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out below.

EXECUTIVE ORDER NO. 11940

Ex. Ord. No. 11940, Sept. 30, 1976, 41 F.R. 43707, which provided for the continuing regulation of exports, was revoked by Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, set out below.

EX. ORD. NO. 12002. ADMINISTRATION OF EXPORT ADMINISTRATION ACT

Ex. Ord. No. 12002, July 7, 1977, 42 F.R. 35623, as amended by Ex. Ord. No. 12755, Mar. 12, 1991, 56 F.R. 11057; Ex. Ord. No. 13286, §54, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Except as provided in Section 2, the power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), hereinafter referred to as the Act, are delegated to the Secretary of Commerce, with the power of successive redelegation.

SEC. 2. (a) The power, authority and discretion conferred upon the President in Sections 4(h) and 4(l) of the Act are retained by the President.

(b) The power, authority and discretion conferred upon the President in Section 3(8) of the Act [section 2402(8) of this Appendix], which directs that every reasonable effort be made to secure the removal or reduction of assistance by foreign countries to international terrorists through cooperation and agreement, are delegated to the Secretary of State, with the power of successive redelegation.

SEC. 3. The Export Administration Review Board, hereinafter referred to as the Board, which was established by Executive Order No. 11533 of June 4, 1970, as amended, is hereby continued. The Board shall continue to have as its members, the Secretary of Commerce, who shall be Chairman of the Board, the Secretary of State, and the Secretary of Defense. The Secretary of Energy, the Secretary of Homeland Security, and the Director of the United States Arms Control and Disarmament Agency shall be members of the Board, and shall participate in meetings that consider issues involving nonproliferation of armaments and other issues within their respective statutory and policy-making authorities. The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence shall be non-voting members of the Board. No alternate Board members shall be designated, but the acting head or deputy head of any department or agency may serve in lieu of the head of the concerned department or agency. The Board may invite the heads of other United States Government departments or agencies, other than the agencies represented by the Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

SEC. 4. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, concerns about the nonproliferation of armaments, and the domestic economy, and shall make recommendation thereon to the Secretary of Commerce.

SEC. 5. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in this Order, and (b)

communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Act and, as the Secretary deems necessary, may refer to the President recommendations made by the Board under Section 4 of this Order. Neither the provisions of this section nor those of Section 4 shall be construed as limiting the provisions of Section 1 of this Order.

SEC. 6. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under, or continued in existence by, the Executive orders revoked in Section 7 of this Order, and not revoked administratively or legislatively, shall remain in full force and effect under this Order until amended, modified, or terminated by proper authority. The revocations in Section 7 of this Order shall not affect any violation of any rules, regulations, orders, licenses or other forms of administrative action under those Orders during the period those Orders were in effect.

SEC. 7. Executive Order No. 11533 of June 4, 1970, Executive Order No. 11683 of August 29, 1972, Executive Order No. 11798 of August 14, 1974, Executive Order No. 11818 of November 5, 1974, Executive Order No. 11907 of March 1, 1976, and Executive Order No. 11940 of September 30, 1976 are hereby revoked.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

EX. ORD. NO. 12214. ADMINISTRATION OF EXPORT ADMINISTRATION ACT

Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, provided:

By the authority vested in me as President of the United States of America by Section 4(e) of the Export Administration Act of 1979 (Public Law 96–72; 50 U.S.C. App. 2403(e)), it is hereby ordered as follows:

1–101. Except as provided in Section 1–102, the functions conferred upon the President by the provisions of the Export Administration Act of 1979, hereinafter referred to as the Act (Public Law 96–72; 50 U.S.C. App. 2401 et seq.), are delegated to the Secretary of Commerce.

1–102. (a) The functions conferred upon the President by Sections 4(e), 5(c), 5(f)(1), 5(h)(6), 6(k), 7(d)(2), 10(g) and 20 of the Act [50 U.S.C. App. 2403(e), 2404(c), 2404(f)(1), 2404(h)(6), 2405(k), 2406(d)(2), 2409(g) and 2419] are reserved to the President.

(b) The functions conferred upon the President by Sections 5(f)(4), 5(i), and 6(g) of the Act [50 U.S.C. App. 2404(f)(4), 2404(i), and 2405(g)] are delegated to the Secretary of State.

1–103. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued or otherwise taken under, or continued in existence by, Section 21 of the Act [50 U.S.C. App. 2420] or Executive Order No. 12002 [set out above], and not revoked administratively or legislatively, shall remain in full force and effect until amended, modified, or terminated by proper authority. This Order does not supersede or otherwise affect Executive Order No. 12002.

1–104. Except to the extent inconsistent with this Order, all actions previously taken pursuant to any function delegated or assigned by this Order shall be deemed to have been taken and authorized by this Order.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12264

Ex. Ord. No. 12264, Jan. 15, 1981, 46 F.R. 4659, which related to the Federal policy regarding the export of banned or significantly restricted substances, was revoked by Ex. Ord. No. 12290, Feb. 17, 1981, 46 F.R. 12943, set out below.

EX. ORD. NO. 12290. IMPLEMENTATION OF EXPORT ADMINISTRATION ACT WITH MINIMUM REGULATORY BURDEN

Ex. Ord. No. 12290, Feb. 17, 1981, 46 F.R. 12943, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to ensure that the Export Administration Act of 1979 [sections 2401 to 2420 of this Appendix] is implemented with the minimum regulatory burden, Executive Order No. 12264 of January 15, 1981, entitled ''On Federal Policy Regarding the Export of Banned or Significantly Restricted Substances,'' is hereby revoked.

RONALD REAGAN.

CONTINUATION OF EXPORT CONTROL REGULATIONS

Provisions relating to continued effectiveness of the Export Administration Act of 1979, 50 U.S.C. App. 2401 et seq., and to issuance and continued effectiveness of rules, regulations, orders, licenses, and other forms of administrative action and delegations of authority relating to administration of that Act, were contained in the following:

Ex. Ord. No. 13222, Aug. 17, 2001, 66 F.R. 44025, listed in a table under section 1701 of Title 50, War and National Defense.

Ex. Ord. No. 13206, Apr. 4, 2001, 66 F.R. 18397, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12924, Aug. 19, 1994, 59 F.R. 43437, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 13206, §1, Apr. 4, 2001, 66 F.R. 18397.

Ex. Ord. No. 12923, June 30, 1994, 59 F.R. 34551, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12924, §4, Aug. 19, 1994, 59 F.R. 43438.

Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12730, Sept. 30, 1990, 55 F.R. 40373, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747.

Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12470, Mar. 30, 1984, 49 F.R. 13099, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757.

Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12444, Oct. 14, 1983, 48 F.R. 48215, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563.

EX. ORD. NO. 12981. ADMINISTRATION OF EXPORT CONTROLS

Ex. Ord. No. 12981, Dec. 5, 1995, 60 F.R. 62981, as amended by Ex. Ord. No. 13020, Oct. 12, 1996, 61 F.R. 54079; Ex. Ord. No. 13026, §1(b), Nov. 15, 1996, 61 F.R. 58767; Ex. Ord. No. 13117, Mar. 31, 1999, 64 F.R. 16591, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et. seq.*) (''the Act''), and in order to take additional steps with respect to the national emergency described and declared in Executive Order No. 12924 of August 19, 1994 [listed in a table under section 1701 of Title 50, War and National Defense], and continued on August 15, 1995, I, WILLIAM J. CLINTON, President of the United States of America, find that it is necessary for the procedures set forth below to apply to export license applications submitted under the Act and the Export Administration Regulations (15 C.F.R. Part 730 *et. seq.*) (''the Regulations'') or under any renewal of, or successor to, the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et. seq.*) (''the Export Administration Act''), and the Regulations. Accordingly, it is hereby ordered as follows:

SECTION 1. *License Review*. To the extent permitted by law and consistent with Executive Order No. 12924 of August 19, 1994, the power, authority, and discretion

conferred upon the Secretary of Commerce (''the Secretary'') under the Export Administration Act to require, review, and make final determinations with regard to export licenses, documentation, and other forms of information submitted to the Department of Commerce pursuant to the Act and the Regulations or under any renewal of, or successor to, the Export Administration Act and the Regulations, with the power of successive redelegation, shall continue. The Departments of State, Defense, and Energy each shall have the authority to review any export license application submitted to the Department of Commerce pursuant to the Act and the Regulations or under any renewal of, or successor to, the Export Administration Act and the Regulations. The Secretary may refer license applications to other United States Government departments or agencies for review as appropriate. In the event that a department or agency determines that certain types of applications need not be referred to it, such department or agency shall notify the Department of Commerce as to the specific types of such applications that it does not wish to review. All departments or agencies shall promptly respond, on a case-by-case basis, to requests from other departments or agencies for historical information relating to past license applications.

SEC. 2. *Determinations*. (a) All license applications submitted under the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations, shall be resolved or referred to the President no later than 90 calendar days after registration of the completed license application.

(b) The following actions related to processing a license application submitted under the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations shall not be counted in calculating the time periods prescribed in this order:

(1) *Agreement of the Applicant*. Delays upon which the Secretary and the applicant mutually agree.

(2) *Prelicense Checks*. Prelicense checks through government channels that may be required to establish the identity and reliability of the recipient of items controlled under the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations, provided that:

(A) the need for such prelicense check is established by the Secretary, or by another department or agency if the request for prelicense check is made by such department or agency;

(B) the Secretary requests the prelicense check within 5 days of the determination that it is necessary; and

(C) the Secretary completes the analysis of the result of the prelicense check within 5 days.

(3) *Requests for Government-To-Government Assurances*. Requests for government-to-government assurances of suitable end-use of items approved for export under the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations, when failure to obtain such assurances would result in rejection of the application, provided that:

(A) the request for such assurances is sent to the Secretary of State within 5 days of the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days of the Secretary's receipt of the requested assurances. Whenever such prelicense checks and assurances are not requested within the time periods set forth above, they must be accomplished within the time periods established by this section.

(4) *Multilateral Reviews*. Multilateral review of a license application as provided for under the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations, as long as multilateral review is required by the relevant multilateral regime.

(5) *Consultations*. Consultation with other governments, if such consultation is provided for by a relevant multilateral regime or bilateral arrangement as a precondition for approving a license.

SEC. 3. *Initial Processing*. Within 9 days of registration of any license application, the Secretary shall, as appropriate:

(a) request additional information from the applicant. The time required for the applicant to supply the additional information shall not be counted in calculating the time periods prescribed in this section.

(b) refer the application and pertinent information to agencies or departments as stipulated in section 1 of this order, and forward to the agencies any relevant information submitted by the applicant that could not be reduced to electronic form.

(c) assure that the stated classification on the application is correct; return the application if a license is not required; and, if referral to other departments or agencies is not required, grant the application or notify the applicant of the Secretary's intention to deny the application.

SEC. 4. *Department or Agency Review*. (a) Each reviewing department or agency shall specify to the Secretary, within 10 days of receipt of a referral as specified in subsection 3(b), any information not in the application that would be required to make a determination, and the Secretary shall promptly request such information from the applicant. If, after receipt of the information so specified or other new information, a reviewing department or agency concludes that additional information would be required to make a determination, it shall promptly specify that additional information to the Secretary, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by the reviewing department or agency and the date the information is received by the reviewing department or agency shall not be counted in calculating the time periods prescribed in this order. Such information specified by reviewing departments or agencies is in addition to any information that may be requested by the Department of Commerce on its own initiative during the first 9 days after registration of an application.

(b) Within 30 days of receipt of a referral and all required information, a department or agency shall provide the Secretary with a recommendation either to approve or deny the license application. As appropriate, such recommendation may be with the benefit of consultation and discussions in interagency groups established to provide expertise and coordinate interagency consultation. A recommendation that the Secretary deny a license shall include a statement of the reasons for such recommendation that are consistent with the provisions of the Act and the Regulations or any renewal of, or successor to, the Export Administration Act and the Regulations and shall cite both the statutory and the regulatory bases for the recommendation to deny. A department or agency that fails to provide a recommendation within 30 days with a statement of reasons and the statutory and regulatory bases shall be deemed to have no objection to the decision of the Secretary.

SEC. 5. *Interagency Dispute Resolution*. (a) *Committees*. (1)(A) *Export Administration Review Board*. The Export Administration Review Board (''the Board''), which was established by Executive Order No. 11533 of June 4, 1970 [formerly set out above], and continued in Executive Order No. 12002 of July 7, 1977 [set out above], is hereby continued. The Board shall have as its members, the Secretary, who shall be Chair of the Board, the Secretary of State, the Secretary of Defense, and the Secretary of Energy[.] The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence shall be nonvoting members of the Board. No alternate Board members shall be designated, but the acting head or deputy head of any member department or agency may serve in lieu of the head of the concerned department or agency. The Board may invite the heads of other United States Government departments or agencies, other than the departments or agencies represented by the Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

(B) The Secretary may, from time to time, refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, the domestic economy, and concerns about the proliferation of armaments, weapons of mass destruction, missile delivery systems, and advanced conventional weapons and shall make recommendations thereon to the Secretary.

(2) *Advisory Committee on Export Policy*. An Advisory Committee on Export Policy (''ACEP'') is established and shall have as its members the Assistant Secretary of Commerce for Export Administration, who shall be Chair of the ACEP, and Assistant Secretary-level representatives of the Departments of State, Defense, and Energy[.] Appropriate representatives of the Joint Chiefs of Staff and of the Nonproliferation Center of the Central Intelligence Agency shall be nonvoting members of the ACEP. Representatives of the departments or agencies shall be the appropriate Assistant Secretary or equivalent (or appropriate acting Assistant Secretary or equivalent in lieu of the Assistant Secretary or equivalent) of the concerned department or agency, or appropriate Deputy Assistant Secretary or equivalent (or the appropriate acting Deputy Assistant Secretary or equivalent in lieu of the Deputy Assistant Secretary or equivalent) of the concerned department or agency. Regardless of the department or agency representative's rank, such representative shall speak and vote at the ACEP on behalf of the appropriate Assistant Secretary or equivalent of such department or agency. The ACEP may invite Assistant Secretary-level representatives of other United States Government departments or agencies, other than the departments and agencies represented by the ACEP members, to participate in the activities of the ACEP when matters of interest to such departments or agencies are under consideration.

(3)(A) *Operating Committee*. An Operating Committee (''OC'') of the ACEP is established. The Secretary shall appoint its Chair, who shall also serve as Executive Secretary of the ACEP. Its other members shall be representatives of appropriate agencies in the Departments of Commerce, State, Defense, and Energy[.] The appropriate representatives of the Joint Chiefs of Staff and the Nonproliferation Center of the Central Intelligence Agency shall be nonvoting members of the OC. The OC may invite representatives of other United States Government departments or agencies, other than the departments and agencies represented by the OC members, to participate in the activities of the OC when matters of interest to such departments or agencies are under consideration.

(B) The OC shall review all license applications on which the reviewing departments and agencies are not in agreement. The Chair of the OC shall consider the recommendations of the reviewing departments and agencies and inform them of his or her decision on any such matters within 14 days after the deadline for receiving department and agency recommendations. However, for license applications concerning commercial communication satellites and hot-section technologies for the development, production, and overhaul of commercial aircraft engines that are transferred from the United States Munitions List to the Commerce Control List pursuant to regulations issued by the Departments of Commerce and State after the date of this order, the Chair of the OC shall inform reviewing departments and agencies of the majority vote decision of the OC. As described below, any reviewing department or agency may appeal the decision of the Chair of the OC, or the majority vote decision of the OC in cases concerning the commercial communication satellites and hot-section technologies described above, to the Chair of the ACEP. In the absence of a timely appeal, the Chair's decision (or the majority vote decision in the case of license applications concerning the commercial communication satellites and hot-section technologies described above) will be final.

(b) *Resolution Procedures*. (1) If any department or agency disagrees with a licensing determination of the Department of Commerce made through the Chair of the OC (or a majority vote decision of the OC in the case of license applications concerning the commercial communication satellites and the hot-section technologies described in section 5(a)(3)(B)), it may appeal the matter to the ACEP for resolution. A department or agency must appeal a matter within 5 days of such a decision. Appeals must be in writing from an official appointed by the President, by and with the advice and consent of the Senate, or an officer properly acting in such capacity, and must cite both the statutory and the regulatory bases for the appeal. The ACEP shall review all departments' and agencies' information and recommendations, and the Chair of the ACEP shall inform the reviewing departments and agencies of the majority vote decision of the ACEP within 11 days from the date of receiving notice of the appeal. Within 5 days of the majority vote decision, any dissenting department or agency may appeal the decision by submitting a letter from the head of the department or agency to the Secretary in his or her capacity as the Chair of the Board. Such letter shall cite both the statutory and the regulatory bases for the appeal. Within the same 5-day period, the Secretary may call a meeting on his or her own initiative to consider a license application. In the absence of a timely appeal, the majority vote decision of the ACEP shall be final.

(2) The Board shall review all departments' and agencies' information and recommendations, and such other export control matters as may be appropriate. The Secretary shall inform the reviewing departments and agencies of the majority vote of the Board within 11 days from the date of receiving notice of appeal. Within 5 days of the decision, any department or agency dissenting from the majority vote decision of the Board may appeal the decision by submitting a letter from the head of the dissenting department or agency to the President. In the absence of a timely appeal, the majority vote decision of the Board shall be final.

SEC. 6. *Encryption Products*. In conducting the license review described in section 1 above, with respect to export controls of encryption products that are or would be, on November 15, 1996, designated as defense articles in Category XIII of the United States Munitions List and regulated by the United States Department of State pursuant to the Arms Export Control Act, 22 U.S.C. 2778 *et seq*., but that subsequently are placed on the Commerce Control List in the Export Administration Regulations, the Departments of State, Defense, Energy, and Justice shall have the opportunity to review any export license application submitted to the Department of Commerce. The Department of Justice shall, with respect to such encryption products, be a voting member of the Export Administration Review Board described in section 5(a)(1) of this order and of the Advisory Committee on Export Policy described in section 5(a)(2) of this order. The Department of Justice shall be a full member of the Operating Committee of the ACEP described in section 5(a)(3) of this order, and of any other committees and consultation groups reviewing export controls with respect to such encryption products.

SEC. 7. The license review process in this order shall take effect beginning with those license applications registered by the Secretary 60 days after the date of this order and shall continue in effect to the extent not inconsistent with any renewal of the Export Administration Act, or with any successor to that Act.

SEC. 8. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any rights to administrative or judicial review, or any

other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

EX. ORD. NO. 13026. ADMINISTRATION OF EXPORT CONTROLS ON ENCRYPTION PRODUCTS

Ex. Ord. No. 13026, Nov. 15, 1996, 61 F.R. 58767, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), and in order to take additional steps with respect to the national emergency described and declared in Executive Order 12924 of August 19, 1994 [listed in a table under section 1701 of Title 50, War and National Defense], and continued on August 15, 1995, and on August 14, 1996, I, WILLIAM J. CLINTON, President of the United States of America, have decided that the provisions set forth below shall apply to administration of the export control system maintained by the Export Administration Regulations, 15 CFR Part 730 *et seq.* (''the EAR''). Accordingly, it is hereby ordered as follows:

SECTION 1. *Treatment of Encryption Products*. In order to provide for appropriate controls on the export and foreign dissemination of encryption products, export controls of encryption products that are or would be, on this date, designated as defense articles in Category XIII of the United States Munitions List and regulated by the United States Department of State pursuant to the Arms Export Control Act, 22 U.S.C. 2778 *et seq.* (''the AECA''), but that subsequently are placed on the Commerce Control List in the EAR, shall be subject to the following conditions: (a) I have determined that the export of encryption products described in this section could harm national security and foreign policy interests even where comparable products are or appear to be available from sources outside the United States, and that facts and questions concerning the foreign availability of such encryption products cannot be made subject to public disclosure or judicial review without revealing or implicating classified information that could harm United States national security and foreign policy interests. Accordingly, sections 4(c) and 6(h)(2)–(4) of the Export Administration Act of 1979 (''the EAA''), 50 U.S.C. App. 2403(c) and 2405(h)(2)–(4), as amended and as continued in effect by Executive Order 12924 of August 19, 1994, and by notices of August 15, 1995, and August 14, 1996, all other analogous provisions of the EAA relating to foreign availability, and the regulations in the EAR relating to such EAA provisions, shall not be applicable with respect to export controls on such encryption products. Notwithstanding this, the Secretary of Commerce (''Secretary'') may, in his discretion, consider the foreign availability of comparable encryption products in determining whether to issue a license in a particular case or to remove controls on particular products, but is not required to issue licenses in particular cases or to remove controls on particular products based on such consideration;

(b) [Amended Ex. Ord. No. 12981, set out above;]

(c) Because the export of encryption software, like the export of other encryption products described in this section, must be controlled because of such software's functional capacity, rather than because of any possible informational value of such software, such software shall not be considered or treated as ''technology,'' as that term is defined in section 16 of the EAA (50 U.S.C. App. 2415) and in the EAR (61 Fed. Reg. 12714, March 25, 1996);

(d) With respect to encryption products described in this section, the Secretary shall take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to control the export of assistance (including training) to foreign persons in the same manner and to the same extent as the export of such assistance is controlled under the AECA, as amended by section 151 of Public Law 104–164 [see 22 U.S.C. 2778(b)(1)(A)];

(e) Appropriate controls on the export and foreign dissemination of encryption products described in this section may include, but are not limited to, measures that promote the use of strong encryption products and the development of a key recovery management infrastructure; and

(f) Regulation of encryption products described in this section shall be subject to such further conditions as the President may direct.

SEC. 2. *Effective Date*. The provisions described in section 1 shall take effect as soon as any encryption products described in section 1 are placed on the Commerce Control List in the EAR.

SEC. 3. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and to ensure the implementation of appropriate controls on the export and foreign dissemination of encryption products. It is not intended to, and does not, create any rights to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§ 2403–1. Repealed. Pub. L. 103–199, title II, § 203(b), Dec. 17, 1993, 107 Stat. 2322

Section, Pub. L. 93–365, title VII, § 709, Aug. 5, 1974, 88 Stat. 408, related to review by Secretary of Defense of applications for export to controlled country of any goods, technology, or industrial techniques developed with Department of Defense funds for purpose of determining whether such export would significantly increase military capability of such country.

§§ 2403–1a, 2403a. Omitted

CODIFICATION

Section 2403–1a, Pub. L. 91–184, § 4A, as added Pub. L. 95–52, title II, § 201(a), June 22, 1977, 91 Stat. 244, which set forth provisions prohibiting United States persons from participating in foreign boycotts and administrative enforcement of such prohibitions, expired on Sept. 3, 1979.

Section 2403a, Pub. L. 91–184, § 4B, formerly § 4A, as added Pub. L. 93–500, § 8, Oct. 29, 1974, 88 Stat. 1554, renumbered Pub. L. 95–52, title II, § 201(a), June 22, 1977, 91 Stat. 244, which set forth procedures applicable for relief from export controls upon showing of hardship, expired on Sept. 30, 1979.

§ 2404. National security controls

(a) Authority

(1) In order to carry out the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix], the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authority contained in this subsection includes the authority to prohibit or curtail the transfer of goods or technology within the United States to embassies and affiliates of controlled countries. For purposes of the preceding sentence, the term ''affiliates'' includes both governmental entities and commercial entities that are controlled in

fact by controlled countries. The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses described in section 4(a) of this Act [section 2403(a) of this Appendix].

(2) Whenever the Secretary makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Secretary shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(3) In issuing regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States.

(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person reexporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

(i) supercomputers;

(ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);

(iii) devices for surreptitious interception of wire or oral communications; and

(iv) goods or technology intended for such end users as the Secretary may specify by regulation.

(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

(i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or

(ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the ''controlled United States content'' of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the reexport of a supercomputer which contains goods or technology subject to the jurisdiction of the United States.

(6) Not later than 90 days after the date of the enactment of this paragraph [Aug. 23, 1988], the Secretary shall issue regulations to carry out paragraphs (4) and (5). Such regulations shall define the term ''supercomputer'' for purposes of those paragraphs.

(b) Policy toward individual countries

(1) In administering export controls for national security purposes under this section, the President shall establish as a list of controlled countries those countries set forth in section 620(f) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(f)], except that the President may add any country to or remove any country from such list of controlled countries if he determines that the export of goods or technology to such country would or would not (as the case may be) make a significant contribution to the military potential of such country or a combination of countries which would prove detrimental to the national security of the United States. In determining whether a country is added to or removed from the list of controlled countries, the President shall take into account—

(A) the extent to which the country's policies are adverse to the national security interests of the United States;

(B) the country's Communist or non-Communist status;

(C) the present and potential relationship of the country with the United States;

(D) the present and potential relationships of the country with countries friendly or hostile to the United States;

(E) the country's nuclear weapons capability and the country's compliance record with respect to multilateral nuclear weapons agreements to which the United States is a party; and

(F) such other factors as the President considers appropriate.

Nothing in the preceding sentence shall be interpreted to limit the authority of the President provided in this Act [sections 2401 to 2420 of this Appendix] to prohibit or curtail the export of any goods or technology to any country to which exports are controlled for national security purposes other than countries on the list of controlled countries specified in this paragraph. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors set forth in this paragraph.

(2)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export goods or technology to a country which maintains export controls on such goods or technology cooperatively with the

United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, if the export of such goods or technology to the People's Republic of China or a controlled country on the date of the enactment of the Export Enhancement Act of 1988 [Aug. 23, 1988] would require only notification of the participating governments of the Coordinating Committee.

(B)(i) The Secretary may require a license for the export of goods or technology described in subparagraph (A) to such end users as the Secretary may specify by regulation.

(ii) The Secretary may require any person exporting goods or technology under this paragraph to notify the Secretary of those exports.

(C) The Secretary shall, within 3 months after the date of the enactment of the Export Enhancement Act of 1988 [Aug. 23, 1988], determine which countries referred to in subparagraph (A) are implementing an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

(i) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

(ii) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

(iii) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

(iv) a system of export control documentation to verify the movement of goods and technology; and

(v) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

The Secretary shall, at least once each year, review the determinations made under the preceding sentence with respect to all countries referred to in subparagraph (A). The Secretary may, as appropriate, add countries to, or remove countries from, the list of countries that are implementing an effective export control system in accordance with this subparagraph. No authority or permission to export may be required for the export of goods or technology to a country on such list.

(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, any goods or technology if the export of the goods or technology to controlled countries would require only notification of the participating governments of the Coordinating Committee.

(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports.

(c) Control list

(1) The Secretary shall establish and maintain, as part of the control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the list referred to in paragraph (1). Those items which the Secretary and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list.

(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar quarter in order to carry out the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix] and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each quarterly review, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall use the data developed from each review in formulating United States proposals relating to multilateral export controls in the group known as the Coordinating Committee. The Secretary shall further assess, as part of each review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section. All goods and technology on the list shall be reviewed at least once each year. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.

(4) The appropriate technical advisory committee appointed under subsection (h) of this section shall be consulted by the Secretary with respect to changes, pursuant to paragraph (2) or (3), in the list established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary

with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations.

(5)(A) Not later than 6 months after the date of the enactment of this paragraph [Aug. 23, 1988], the following shall no longer be subject to export controls under this section:

(i) All goods or technology the export of which to controlled countries on the date of the enactment of the Export Enhancement Act of 1988 [Aug. 23, 1988] would require only notification of the participating governments of the Coordinating Committee, except for those goods or technology on which the Coordinating Committee agrees to maintain such notification requirement.

(ii) All medical instruments and equipment, subject to the provisions of subsection (m) of this section.

(B) The Secretary shall submit to the Congress annually a report setting forth the goods and technology from which export controls have been removed under this paragraph.

(6)(A) Notwithstanding subsection (f) or (h)(6) of this section, any export control imposed under this section which is maintained unilaterally by the United States shall expire 6 months after the date of the enactment of this paragraph [Aug. 23, 1988], or 6 months after the export control is imposed, whichever date is later, except that—

(i) any such export controls on those goods or technology for which a determination of the Secretary that there is no foreign availability has been made under subsection (f) or (h)(6) of this section before the end of the applicable 6-month period and is in effect may be renewed for periods of not more than 6 months each, and

(ii) any such export controls on those goods or technology with respect to which the President, by the end of the applicable 6-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those goods or technology may be renewed for 2 periods of not more than 6 months each.

(B) Export controls on goods or technology described in clause (i) or (ii) of subparagraph (A) may be renewed only if, before each renewal, the President submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.

(7) Notwithstanding any other provision of this subsection, after 1 year has elapsed since the last review in the Federal Register on any item within a category on the control list the export of which to the People's Republic of China would require only notification of the members of the group known as the Coordinating Committee, an export license applicant may file an allegation with the Secretary that such item has not been so reviewed within such 1-year period. Within 90 days after receipt of such allegation, the Secretary—

(A) shall determine the truth of the allegation;

(B) shall, if the allegation is confirmed, commence and complete the review of the item; and

(C) shall, pursuant to such review, submit a finding for publication in the Federal Register.

In such finding, the Secretary shall identify those goods or technology which shall remain on the control list and those goods or technology which shall be removed from the control list. If such review and submission for publication are not completed within that 90-day period, the goods or technology encompassed by such item shall immediately be removed from the control list.

(d) Militarily critical technologies

(1) The Secretary, in consultation with the Secretary of Defense, shall review and revise the list established pursuant to subsection (c), as prescribed in paragraph (3) of such subsection, for the purpose of insuring that export controls imposed under this section cover and (to the maximum extent consistent with the purposes of this Act [sections 2401 to 2420 of this Appendix]) are limited to militarily critical goods and technologies and the mechanisms through which such goods and technologies may be effectively transferred.

(2) The Secretary of Defense shall bear primary responsibility for developing a list of militarily critical technologies. In developing such list, primary emphasis shall be given to—

(A) arrays of design and manufacturing know-how,

(B) keystone manufacturing, inspection, and test equipment,

(C) goods accompanied by sophisticated operation, application, or maintenance know-how, and

(D) keystone equipment which would reveal or give insight into the design and manufacture of a United States military system,

which are not possessed by, or available in fact from sources outside the United States to, controlled countries and which, if exported, would permit a significant advance in a military system of any such country.

(3) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act [sections 2401 to 2420 of this Appendix].

(4) The Secretary and the Secretary of Defense shall integrate items on the list of militarily critical technologies into the control list in accordance with the requirements of subsection (c) of this section. The integration of items on the list of militarily critical technologies into the control list shall proceed with all deliberate speed. Any disagreement between the Secretary and the Secretary of Defense regarding the integration of an item on the list of militarily critical technologies into the control list shall be resolved by the President. Except in the case of a good or technology for which a validated license may be required under subsection (f)(4) or (h)(6) of this section, a good or technology shall be included on the control list only if the Secretary finds that controlled countries do not possess

that good or technology, or a functionally equivalent good or technology, and the good or technology or functionally equivalent good or technology is not available in fact to a controlled country from sources outside the United States in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such good or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section. The Secretary and the Secretary of Defense shall jointly submit a report to the Congress, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], on actions taken to carry out this paragraph. For the purposes of this paragraph, assessment of whether a good or technology is functionally equivalent shall include consideration of the factors described in subsection (f)(3) of this section.

(5) The Secretary of Defense shall establish a procedure for reviewing the goods and technology on the list of militarily critical technologies on an ongoing basis for the purpose of removing from the list of militarily critical technologies any goods or technology that are no longer militarily critical. The Secretary of Defense may add to the list of militarily critical technologies any good or technology that the Secretary of Defense determines is militarily critical, consistent with the provisions of paragraph (2) of this subsection. If the Secretary and the Secretary of Defense disagree as to whether any change in the list of militarily critical technologies by the addition or removal of a good or technology should also be made in the control list, consistent with the provisions of the fourth sentence of paragraph (4) of this subsection, the President shall resolve the disagreement.

(6) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls on the products of that technology and equipment.

(7) The Secretary of Defense shall, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], report to the Congress on efforts by the Department of Defense to assess the impact that the transfer of goods or technology on the list of militarily critical technologies to controlled countries has had or will have on the military capabilities of those countries.

(e) Export licenses

(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act [sections 2401 to 2420 of this Appendix]. Accordingly, it is the intent of Congress in this subsection to encourage the use of the multiple validated export licenses described in section 4(a)(2) of this Act [section 2403(a)(2) of this Appendix] in lieu of individual validated licenses.

(2) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a validated license under this section for the export of goods or technology only if—

(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement;

(B) with respect to such goods or technology, other nations do not possess capabilities comparable to those possessed by the United States; or

(C) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Secretary, United States export controls on such goods or technology, by means of such license, are necessary pending the conclusion of such agreement.

(3) The Secretary, subject to the provisions of subsection (*l*) of this section, shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that has been lawfully exported from the United States.

(4) The Secretary shall periodically review the procedures with respect to the multiple validated export licenses, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.

(5) The export of goods subject to export controls under this section shall be eligible, at the discretion of the Secretary, for a distribution license and other licenses authorizing multiple exports of goods, in accordance with section 4(a)(2) of this Act [section 2403(a)(2) of this Appendix]. The export of technology and related goods subject to export controls under this section shall be eligible for a comprehensive operations license in accordance with section 4(a)(2)(B) of this Act [section 2403(a)(2)(B) of this Appendix].

(6) Any application for a license for the export to the People's Republic of China of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration or exhibition at a trade show shall carry a presumption of approval if—

(A) the United States exporter retains title to the good during the entire period in which the good is in the People's Republic of China; and

(B) the exporter removes the good from the People's Republic of China no later than at the conclusion of the trade show.

(f) Foreign availability

(1) Foreign availability to controlled countries

(A) The Secretary, in consultation with the Secretary of Defense and other appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability to controlled countries, from sources outside the United States, including countries which participate with the United States in

multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to controlled countries from such sources in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a controlled country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

(2) Foreign availability to other than controlled countries

(A) The Secretary shall review, on a continuing basis, the availability to countries other than controlled countries, from sources outside the United States, of any goods or technology the export of which requires a validated license under this section. If the Secretary determines, in accordance with procedures which the Secretary shall establish, that any goods or technology in sufficient quantity and of comparable quality are available in fact from sources outside the United States (other than availability under license from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section), the Secretary may not, after the determination is made and during the period of such foreign availability, require a validated license for the export of such goods or technology to any country (other than a controlled country) to which the country from which the goods or technology is available does not place controls on the export of such goods or technology. The requirement with respect to a validated license in the preceding sentence shall not apply if the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a country (other than a controlled country) and which meets all other requirements for such an application, if the Secretary determines that such goods or technology are available from foreign sources to that country under the criteria established in subparagraph (A), unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

(3) Procedures for making determinations

(A) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this subparagraph, ''evidence'' may include such items as foreign manufacturers' catalogues, brochures, or operations or main-

tenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.

(B) In a case in which an allegation is received from an export license applicant, the Secretary shall, upon receipt of the allegation, submit for publication in the Federal Register notice of such receipt. Within 4 months after receipt of the allegation, the Secretary shall determine whether the foreign availability exists, and shall so notify the applicant. If the Secretary has determined that the foreign availability exists, the Secretary shall, upon making such determination, submit the determination for review to other departments and agencies as the Secretary considers appropriate. The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 1 month after the Secretary makes the determination, the Secretary shall respond in writing to the applicant and submit for publication in the Federal Register, that—

(i) the foreign availability does exist and—

(I) the requirement of a validated license has been removed,

(II) the President has determined that export controls under this section must be maintained notwithstanding the foreign availability and the applicable steps are being taken under paragraph (4), or

(III) in the case of a foreign availability determination under paragraph (1), the foreign availability determination will be submitted to a multilateral review process in accordance with the agreement of the Coordinating Committee for a period of not more than 4 months beginning on the date of the publication; or

(ii) the foreign availability does not exist.

In any case in which the submission for publication is not made within the time period specified in the preceding sentence, the Secretary may not thereafter require a license for the export of the goods or technology with respect to which the foreign availability allegation was made. In the case of a foreign availability determination under paragraph (1) to which clause (i)(III) applies, no license for such export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

(4) Negotiations to eliminate foreign availability

(A) In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. No later than the commencement of such negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important to national security that export controls on the goods or technology involved be maintained.

(B) If, within 6 months after the President's determination that export controls be maintained, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export controls involved would prove detrimental to the national security of the United States. Whenever the President has reason to believe that goods or technology subject to export controls for national security purposes by the United States may become available from other countries to controlled countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(C) After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate or prevent foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

(5) Expedited licenses for items available to countries other than controlled countries

(A) In any case in which the Secretary finds that any goods or technology from foreign sources is of similar quality to goods or technology the export of which requires a validated license under this section and is available to a country other than a controlled country without effective restrictions, the Secretary shall designate such goods or technology as eligible for export to such country under this paragraph.

(B) In the case of goods or technology designated under subparagraph (A), then 20 working days after the date of formal filing with the Secretary of an individual validated license application for the export of those goods or technology to an eligible country, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless the license has been denied by the Secretary on account of an inappropriate end user. The Secretary may extend the 20-day period provided in the preceding sentence for an additional period of 15 days if the Secretary requires additional time to consider the application and so notifies the applicant.

(C) The Secretary may make a foreign availability determination under subparagraph (A) on the Secretary's own initiative, upon receipt of an allegation from an export license appli-

cant that such availability exists, or upon the submission of a certification by a technical advisory committee of appropriate jurisdiction that such availability exists. Upon receipt of such an allegation or certification, the Secretary shall publish notice of such allegation or certification in the Federal Register and shall make the foreign availability determination within 30 days after such receipt and publish the determination in the Federal Register. In the case of the failure of the Secretary to make and publish such determination within that 30-day period, the goods or technology involved shall be deemed to be designated as eligible for export to the country or countries involved, for purposes of subparagraph (B).

(D) The provisions of paragraphs (1), (2), (3), and (4) do not apply with respect to determinations of foreign availability under this paragraph.

(6) Office of Foreign Availability

The Secretary shall establish in the Department of Commerce an Office of Foreign Availability, which shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act [sections 2401 to 2420 of this Appendix]. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Commercial Service Officers of the United States and Foreign Commercial Service. Such information shall also include a description of representative determinations made under this Act [sections 2401 to 2420 of this Appendix] during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.

(7) Sharing of information

Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Office of Foreign Availability concerning foreign availability of goods and technology subject to export controls under this Act [sections 2401 to 2420 of this Appendix]. Each such department or agency shall allow the Office of Foreign Availability access to any information from a laboratory or other facility within such department or agency.

(8) Removal of controls on less sophisticated goods or technology

In any case in which[1] Secretary may not, pursuant to paragraph (1), (2), (3), or (4) of this subsection or paragraph (6) of subsection (h) of this section, require a validated license for the export of goods or technology, then the Secretary may not require a validated license for the export of any similar goods or technology whose function, technological approach, performance thresholds, and other attributes that form the basis for export controls under this section do not exceed the technical parameters of the goods or technology from which the validated license requirement is removed under the applicable paragraph.

(9) Notice of all foreign availability assessments

Whenever the Secretary undertakes a foreign availability assessment under this subsection or subsection (h)(6), the Secretary shall publish notice of such assessment in the Federal Register.

(10) Availability defined

For purposes of this subsection and subsections (f) and (h), the term ''available in fact to controlled countries'' includes production or availability of any goods or technology in any country—

(A) from which the goods or technology is not restricted for export to any controlled country; or

(B) in which such export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of goods or technology on a list of goods or technology subject to bilateral or multilateral national security export controls shall not alone constitute credible evidence that a country provides an effective means of controlling the export of such goods or technology to controlled countries.

(g) Indexing

(1) In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology from such license requirements the anticipated needs of the military of controlled countries. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary deter-

[1] So in original. Probably should be followed by ''the''.

mines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.

(2)(A) In carrying out this subsection, the Secretary shall conduct annual reviews of the performance levels of goods or technology—

(i) which are eligible for export under a distribution license,

(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

(iii) below which no authority or permission to export may be required under subsection (b)(2) or (b)(3) of this section.

The Secretary shall make appropriate adjustments to such performance levels based on these reviews.

(B) In any case in which the Secretary receives a request which—

(i) is to revise the qualification requirements or minimum thresholds of any goods eligible for export under a distribution license, and

(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary, after consulting with other appropriate Government agencies and technical advisory committees established under subsection (h) of this section, shall determine whether to make such revision, or some other appropriate revision, in such qualification requirements or minimum thresholds. In making this determination, the Secretary shall take into account the availability of the goods from sources outside the United States. The Secretary shall make a determination on a request made under this subparagraph within 90 days after the date on which the request is filed. If the Secretary's determination pursuant to such a request is to make a revision, such revision shall be implemented within 120 days after the date on which the request is filed and shall be published in the Federal Register.

(h) Technical advisory committees

(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under this section or being considered for such controls because of their significance to the national security of the United States, the Secretary shall appoint a technical advisory committee for any such goods or technology which the Secretary determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, the intelligence community, and, in the discretion of the Secretary, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act [sections 2401 to 2420 of this Appendix], with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix]. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, (D) revisions of the control list (as provided in subsection (c)(4)), including proposed revisions of multilateral controls in which the United States participates, (E) the issuance of regulations, and (F) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act [section 2402(2)(A) of this Appendix]. Nothing in this subsection shall prevent the Secretary or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if the Secretary determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years. The Secretary shall consult each such committee with respect to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act [sections 2401 to 2420 of this Appendix], shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary that goods or technology with respect to which such committee was appointed have become available in fact, to

controlled countries, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a) of this section, the technical advisory committee shall submit that certification to the Congress at the same time the certification is made to the Secretary, together with the documentation for the certification. The Secretary shall investigate the foreign availability so certified and, not later than 90 days after the certification is made, shall submit a report to the technical advisory committee and the Congress stating that—

(A) the Secretary has removed the requirement of a validated license for the export of the goods or technology, on account of the foreign availability,

(B) the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, or

(C) the Secretary has determined on the basis of the investigation that the foreign availability does not exist.

To the extent necessary, the report may be submitted on a classified basis. In any case in which the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, the President shall actively pursue such negotiations with the governments of the appropriate foreign countries. If, within 6 months after the Secretary submits such report to the Congress, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export control involved would prove detrimental to the national security of the United States. After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

(i) Multilateral export controls

Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the ''Committee'') with a view toward accomplishing the following objectives:

(1) Enhanced public understanding of the Committee's purpose and procedures, including publication of the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

(2) Periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the Committee.

(3) Strengthened legal basis for each government's export control system, including, as appropriate, increased penalties and statutes of limitations.

(4) Harmonization of export control documentation by the participating governments to verify the movement of goods and technology subject to controls by the Committee.

(5) Improved procedures for coordination and exchange of information concerning violations of the agreement of the Committee.

(6) Procedures for effective implementation of the agreement through uniform and consistent interpretations of export controls agreed to by the governments participating in the Committee.

(7) Coordination of national licensing and enforcement efforts by governments participating in the Committee, including sufficient technical expertise to assess the licensing status of exports and to ensure end-use verification.

(8) More effective procedures for enforcing export controls, including adequate training, resources, and authority for enforcement officers to investigate and prevent illegal exports.

(9) Agreement to provide adequate resources to enhance the functioning of individual national export control systems and of the Committee.

(10) Improved enforcement and compliance with the agreement through elimination of unnecessary export controls and maintenance of an effective control list.

(11) Agreement to enhance cooperation among members of the Committee in obtaining the agreement of governments outside the Committee to restrict the export of goods and technology on the International Control List, to establish an ongoing mechanism in the Committee to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the International Control List if such items continue to be available to controlled countries or if the control of the items no longer serves the common strategic objectives of the members of the Committee.

For purposes of reviews of the International Control List, the President may include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed.

(j) Commercial agreements with certain countries

(1) Any United States firm, enterprise, or other nongovernmental entity which enters into an agreement with any agency of the government of a controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report to the Secretary the agreement with such agency in sufficient detail.

(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.

(k) Negotiations with other countries

The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries, including those countries not participating in the group known as the Coordinating Committee, regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act [section 2402(9) of this Appendix], as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions. In cases where such negotiations produce agreements on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated, including the same manner as exports are treated under subsection (b)(2) of this section and section 10(*o*) of this Act [section 2409(*o*) of this Appendix].

(*l*) Diversion of controlled goods or technology

(1) Whenever there is reliable evidence, as determined by the Secretary, that goods or technology which were exported subject to national security controls under this section to a controlled country have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

(A) shall deny all further exports, to or by the party or parties responsible for that diversion or who conspired in that diversion, of any goods or technology subject to national security controls under this section, regardless of whether such goods or technology are available from sources outside the United States; and

(B) may take such additional actions under this Act [sections 2401 to 2420 of this Appendix] with respect to the party or parties referred to in subparagraph (A) as the Secretary determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

(2) As used in this subsection, the term ''unauthorized use'' means the use of United States goods or technology in the design, production, or maintenance of any item on the United States Munitions List, or the military use of any item on the International Control List of the Coordinating Committee.

(m) Goods containing controlled parts and components

Export controls may not be imposed under this section, or under any other provision of law, on a good solely on the basis that the good contains parts or components subject to export controls under this section if such parts or components—

(1) are essential to the functioning of the good,

(2) are customarily included in sales of the good in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the good,

unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military potential of a controlled country which would prove detrimental to the national security of the United States.

(n) Security measures

The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act [section 2411(a) of this Appendix], and in consultation with the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to export controls under this section to develop security systems to prevent violations or evasions of those export controls.

(*o*) Recordkeeping

The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application under this Act [sections 2401 to 2420 of this Appendix] or a revision of a list of goods or technology subject to export controls under this Act [sections 2401 to 2420 of this Appendix], shall make and keep records of their respective advice, recommendations, or decisions in connection with any such license application or revision, including the factual and analytical basis of the advice, recommendations, or decisions.

(p) National Security Control Office

To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there is established in the Department of Defense a National Security Control Office under the direction of the Under Secretary of Defense for Policy. The Secretary of Defense may delegate to that office such of those authorities and responsibilities, together with such ancillary functions, as the Secretary of Defense considers appropriate.

(q) Exclusion for agricultural commodities

This section does not authorize export controls on agricultural commodities, including fats, oils, and animal hides and skins.

(Pub. L. 96–72, §5, Sept. 29, 1979, 93 Stat. 506; Pub. L. 99–64, title I, §§105(a)–(c)(1), (d)–(j), 106, 107, July 12, 1985, 99 Stat. 123–129; Pub. L. 100–418, title II, §§2413–2418(b), 2419, 2420(a), 2421, 2422, 2446, Aug. 23, 1988, 102 Stat. 1347–1358, 1369.)

PRIOR PROVISIONS

A prior section 2404, Pub. L. 91–184, §5, Dec. 30, 1969, 83 Stat. 843; Pub. L. 92–412, title I, §105, Aug. 29, 1972, 86 Stat. 645; Pub. L. 93–500, §§3(c), (d), 5(b), (c), 6, Oct. 29, 1974, 88 Stat. 1553, 1554; Pub. L. 95–52, title I, §111, June 22, 1977, 91 Stat. 240, setting forth determinations, limitations, etc., respecting the control and monitoring of exports, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–418, § 2413, inserted provision defining ''affiliates'' to include both governmental entities and commercial entities that are controlled in fact by controlled countries.

Subsec. (a)(4) to (6). Pub. L. 100–418, § 2414, added pars. (4) to (6).

Subsec. (b)(2). Pub. L. 100–418, § 2415(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''No authority or permission to export may be required under this section before goods or technology are exported in the case of exports to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, if the goods or technology is at such a level of performance characteristics that the export of the goods or technology to controlled countries requires only notification of the participating governments of the Coordinating Committee.''

Subsec. (b)(3). Pub. L. 100–418, § 2415(b), added par. (3).

Subsec. (c)(2). Pub. L. 100–418, § 2416(a), substituted ''If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list.'' for ''If the Secretary and the Secretary of Defense are unable to concur on such items, the matter shall be referred to the President for resolution.''

Subsec. (c)(3). Pub. L. 100–418, § 2416(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each annual review, the Secretary shall publish notice of that annual review in the Federal Register. The Secretary shall provide an opportunity during such review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall further assess, as part of such review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section.''

Subsec. (c)(4). Pub. L. 100–418, § 2416(b)(3), added par. (4).

Subsec. (c)(5). Pub. L. 100–418, § 2416(c)(1), added par. (5).

Subsec. (c)(6), (7). Pub. L. 100–418, § 2416(c)(2), (3), added pars. (6) and (7).

Subsec. (d)(5). Pub. L. 100–418, § 2416(b)(2), substituted ''on an ongoing basis'' for ''at least annually''.

Subsec. (e)(6). Pub. L. 100–418, § 2417, added par. (6).

Subsec. (f). Pub. L. 100–418, § 2418(a), amended subsec. generally, revising and restating as pars. (1) to (10) provisions of former pars. (1) to (7).

Subsec. (g). Pub. L. 100–418, § 2419, designated existing provisions as par. (1) and added par. (2).

Subsec. (h)(2). Pub. L. 100–418, § 2420(a), added cls. (D) and (E), redesignated former cl. (E) as (F), and struck out former cl. (D) which read as follows: ''exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls, and''.

Subsec. (h)(6). Pub. L. 100–418, § 2418(b), inserted at end ''After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.''

Subsec. (i). Pub. L. 100–418, § 2421, substituted ''Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President'' for ''The President'' and inserted sentence at end authorizing the President, for purposes of reviews of the International Control List, to include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed.

Subsec. (i)(1) to (11). Pub. L. 100–418, § 2446, completely revised and expanded provisions enumerating the objectives of the negotiations, adding pars. (1) to (11) and striking out former pars. (1) to (9).

Subsec. (m). Pub. L. 100–418, § 2422, amended subsec. generally, substituting provision relating to goods containing controlled parts and components for provision relating to goods containing microprocessors.

1985—Subsec. (a)(1). Pub. L. 99–64, § 105(a)(1), inserted sentence providing that the authority contained in this subsection includes the authority to prohibit or curtail the transfer of goods or technology within the United States to embassies and affiliates of controlled countries.

Subsec. (a)(2). Pub. L. 99–64, § 105(a)(2), struck out designation ''(A)'' before ''Whenever the Secretary makes any revision'', and struck out subpar. (B) which read as follows: ''Whenever the Secretary denies any export license under this section, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restriction, if appropriate.''

Subsec. (a)(3). Pub. L. 99–64, § 105(a)(3), struck out ''Such regulations shall not be based upon the assumption that such effective safeguards can be devised.''

Subsec. (b)(1). Pub. L. 99–64, § 105(b)(1), designated existing provisions as par. (1) and provided that the President shall establish to a list of controlled countries which may be expanded or reduced by the President based upon certain enumerated factors, and struck out provisions which had stated that the policy of the United States toward individual countries should not be determined exclusively on the basis of that country's Communist or non-Communist status but rather on the country's relationships to the United States and countries friendly to the United States.

Pub. L. 99–64, § 105(b)(3), substituted ''set forth in this paragraph'' for ''specified in the preceding sentence'' in last sentence.

Subsec. (b)(2). Pub. L. 99–64, § 105(b)(2), added par. (2).

Subsec. (c)(1). Pub. L. 99–64, § 105(c)(1)(A), struck out ''commodity'' before ''control list''.

Subsec. (c)(3). Pub. L. 99–64, § 105(c)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Secretary shall issue regulations providing for review of the list established pursuant to this subsection not less frequently than every 3 years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may

be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments, with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section. The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, and, in the case of the Secretary, any dissenting recommendations received from any agency.''

Subsec. (d)(2). Pub. L. 99–64, §106(a)(1), added subpar. (D) and in provisions following subpar. (D) substituted '', or available in fact from sources outside the United States to, controlled countries'' for ''countries to which exports are controlled under this section''.

Subsec. (d)(4) to (7). Pub. L. 99–64, §106(a)(2), added pars. (4) to (7) and struck out former pars. (4) to (6) which read as follows:

''(4) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

''(5) The list of militarily critical technologies developed primarily by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list, subject to the provisions of subsection (c) of this section.

''(6) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.''

Subsec. (e)(1). Pub. L. 99–64, §105(d)(1), substituted ''the multiple validated export licenses described in section 4(a)(2) of this Act in lieu of individual validated licenses'' for ''a qualified general license in lieu of a validated license''.

Subsec. (e)(3) to (5). Pub. L. 99–64, §105(d)(2), added pars. (3) to (5) and struck out former pars. (3) and (4) which read as follows:

''(3) To the maximum extent practicable, consistent with the national security of the United States, the Secretary shall require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

''(4) Not later than July 1, 1980, the Secretary shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.''

Subsec. (f)(1). Pub. L. 99–64, §107(a), (i), (j)(1), inserted ''the Secretary of Defense and other'' after ''The Secretary, in consultation with'', and substituted ''controlled countries'' for ''such destinations'' and ''comparable quality'' for ''sufficient quality''.

Subsec. (f)(2). Pub. L. 99–64, §107(i), substituted ''comparable quality'' for ''sufficient quality''.

Subsec. (f)(3). Pub. L. 99–64, §107(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.''

Subsec. (f)(4). Pub. L. 99–64, §107(c), (j)(2), substituted first three sentences for ''sentence providing that in any case in which, in accordance with this subsection, export controls are imposed under this section notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability'', and substituted ''controlled countries'' for ''countries to which exports are controlled under this section''.

Subsec. (f)(5). Pub. L. 99–64, §107(d)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''In order to further carry out the policies set forth in this Act, the Secretary shall establish, within the Office of Export Administration of the Department of Commerce, a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this Act.''

Subsec. (f)(6). Pub. L. 99–64, §107(d)(2), substituted ''Office of Foreign Availability'' for ''Office of Export Administration''.

Subsec. (f)(7). Pub. L. 99–64, §107(e), added par. (7).

Subsec. (g). Pub. L. 99–64, §105(e), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.''

Subsec. (h)(1). Pub. L. 99–64, §107(f)(1), inserted reference to the intelligence community.

Subsec. (h)(2)(E). Pub. L. 99–64, §107(f)(2), added cl. (E).

Subsec. (h)(6). Pub. L. 99–64, §107(f)(3), (i), (j)(2), substituted ''controlled countries'' for ''countries to which exports are controlled under this section'', ''comparable quality'' for ''sufficient quality'', and ''the technical advisory committee shall submit that certification to the Congress at the same time the certification is made to the Secretary, together with the documentation for the certification'' for ''and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (f)(1) of this section, the Secretary shall investigate such availability, and if such availability is verified, the Secretary shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States'', struck out provision that, in any case in which the President determined that export controls under this section had to be maintained notwithstanding foreign availability, the Secretary had to publish that determination together with a concise statement of its basis and the estimated economic impact of the decision, inserted provisions directing the Secretary to investigate certified foreign availability and, not later than 90 days after the certification is made, submit a report to the technical advisory committee and the Congress, and added subpars. (A) to (C) and concluding provision.

Subsec. (i)(3). Pub. L. 99–64, § 105(f)(1), (2), redesignated par. (4) as (3) and substituted ''agreed to by members of the Committee'' for ''agreed to pursuant to paragraph (3)'', and struck out former par. (3) relating to agreement to reduce the scope of the export controls imposed by agreement of the Committee to a level acceptable to and enforceable by all governments participating in the Committee.

Subsec. (i)(4) to (9). Pub. L. 99–64, § 105(f)(3), added pars. (4) to (9). Former par. (4) redesignated (3).

Subsec. (j)(1). Pub. L. 99–64, § 105(g), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement (to which the United States and such country are parties) calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency to the Secretary.''

Subsec. (k). Pub. L. 99–64, § 105(h), inserted '', including those countries not participating in the group known as the Coordinating Committee,'' after ''conducting negotiations with other countries'', and inserted provision that, in cases where such negotiations produce agreements on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated, including the same manner as exports are treated under subsection (b)(2) of this section and section 10(*o*) of this Act.

Subsec. (*l*). Pub. L. 99–64, § 105(i), struck out ''to military use'' after ''Diversion'' in heading, and amended text of subsec. (*l*), generally. Prior to amendment, subsec. (*l*) read as follows:

''(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use in violation of the conditions of an export license, the Secretary for as long as that diversion to significant military use continues—

''(A) shall deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

''(B) may take such additional steps under this Act with respect to the party referred to in subparagraph (A) as are feasible to deter the further military use of the previously exported goods or technology.

''(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' means the use of United States goods or technology to design or produce any item on the United States Munitions List.''

Subsecs. (m) to (q). Pub. L. 99–64, § 105(j), added subsecs. (m) to (q).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 105(c)(2) of Pub. L. 99–64 provided that: ''The amendment made by paragraph (1)(B) of this subsection [amending this section] shall take effect on October 1, 1985.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix, with the exception of the functions conferred upon the President under subsecs. (f)(4) and (i) of this section which were delegated to the Secretary of State and the functions conferred upon the President under subsecs. (c), (f)(1), and (h)(6) of this section which were reserved to the President.

REVIEW OF EXPORT PROTECTIONS FOR MILITARY SUPERIORITY RESOURCES

Pub. L. 108–136, div. A, title XII, § 1211, Nov. 24, 2003, 117 Stat. 1650, provided that:

''(a) REVIEW REQUIRED.—The Secretary of Defense shall carry out a review—

''(1) to identify goods or technology (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)) that, if obtained by a potential adversary, could significantly undermine the military superiority or qualitative military advantage of the United States over potential adversaries or otherwise contribute to the acquisition of weapons of mass destruction and their delivery systems; and

''(2) to determine whether any of the items or technologies identified under paragraph (1) are not currently controlled for export purposes on either the Commerce Control List or the United States Munitions List.

''(b) ANNUAL REPORTS.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an unclassified report, with a classified annex as necessary, on the results of the review under subsection (a).

''(2) For each of the next two years after the submission of the report under paragraph (1), the Secretary shall submit to those committees an update on that report. Such updates shall be submitted not later than March 1, 2005, and not later than March 1, 2006.''

REVIEW OF PROPOSED CHANGES TO EXPORT THRESHOLDS FOR COMPUTERS

Pub. L. 106–554, § 1(a)(2) [title III, § 314], Dec. 21, 2000, 114 Stat. 2763, 2763A–123, which provided that not more than 50 days after the date of the submission of the report referred to in subsec. (d) of section 1211 of Pub. L. 105–85 (set out below), the Comptroller General was to submit an assessment to Congress that contained an analysis of new computer performance levels proposed by the President under such section, was repealed by Pub. L. 110–161, div. H, title I, § 1502(b), Dec. 26, 2007, 121 Stat. 2250.

RELEASE OF EXPORT INFORMATION BY DEPARTMENT OF COMMERCE TO OTHER AGENCIES FOR PURPOSE OF NATIONAL SECURITY ASSESSMENT

Pub. L. 105–261, div. A, title XV, § 1522, Oct. 17, 1998, 112 Stat. 2179, provided that:

''(a) RELEASE OF EXPORT INFORMATION.—The Secretary of Commerce shall, upon the written request of an official specified in subsection (c), transmit to that official any information relating to exports that is held by the Department of Commerce and is requested by that official for the purpose of assessing national security risks. The Secretary shall transmit such information within 10 business days after receiving such a request.

''(b) NATURE OF INFORMATION.—The information referred to in subsection (a) includes information concerning—

''(1) export licenses issued by the Department of Commerce;

''(2) exports that were carried out under an export license issued by the Department of Commerce; and

''(3) exports from the United States that were carried out without an export license.

''(c) REQUESTING OFFICIALS.—The officials referred to in subsection (a) are the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence. Each of those officials may delegate to any other official within their respective departments and agency the authority to request information under subsection (a).''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

EXPORT CONTROLS ON HIGH PERFORMANCE COMPUTERS

Pub. L. 105–85, div. A, title XII, subtitle B, Nov. 18, 1997, 111 Stat. 1932, as amended by Pub. L. 105–261, div. A, title XV, §1524, Oct. 17, 1998, 112 Stat. 2180; Pub. L. 106–65, div. A, title X, §1067(4), title XIV, §1407(c), Oct. 5, 1999, 113 Stat. 774, 801; Pub. L. 106–398, §1 [[div. A], title XII, §1234(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–330, provided that:

''SEC. 1211. EXPORT APPROVALS FOR HIGH PERFORMANCE COMPUTERS.

''(a) PRIOR APPROVAL OF EXPORTS AND REEXPORTS.—The President shall require that no digital computer with a composite theoretical performance level of more than 2,000 millions of theoretical operations per second (MTOPS) or with such other composite theoretical performance level as may be established subsequently by the President under subsection (d), may be exported or reexported without a license to a country specified in subsection (b) if the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, or the Director of the Arms Control and Disarmament Agency objects, in writing, to such export or reexport. Any person proposing to export or reexport such a digital computer shall so notify the Secretary of Commerce, who, within 24 hours after receiving the notification, shall transmit the notification to the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency.

''(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as 'Computer Tier 3' eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under subsection (e).

''(c) TIME LIMIT.—Written objections under subsection (a) to an export or reexport shall be raised within 10 days after the notification is received under subsection (a). If such a written objection to the export or reexport of a computer is raised, the computer may be exported or reexported only pursuant to a license issued by the Secretary of Commerce under the Export Administration Regulations of the Department of Commerce, without regard to the licensing exceptions otherwise authorized under section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997. If no objection is raised within the 10-day period, the export or reexport is authorized.

''(d) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may establish a new composite theoretical performance level for purposes of subsection (a). Such new level shall not take effect until 60 days after the President submits to the congressional committees designated in section 1215 a report setting forth the new composite theoretical performance level and the justification for such new level. Each report shall, at a minimum—

''(1) address the extent to which high performance computers of a composite theoretical level between the level established in subsection (a) or such level as has been previously adjusted pursuant to this section and the new level, are available from other countries;

''(2) address all potential uses of military significance to which high performance computers at the new level could be applied; and

''(3) assess the impact of such uses on the national security interests of the United States.

''(e) ADJUSTMENT OF COVERED COUNTRIES.—

''(1) IN GENERAL.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may add a country to or remove a country from the list of covered countries in subsection (b), except that a country may be removed from the list only in accordance with paragraph (2).

''(2) DELETIONS FROM LIST OF COVERED COUNTRIES.—The removal of a country from the list of covered countries under subsection (b) shall not take effect until 120 days after the President submits to the congressional committees designated in section 1215 a report setting forth the justification for the deletion.

''(3) EXCLUDED COUNTRIES.—A country may not be removed from the list of covered countries under subsection (b) if—

''(A) the country is a 'nuclear-weapon state' (as defined by Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons) and the country is not a member of the North Atlantic Treaty Organization; or

''(B) the country is not a signatory of the Treaty on the Non-Proliferation of Nuclear Weapons and the country is listed on Annex 2 to the Comprehensive Nuclear Test-Ban Treaty.

''(f) CLASSIFICATION.—Each report under subsections (d) and (e) shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

''(g) DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an official at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).

''(h) CALCULATION OF 60-DAY PERIOD.—The 60-day period referred to in subsection (d) shall be calculated by excluding the days on which either House of Congress is not in session because of an adjournment of the Congress sine die.

''SEC. 1212. REPORT ON EXPORTS OF HIGH PERFORMANCE COMPUTERS.

''(a) REPORT.—Not later than 60 days after the date of the enactment of this Act [Nov. 18, 1997], the President shall provide to the congressional committees specified in section 1215 a report identifying all exports of digital computers with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) to all countries since January 25, 1996. For each export, the report shall identify—

''(1) whether an export license was applied for and whether one was granted;

''(2) the date of the transfer of the computer;

''(3) the United States manufacturer and exporter of the computer;

''(4) the MTOPS level of the computer; and

''(5) the recipient country and end user.

''(b) ADDITIONAL INFORMATION ON EXPORTS TO CERTAIN COUNTRIES.—In the case of exports to countries specified in subsection (c), the report under subsection (a) shall identify the intended end use for the exported computer and the assessment by the executive branch of whether the end user is a military end user or an end user involved in activities relating to nuclear, chemical, or biological weapons or missile technology. Information provided under this subsection may be submitted in classified form if necessary.

''(c) COVERED COUNTRIES.—For purposes of subsection (b), the countries specified in this subsection are—

''(1) the countries listed as 'Computer Tier 3' eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997; and

''(2) the countries listed in section 740.7(e) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

''SEC. 1213. POST-SHIPMENT VERIFICATION OF EXPORT OF HIGH PERFORMANCE COMPUTERS.

''(a) REQUIRED POST-SHIPMENT VERIFICATION.—The Secretary of Commerce shall conduct post-shipment verification of each digital computer with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) that is exported from the United States, on or after the date of the enactment of this Act [Nov. 18, 1998], to a country specified in subsection (b).

''(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as 'Computer Tier 3' eligible countries in section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under section 1211(e).

''(c) ANNUAL REPORT.—The Secretary of Commerce shall submit to the congressional committees specified in section 1215 an annual report on the results of post-shipment verifications conducted under this section during the preceding year. Each such report shall include a list of all such items exported from the United States to such countries during the previous year and, with respect to each such export, the following:

''(1) The destination country.

''(2) The date of export.

''(3) The intended end use and intended end user.

''(4) The results of the post-shipment verification.

''(d) EXPLANATION WHEN VERIFICATION NOT CONDUCTED.—If a post-shipment verification has not been conducted in accordance with subsection (a) with respect to any such export during the period covered by a report, the Secretary shall include in the report for that period a detailed explanation of the reasons why such a post-shipment verification was not conducted.

''(e) ADJUSTMENT OF PERFORMANCE LEVELS.—Whenever a new composite theoretical performance level is established under section 1211(d), that level shall apply for purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).

''SEC. 1214. GAO STUDY ON CERTAIN COMPUTERS; END USER INFORMATION ASSISTANCE.

''(a) IN GENERAL.—The Comptroller General of the United States shall submit to the congressional committees specified in section 1215 a study of the national security risks relating to the sale of computers with a composite theoretical performance of between 2,000 and 7,000 millions of theoretical operations per second (MTOPS) to end users in countries specified in subsection (c). The study shall also analyze any foreign availability of computers described in the preceding sentence and the impact of such sales on United States exporters.

''(b) END USER INFORMATION ASSISTANCE TO EXPORTERS.—The Secretary of Commerce shall establish a procedure by which exporters may seek information on questionable end users in countries specified in subsection (c) who are seeking to obtain computers described in subsection (a).

''(c) COVERED COUNTRIES.—For purposes of subsections (a) and (b), the countries specified in this subsection are the countries listed as 'Computer Tier 3' eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

''SEC. 1215. CONGRESSIONAL COMMITTEES.

''For purposes of sections 1211(d), 1212(a), 1213(c), and 1214(a) the congressional committees specified in those sections are the following:

''(1) The Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

''(2) The Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Armed Services of the House of Representatives.''

[Pub. L. 106–398, § 1 [[div. A], title XII, § 1234(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–331, provided that: ''The amendments made by subsection (a) [amending section 1211 of Pub. L. 105–85, set out above] shall apply to any new composite theoretical performance level established for purposes of section 1211(a) of the National Defense Authorization Act for Fiscal Year 1998 [Pub. L. 105–85] that is submitted by the President pursuant to section 1211(d) of that Act on or after the date of the enactment of this Act [Oct. 30, 2000].''']

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

REPORTS ON ADVANCED SUPERCOMPUTER SALES TO CERTAIN FOREIGN NATIONS

Pub. L. 105–85, div. C, title XXXI, § 3157, Nov. 18, 1997, 111 Stat. 2045, as amended by Pub. L. 106–398, § 1 [div. C, title XXXI, § 3134], Oct. 30, 2000, 114 Stat. 1654, 1654A–456, provided that:

''(a) REPORTS.—The Secretary of Energy shall require that any company that is a participant in the Accelerated Strategic Computing Initiative (ASCI) program of the Department of Energy report to the Secretary and to the Secretary of Defense each sale by that company to a country designated as a Tier III country of a computer capable of operating at a speed in excess of 2,000 millions theoretical operations per second (MTOPS). The report shall include a description of the following with respect to each such sale:

''(1) The anticipated end-use of the computer sold.

''(2) The software included with the computer.

''(3) Any arrangement under the terms of the sale regarding—

''(A) upgrading the computer;

''(B) servicing the computer; or

''(C) furnishing spare parts for the computer.

''(b) COVERED COUNTRIES.—For purposes of this section, the countries designated as Tier III countries are the countries listed as 'computer tier 3' eligible countries in part 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997 (or any successor list).

''(c) QUARTERLY SUBMISSION OF REPORTS.—The Secretary of Energy shall require that reports under subsection (a) be submitted quarterly.

''(d) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress an annual report containing all information received under subsection (a) during the preceding year. The first annual report shall be submitted not later than July 1, 1998.

''(e) ADJUSTMENT OF PERFORMANCE LEVELS.—Whenever a new composite theoretical performance level is established under section 1211(d) [Pub. L. 105–85, set out as a note above], that level shall apply for the purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).''

NATIONAL SECURITY IMPLICATIONS OF UNITED STATES EXPORT CONTROL POLICY

Pub. L. 104–106, div. A, title XIII, § 1322, Feb. 10, 1996, 110 Stat. 478, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) Export controls remain an important element of the national security policy of the United States.

''(2) It is in the national security interest that United States export control policy be effective in preventing the transfer, to potential adversaries or combatants of the United States, of technology that threatens the national security or defense of the United States.

''(3) It is in the national security interest that the United States monitor aggressively the export of militarily critical technology in order to prevent its diversion to potential adversaries or combatants of the United States.

''(4) The Department of Defense relies increasingly on commercial and dual-use technologies, products, and processes to support United States military capabilities and economic strength.

''(5) The maintenance of the military advantage of the United States depends on effective export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the Secretary of Defense should evaluate license applications for the export of militarily critical commodities the export of which is controlled for national security reasons if those commodities are to be exported to certain countries of concern;

''(2) the Secretary of Defense should identify the dual-use items and technologies that are critical to the military capabilities of the Armed Forces, including the military use made of such items and technologies;

''(3) upon identification by the Secretary of Defense of the dual-use items and technologies referred to in paragraph (2), the President should ensure effective export controls or use unilateral export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces (regardless of the availability of such items or technologies overseas) with respect to the countries that—

''(A) pose a threat to the national security interests of the United States; and

''(B) are not members in good standing of bilateral or multilateral agreements to which the United States is a party on the use of such items and technologies; and

''(4) the President, upon recommendation of the Secretary of Defense, should ensure effective controls on the re-export by other countries of dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

''(c) ANNUAL REPORT.—(1) Not later than December 1 of each year through 1999, the President shall submit to the committees specified in paragraph (4) a report on the effect of the export control policy of the United States on the national security interests of the United States.

''(2) The report shall include the following:

''(A) A list setting forth each country determined by the Secretary of Defense, the intelligence community, and other appropriate agencies to be a rogue nation or potential adversary or combatant of the United States.

''(B) For each country so listed, a list of—

''(i) the categories of items that the United States currently prohibits for export to the country;

''(ii) the categories of items that may be exported from the United States with an individual license, and in such cases, any licensing conditions normally required and the policy grounds used for approvals and denials; and

''(iii) the categories of items that may be exported under a general license designated 'G-DEST'.

''(C) For each category of items listed under subparagraph (B)—

''(i) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed pursuant to an international multilateral agreement or is unilateral;

''(ii) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed by the other members of an international agreement or is unilateral;

''(iii) when the answer under either clause (i) or clause (ii) is unilateral, a statement concerning the efforts being made to ensure that the prohibition, control, or licensing requirement is made multilateral; and

''(iv) a statement on what impact, if any, a unilateral prohibition is having, or would have, on preventing the rogue nation or potential adversary from attaining the items in question for military purposes.

''(D) A description of United States policy on sharing satellite imagery that has military significance and a discussion of the criteria for determining the imagery that has that significance.

''(E) A description of the relationship between United States policy on the export of space launch vehicle technology and the Missile Technology Control Regime.

''(F) An assessment of United States efforts to support the inclusion of additional countries in the Missile Technology Control Regime.

''(G) An assessment of the ongoing efforts made by potential participant countries in the Missile Technology Control Regime to meet the guidelines established by the Missile Technology Control Regime.

''(H) A discussion of the history of the space launch vehicle programs of other countries, including a discussion of the military origins and purposes of such programs and the current level of military involvement in such programs.

''(3) The President shall submit the report in unclassified form, but may include a classified annex.

''(4) The committees referred to in paragraph (1) are the following:

''(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

''(B) The Committee on National Security [now Committee on Armed Services] and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

''(5) For purposes of this subsection, the term 'Missile Technology Control Regime' means the policy statement announced on April 16, 1987, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan to restrict sensitive missile-relevant transfers based on the Missile Technology Control Regime Annex, and any amendment thereto.''

DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS

Pub. L. 104–106, div. A, title XIII, § 1323, Feb. 10, 1996, 110 Stat. 480, provided that:

''(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

''(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of such biological pathogen to that country would be contrary to the national security interests of the United States.

''(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BI-

OLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

''(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

''(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

''(d) DEFINITION.—For purposes of this section, the term 'class 2, class 3, or class 4 biological pathogen' means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.''

ANNUAL REPORTS ON IMPROVING EXPORT CONTROL MECHANISMS

Pub. L. 104–106, div. A, title XIII, § 1324(a), (b), Feb. 10, 1996, 110 Stat. 480, 481, provided that:

''(a) JOINT REPORTS BY SECRETARIES OF STATE AND COMMERCE.—Not later than April 1 of each of 1996 and 1997, the Secretary of State and the Secretary of Commerce shall submit to Congress a joint report, prepared in consultation with the Secretary of Defense, relating to United States export-control mechanisms. Each such report shall set forth measures to be taken to strengthen United States export-control mechanisms, including—

''(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing watchlist data received from the other Secretary into the watchlist of that Secretary's department;

''(2) steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service; and

''(3) a description of such further measures to be taken to strengthen United States export-control mechanisms as the Secretaries consider to be appropriate.

''(b) REPORTS BY INSPECTORS GENERAL.—(1) Not later than April 1 of each of 1996 and 1997, the Inspector General of the Department of State and the Inspector General of the Department of Commerce shall each submit to Congress a report providing that official's evaluation of the effectiveness during the preceding year of the export licensing watchlist screening process of that official's department. The reports shall be submitted in both a classified and unclassified version.

''(2) Each report of an Inspector General under paragraph (1) shall (with respect to that official's department)—

''(A) set forth the number of export licenses granted to parties on the export licensing watchlist;

''(B) set forth the number of end-use checks performed with respect to export licenses granted to parties on the export licensing watchlist the previous year;

''(C) assess the screening process used in granting an export license when an applicant is on the export licensing watchlist; and

''(D) assess the extent to which the export licensing watchlist contains all relevant information and parties required by statute or regulation.''

STUDY ON NATIONAL SECURITY EXPORT CONTROLS

Section 2433 of Pub. L. 100–418 directed Secretary of Commerce and Secretary of Defense, not later than 60 days after Aug. 23, 1988, to enter into appropriate arrangements with National Academy of Sciences and National Academy of Engineering to conduct a comprehensive study of adequacy of current export administration system in safeguarding United States national security while maintaining United States international competitiveness and Western technological preeminence, further directed Academies to prepare and submit to President and Congress, not later than 18 months after entering into such arrangements, a report containing a detailed statement of findings and conclusions of Academies pursuant to such study, together with their recommendations for such legislative or regulatory reforms as they considered appropriate, and further provided for an Advisory Panel to aid in such study, as well as executive branch cooperation, and appropriations for such study.

DELEGATION OF AUTHORITY UNDER SECTION 1322(c) OF PUBLIC LAW 104–106

Determination of President of the United States, No. 97–39, Sept. 30, 1997, 62 F.R. 52477, provided:

By the authority vested in me by the Constitution and laws of the United States of America, I hereby delegate to the Secretary of Defense the duties and responsibilities vested in the President by section 1322(c) of the National Defense Authorization Act for Fiscal Year 1996 (''the Act'') (Public Law 104–106, 110 Stat. 478–479 (1996)) [set out as a note above].

The reporting requirement delegated by this memorandum may be redelegated not lower than the Under Secretary level. The Department of Defense shall obtain concurrence on the report from the following agencies: the Department of Commerce, the Department of State, the Department of the Treasury, and the Director of Central Intelligence on behalf of the intelligence community prior to submission to the Congress.

Any reference in this memorandum to the provisions of any Act shall be deemed to be a reference to such Act or its provisions as may be amended from time to time.

The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 2405. Foreign policy controls

(a) Authority

(1) In order to carry out the policy set forth in paragraph (2)(B), (7), (8), or (13) of section 3 of this Act [section 2402(2)(B), (7), (8), or (13) of this Appendix], the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Secretary, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

(2) Any export control imposed under this section shall apply to any transaction or activity undertaken with the intent to evade that export control, even if that export control would not otherwise apply to that transaction or activity.

(3) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with subsections (b) and (f). Any such extension

and any subsequent extension shall not be for a period of more than one year.

(4) Whenever the Secretary denies any export license under this subsection, the Secretary shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Secretary shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Secretary shall indicate in such notice which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restrictions, if appropriate.

(5) In accordance with the provisions of section 10 of this Act [section 2409 of this Appendix], the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods, technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States.

(b) Criteria

(1) Subject to paragraph (2) of this subsection, the President may impose, extend, or expand export controls under this section only if the President determines that—

(A) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls, and that foreign policy purpose cannot be achieved through negotiations or other alternative means;

(B) the proposed controls are compatible with the foreign policy objectives of the United States and with overall United States policy toward the country to which exports are to be subject to the proposed controls;

(C) the reaction of other countries to the imposition, extension, or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to United States foreign policy interests;

(D) the effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or on the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

(E) the United States has the ability to enforce the proposed controls effectively.

(2) With respect to those export controls in effect under this section on the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], the President, in determining whether to extend those controls, as required by subsection (a)(3) of this section, shall consider the criteria set forth in paragraph (1) of this subsection and shall consider the foreign policy consequences of modifying the export controls.

(c) Consultation with industry

The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155] before imposing any export control under this section. Such consultation and advice shall be with respect to the criteria set forth in subsection (b)(1) and such other matters as the Secretary considers appropriate.

(d) Consultation with other countries

When imposing export controls under this section, the President shall, at the earliest appropriate opportunity, consult with the countries with which the United States maintains export controls cooperatively, and with such other countries as the President considers appropriate, with respect to the criteria set forth in subsection (b)(1) and such other matters as the President considers appropriate.

(e) Alternative means

Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

(f) Consultation with Congress

(1) The President may impose or expand export controls under this section, or extend such controls as required by subsection (a)(3) of this section, only after consultation with the Congress, including the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The President may not impose, expand, or extend export controls under this section until the President has submitted to the Congress a report—

(A) specifying the purpose of the controls;

(B) specifying the determinations of the President (or, in the case of those export controls described in subsection (b)(2), the considerations of the President) with respect to each

of the criteria set forth in subsection (b)(1), the bases for such determinations (or considerations), and any possible adverse foreign policy consequences of the controls;

(C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry pursuant to subsection (c) and with other countries pursuant to subsection (d);

(D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and

(E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations.

(3) To the extent necessary to further the effectiveness of the export controls, portions of a report required by paragraph (2) may be submitted to the Congress on a classified basis, and shall be subject to the provisions of section 12(c) of this Act [section 2411(c) of this Appendix].

(4) In the case of export controls under this section which prohibit or curtail the export of any agricultural commodity, a report submitted pursuant to paragraph (2) shall be deemed to be the report required by section 7(g)(3)(A) of this Act [section 2406(g)(3)(A) of this Appendix].

(5) In addition to any written report required under this section, the Secretary, not less frequently than annually, shall present in oral testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on policies and actions taken by the Government to carry out the provisions of this section.

(g) Exclusion for medicine and medical supplies and for certain food exports

This section does not authorize export controls on medicine or medical supplies. This section also does not authorize export controls on donations of goods (including, but not limited to, food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies) that are intended to meet basic human needs. Before export controls on food are imposed, expanded, or extended under this section, the Secretary shall notify the Secretary of State in the case of export controls applicable with respect to any developed country and shall notify the Administrator of the Agency for International Development in the case of export controls applicable with respect to any developing country. The Secretary of State with respect to developed countries, and the Administrator with respect to developing countries, shall determine whether the proposed export controls on food would cause measurable malnutrition and shall inform the Secretary of that determination. If the Secretary is informed that the proposed export controls on food would cause measurable malnutrition, then those controls may not be imposed, expanded, or extended, as the case may be, unless the President determines that those controls are necessary to protect the national security interests of the United States, or unless the President determines that arrangements are insufficient to ensure that the food will reach those most in need. Each such determination by the Secretary of State or the Administrator of the Agency for International Development, and any such determination by the President, shall be reported to the Congress, together with a statement of the reasons for that determination. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of medicine or medical supplies or of food under the International Emergency Economic Powers Act [50 U.S.C 1701 et seq.]. This subsection shall not apply to any export control on medicine, medical supplies, or food, except for donations, which is in effect on the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985]. Notwithstanding the preceding provisions of this subsection, the President may impose export controls under this section on medicine, medical supplies, food, and donations of goods in order to carry out the policy set forth in paragraph (13) of section 3 of this Act [section 2402(13) of this Appendix].

(h) Foreign availability

(1) In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled under this section.

(2) Before extending any export control pursuant to subsection (a)(3) of this section, the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his report to the Congress pursuant to subsection (f) of this section.

(3) If, within 6 months after the date on which export controls under this section are imposed or expanded, or within 6 months after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985] in the case of export controls in effect on such date of enactment, the President's efforts under paragraph (1) are not successful in securing the cooperation of foreign governments described in paragraph (1) with respect to those export controls, the Secretary shall thereafter take into account the foreign availability of the goods or

technology subject to the export controls. If the Secretary affirmatively determines that a good or technology subject to the export controls is available in sufficient quantity and comparable quality from sources outside the United States to countries subject to the export controls so that denial of an export license would be ineffective in achieving the purposes of the controls, then the Secretary shall, during the period of such foreign availability, approve any license application which is required for the export of the good or technology and which meets all requirements for such a license. The Secretary shall remove the good or technology from the list established pursuant to subsection (*l*) of this section if the Secretary determines that such action is appropriate.

(4) In making a determination of foreign availability under paragraph (3) of this subsection, the Secretary shall follow the procedures set forth in section 5(f)(3) of this Act [section 2404(f)(3) of this Appendix].

(i) International obligations

The provisions of subsections (b), (c), (d), (e), (g), and (h) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill obligations of the United States pursuant to treaties to which the United States is a party or pursuant to other international agreements.

(j) Countries supporting international terrorism

(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

(A) The government of such country has repeatedly provided support for acts of international terrorism.

(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989 [Dec. 12, 1989], shall be published in the Federal Register.

(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(5)(A) As used in paragraph (1), the term ''repeatedly provided support for acts of international terrorism'' shall include the recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations.

(B) In this paragraph—

(i) the term ''territory of a country'' means the land, waters, and airspace of the country; and

(ii) the term ''sanctuary'' means an area in the territory of a country—

(I) that is used by a terrorist or terrorist organization—

(aa) to carry out terrorist activities, including training, financing, and recruitment; or

(bb) as a transit point; and

(II) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory.

(6) The Secretary and the Secretary of State shall include in the notification required by paragraph (2)—

(A) a detailed description of the goods or services to be offered, including a brief description of the capabilities of any article for which a license to export is sought;

(B) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the goods or services which are the subject of such export or transfer and a description of the manner in which such country or organization intends to use such articles, services, or design and construction services;

(C) the reasons why the proposed export or transfer is in the national interest of the United States;

(D) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(E) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the goods or services which are the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of articles, services, or design and construction services; and

(F) an analysis of the impact of the proposed export or transfer on the United States rela-

tions with the countries in the region to which the goods or services which are the subject of such export would be delivered.

(k) Negotiations with other countries

(1) Countries participating in certain agreements

The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with those countries participating in the groups known as the Coordinating Committee, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers' Group, regarding their cooperation in restricting the export of goods and technology in order to carry out—

(A) the policy set forth in section 3(2)(B) of this Act [section 2402(2)(B) of this Appendix], and

(B) United States policy opposing the proliferation of chemical, biological, nuclear, and other weapons and their delivery systems, and effectively restricting the export of dual use components of such weapons and their delivery systems, in accordance with this subsection and subsections (a) and (*l*).

Such negotiations shall cover, among other issues, which goods and technology should be subject to multilaterally agreed export restrictions, and the implementation of the restrictions consistent with the principles identified in section 5(b)(2)(C) of this Act [section 2404(b)(2)(C) of this Appendix].

(2) Other countries

The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with countries and groups of countries not referred to in paragraph (1) regarding their cooperation in restricting the export of goods and technology consistent with purposes set forth in paragraph (1). In cases where such negotiations produce agreements on export restrictions that the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines to be consistent with the principles identified in section 5(b)(2)(C) of this Act [section 2404(b)(2)(C) of this Appendix], the Secretary may treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports are treated to countries that are MTCR adherents.

(3) Review of determinations

The Secretary shall annually review any determination under paragraph (2) with respect to a country. For each such country which the Secretary determines is not meeting the requirements of an effective export control system in accordance with section 5(b)(2)(C) [section 2404(b)(2)(C) of this Appendix], the Secretary shall restrict or eliminate any preferential licensing treatment for exports to that country provided under this subsection.

(*l*) Missile technology

(1) Determination of controlled items

The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies—

(A) shall establish and maintain, as part of the control list established under this section, a list of all dual use goods and technology on the MTCR Annex; and

(B) may include, as part of the control list established under this section, goods and technology that would provide a direct and immediate impact on the development of missile delivery systems and are not included in the MTCR Annex but which the United States is proposing to the other MTCR adherents to have included in the MTCR Annex.

(2) Requirement of individual validated licenses

The Secretary shall require an individual validated license for—

(A) any export of goods or technology on the list established under paragraph (1) to any country; and

(B) any export of goods or technology that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

(3) Policy of denial of licenses

(A) Licenses under paragraph (2) should in general be denied if the ultimate consignee of the goods or technology is a facility in a country that is not an adherent to the Missile Technology Control Regime and the facility is designed to develop or build missiles.

(B) Licenses under paragraph (2) shall be denied if the ultimate consignee of the goods or technology is a facility in a country the government of which has been determined under subsection (j) to have repeatedly provided support for acts of international terrorism.

(4) Consultation with other departments

(A) A determination of the Secretary to approve an export license under paragraph (2) for the export of goods or technology to a country of concern regarding missile proliferation may be made only after consultation with the Secretary of Defense and the Secretary of State for a period of 20 days. The countries of concern referred to in the preceding sentence shall be maintained on a classified list by the Secretary of State, in consultation with the Secretary and the Secretary of Defense.

(B) Should the Secretary of Defense disagree with the determination of the Secretary to approve an export license to which subparagraph (A) applies, the Secretary of Defense shall so notify the Secretary within the 20 days provided for consultation on the determination. The Secretary of Defense shall at the same time submit the matter to the President for resolution of the dispute. The Secretary shall also submit the Secretary's recommendation to the President on the license application.

(C) The President shall approve or disapprove the export license application within

20 days after receiving the submission of the Secretary of Defense under subparagraph (B).

(D) Should the Secretary of Defense fail to notify the Secretary within the time period prescribed in subparagraph (B), the Secretary may approve the license application without awaiting the notification by the Secretary of Defense. Should the President fail to notify the Secretary of his decision on the export license application within the time period prescribed in subparagraph (C), the Secretary may approve the license application without awaiting the President's decision on the license application.

(E) Within 10 days after an export license is issued under this subsection, the Secretary shall provide to the Secretary of Defense and the Secretary of State the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

(5) Information sharing

The Secretary shall establish a procedure for information sharing with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(m) Chemical and biological weapons

(1) Establishment of list

The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

(2) Requirement for validated licenses

The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

(3) Countries of concern

For purposes of paragraph (2), the term ''country of concern'' means any country other than—

(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 [22 U.S.C. 5601 et seq.].

(n) Crime control instruments

(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to a validated export license. Notwithstanding any other provision of this Act [sections 2401 to 2420 of this Appendix]—

(A) any determination of the Secretary of what goods or technology shall be included on the list established pursuant to subsection (*l*)[1] of this section as a result of the export restrictions imposed by this subsection shall be made with the concurrence of the Secretary of State, and

(B) any determination of the Secretary to approve or deny an export license application to export crime control or detection instruments or equipment shall be made in concurrence with the recommendations of the Secretary of State submitted to the Secretary with respect to the application pursuant to section 10(e) of this Act [section 2409(e) of this Appendix],

except that, if the Secretary does not agree with the Secretary of State with respect to any determination under subparagraph (A) or (B), the matter shall be referred to the President for resolution.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961 [22 U.S.C. 2304].

(*o*) Control list

The Secretary shall establish and maintain, as part of the control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. The Secretary shall clearly identify on the control list which goods or technology, and which countries or destinations, are subject to which types of controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Secretary. If the Secretary and the Secretary of State are unable to agree on the list, the matter shall be referred to the President. Such list shall be reviewed not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, for the purpose of making such revisions as are necessary in order to carry out this section. During the course of such review, an assessment shall be made periodically of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled for export from the United States under this section.

(p) Effect on existing contracts and licenses

The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information—

(1) in performance of a contract or agreement entered into before the date on which the President reports to the Congress, pursu-

[1] See References in Text note below.

ant to subsection (f) of this section, his intention to impose controls on the export or reexport of such goods, technology, or other information, or

(2) under a validated license or other authorization issued under this Act [sections 2401 to 2420 of this Appendix],

unless and until the President determines and certifies to the Congress that—

(A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States,

(B) the prohibition or curtailment of such contracts, agreements, licenses, or authorizations will be instrumental in remedying the situation posing the direct threat, and

(C) the export controls will continue only so long as the direct threat persists.

(q) Extension of certain controls

Those export controls imposed under this section with respect to South Africa which were in effect on February 28, 1982, and ceased to be effective on March 1, 1982, September 15, 1982, or January 20, 1983, shall become effective on the date of the enactment of this subsection [July 12, 1985], and shall remain in effect until 1 year after such date of enactment. At the end of that 1-year period, any of those controls made effective by this subsection may be extended by the President in accordance with subsections (b) and (f) of this section.

(r) Expanded authority to impose controls

(1) In any case in which the President determines that it is necessary to impose controls under this section without any limitation contained in subsection (c), (d), (e), (g), (h), or (m)[2] of this section, the President may impose those controls only if the President submits that determination to the Congress, together with a report pursuant to subsection (f) of this section with respect to the proposed controls, and only if a law is enacted authorizing the imposition of those controls. If a joint resolution authorizing the imposition of those controls is introduced in either House of Congress within 30 days after the Congress receives the determination and report of the President, that joint resolution shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the appropriate committee of the House of Representatives. If either such committee has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution.

(2) For purposes of this subsection, the term ''joint resolution'' means a joint resolution the matter after the resolving clause of which is as follows: ''That the Congress, having received on _____ a determination of the President under section 6(*o*)(1)[2] of the Export Administration Act of 1979 with respect to the export controls which are set forth in the report submitted to the Congress with that determination, authorizes the President to impose those export controls.'', with the date of the receipt of the determination and report inserted in the blank.

(3) In the computation of the periods of 30 days referred to in paragraph (1), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(s) Spare parts

(1) At the same time as the President imposes or expands export controls under this section, the President shall determine whether such export controls will apply to replacement parts for parts in goods subject to such export controls.

(2) With respect to export controls imposed under this section before the date of the enactment of this subsection [Aug. 23, 1988], an individual validated export license shall not be required for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that was lawfully exported from the United States, unless the President determines that such a license should be required for such parts.

(Pub. L. 96–72, § 6, Sept. 29, 1979, 93 Stat. 513; Pub. L. 96–533, title I, § 111, Dec. 16, 1980, 94 Stat. 3138; Pub. L. 97–145, § 6, Dec. 29, 1981, 95 Stat. 1728; Pub. L. 99–64, title I, § 108(a)–(g)(1), (h)–(j)(1), (k), (*l*)(1), July 12, 1985, 99 Stat. 131–136; Pub. L. 99–399, title V, § 509(b), Aug. 27, 1986, 100 Stat. 874; Pub. L. 100–418, title II, § 2423, Aug. 23, 1988, 102 Stat. 1358; Pub. L. 101–222, § 4, Dec. 12, 1989, 103 Stat. 1897; Pub. L. 101–510, div. A, title XVII, § 1702(a), Nov. 5, 1990, 104 Stat. 1739; Pub. L. 102–138, title V, § 504(b), Oct. 28, 1991, 105 Stat. 724; Pub. L. 102–182, title III, §§ 304(b), 309(a), Dec. 4, 1991, 105 Stat. 1246, 1258; Pub. L. 103–236, title VII, § 736, Apr. 30, 1994, 108 Stat. 506; Pub. L. 104–316, title I, § 128(c), Oct. 19, 1996, 110 Stat. 3841; Pub. L. 105–277, div. G, title XIV, § 1422(b)(7), Oct. 21, 1998, 112 Stat. 2681–793; Pub. L. 108–458, title VII, § 7102(c)(1), Dec. 17, 2004, 118 Stat. 3776.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (g), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, referred to in subsec. (m)(3)(B), is title III of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1245, which is classified principally to chapter 65 (§ 5601 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 22 and Tables.

Subsections (*l*) and (m) of this section, referred to in subsecs. (n)(1)(A) and (r)(1), were successively redesignated as subsections (n) and (*o*), respectively, of this section by Pub. L. 101–510, div. A, title XVII, § 1702(a)(1), Nov. 5, 1990, 104 Stat. 1739, then as subsections (*o*) and (p), respectively, of this section by Pub. L. 102–182, title III, § 304(b), Dec. 4, 1991, 105 Stat. 1246, without corresponding amendments to such references.

Section 6(*o*)(1) of the Export Administration Act of 1979, referred to in subsec. (r)(2), which was classified to subsec. (*o*)(1) of this section, was redesignated successively as section 6(q)(1) by Pub. L. 101–510, div. A, title XVII, § 1702(a)(1), Nov. 5, 1990, 104 Stat. 1739, then as section 6(r)(1) by Pub. L. 102–182, title III, § 304(b), Dec. 4,

[2] See References in Text note below.

1991, 105 Stat. 1246, without a corresponding amendment to such reference.

PRIOR PROVISIONS

A prior section 2405, Pub. L. 91–184, §6, Dec. 30, 1969, 83 Stat. 844; Pub. L. 95–52, title I, §§103(d), 112, title II, §203(a), June 22, 1977, 91 Stat. 237, 240, 247; Pub. L. 95–223, title III, §301(b)(2), Dec. 28, 1977, 91 Stat. 1629, setting forth provisions respecting violations and penalties, expired on Sept. 30, 1979.

AMENDMENTS

2004—Subsec. (j)(5), (6). Pub. L. 108–458 added par. (5) and redesignated former par. (5) as (6).

1998—Subsec. (g). Pub. L. 105–277, which directed amendment of ''Section 2405(g) of the Export Administration Act of 1979'' by substituting ''Administrator of the Agency for International Development'' for ''Director of the United States International Development Cooperation Agency'' in two places and substituting ''Administrator'' for ''Director'' in the fourth sentence, was executed to subsec. (g) of this section, which is section 6 of the Export Administration Act of 1979, to reflect the probable intent of Congress.

1996—Subsec. (f)(3). Pub. L. 104–316 struck out after first sentence ''Each such report shall, at the same time it is submitted to the Congress, also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.''

1994—Subsec. (j)(5). Pub. L. 103–236 added par. (5).

1991—Subsecs. (m) to (s). Pub. L. 102–182, §304(b), added subsec. (m) and redesignated former subsecs. (m) to (r) as (n) to (s), respectively.

Pub. L. 102–138, which made an amendment similar to that made by Pub. L. 102–182, §304(b), by adding a subsec. (m) and redesignating former subsecs. (m) to (r) as (n) to (s), respectively, was repealed by Pub. L. 102–182, §309(a).

1990—Subsecs. (k) to (r). Pub. L. 101–510 added subsecs. (k) and (*l*) and redesignated former subsecs. (k) to (p) as (m) to (r), respectively.

1989—Subsec. (j). Pub. L. 101–222 amended subsec. (j) generally, substituting pars. (1) to (4) for former pars. (1) and (2).

1988—Subsec. (a)(6). Pub. L. 100–418, §2423(a), added par. (6).

Subsec. (p). Pub. L. 100–418, §2423(b), added subsec. (p).

1986—Subsec. (j)(1). Pub. L. 99–399 substituted ''$1,000,000'' for ''$7,000,000''.

1985—Subsec. (a)(1). Pub. L. 99–64, §108(a)(1), substituted ''(8), or (13)'' for ''or (8)'', and inserted '', the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative,'' after ''in consultation with the Secretary of State''.

Subsec. (a)(2). Pub. L. 99–64, §108(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 99–64, §108(a)(2), (4), redesignated par. (2) as (3) and substituted ''subsections (b) and (f)'' for ''subsections (b) and (e)''. Former par. (3) redesignated (4).

Subsec. (a)(4), (5). Pub. L. 99–64, §108(a)(2), redesignated pars. (3) and (4) as (4) and (5), respectively.

Subsec. (b). Pub. L. 99–64, §108(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''When imposing, expanding, or extending export controls under this section, the President shall consider—

''(1) the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

''(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

''(3) the reaction of other countries to the imposition or expansion of such export controls by the United States;

''(4) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

''(5) the ability of the United States to enforce the proposed controls effectively; and

''(6) the foreign policy consequences of not imposing controls.''

Subsec. (c). Pub. L. 99–64, §108(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary, before imposing export controls under this section, shall consult with such affected United States industries as the Secretary considers appropriate, with respect to the criteria set forth in paragraphs (1) and (4) of subsection (b) and such other matters as the Secretary considers appropriate.''

Subsec. (d). Pub. L. 99–64, §108(d)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–64, §108(d)(1), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99–64, §108(d)(1), (e), redesignated former subsec. (e) as (f), amended subsec. (f) generally, substituting ''Consultation with Congress'' for ''Notification to Congress'' in heading, and in text making consultation with the Congress mandatory and not merely discretionary before the President imposes, expands, or extends export controls. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99–64, §108(d)(1), (f), redesignated former subsec. (f) as (g), inserted sentence directing that this section does not authorize export controls on donations of goods that are intended to meet basic human needs, and substituted ''This subsection shall not apply to any export control on medicine, medical supplies, or food, except for donations, which is in effect on the date of the enactment of the Export Administration Amendments Act of 1985'' for ''This subsection shall not apply to any export control on medicine or medical supplies which is in effect on the effective date of this Act or to any export control on food which is in effect on the date of the enactment of the Export Administration Amendments Act of 1981'' and inserted: ''Notwithstanding the preceding provisions of this subsection, the President may impose export controls under this section on medicine, medical supplies, food, and donations of goods in order to carry out the policy set forth in paragraph (13) of section 3 of this Act.''

Subsec. (h). Pub. L. 99–64, §108(g)(1), designated existing provisions as par. (1) and added pars. (2) to (4).

Pub. L. 99–64, §108(d)(1), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99–64, §108(d)(1), (h), redesignated former subsec. (h) as (i) and substituted ''(e), (g), and (h)'' for ''(f), and (g)''. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 99–64, §108(d)(1), (i), redesignated former subsec. (i) as (j), amended subsec. (j) generally, designating the existing sentence as par. (1) and former pars. (1) and (2) thereof as subpars. (A) and (B), and adding par. (2). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99–64, §108(d)(1), redesignated former subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(1). Pub. L. 99–64, §108(j)(1), inserted sentence relating to the concurrence of the Secretary of State.

Subsec. (*l*). Pub. L. 99–64, §108(d)(1), (k), redesignated former subsec. (k) as (*l*), substituted reference to ''the control list'' for existing reference to ''the commodity control list' after ''The Secretary shall establish and maintain, as part of'', and substituted ''The Secretary

shall clearly identify on the control list which goods or technology, and which countries or destinations, are subject to which types of controls under this section'' for ''Such goods or technology shall be clearly identified as subject to controls under this section''.

Subsecs. (m) to (*o*). Pub. L. 99–64, § 108(*l*)(1), added subsecs. (m) to (*o*).

1981—Subsec. (f). Pub. L. 97–145 inserted provisions restricting the imposition of export controls on food when such controls would result in measurable malnutrition, unless the President determines that the controls are necessary to protect the United States national security interests or that the food would not reach persons most in need.

1980—Pub. L. 96–533 required notification of certain commercial exports to be given to the Committee on Foreign Relations of the Senate and prescribed that notice be given to the committees at least 30 days before approval of the export license.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 108(g)(2) of Pub. L. 99–64 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section] shall not apply to export controls in effect under subsection (i), (j), or (k) of section 6 of the Export Administration Act of 1979 [subsec. (i), (j), or (k) of this section] (as redesignated by subsection (d) of this section) immediately before the date of the enactment of this Act [July 12, 1985], or to export controls made effective by subsection (i)(2) of this section [there is no section 108(i)(2) of Pub. L. 99–64] or by section 6(n) of the Export Administration Act of 1979 [subsec. (n) of this section] (as added by subsection (*l*)(1) of this section).''

Section 108(j)(2) of Pub. L. 99–64 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall apply to determinations of the Secretary of Commerce which are made on or after the date of the enactment of this Act [July 12, 1985].''

Section 108(*l*)(2) of Pub. L. 99–64 provided that: ''Subsections (m) and (*o*) of section 6 of the Export Administration Act of 1979 [subsecs. (m) and (*o*) of this section], as added by paragraph (1) of this subsection, shall not apply to export controls in effect immediately before the date of the enactment of this Act [July 12, 1985], or to export controls made effective by subsection (i)(2) of this section [there is no section 108(i)(2) of Pub. L. 99–64] or by section 6(n) of the Export Administration Act of 1979 [subsec. (n) of this section] (as added by paragraph (1) of this subsection).''

CONSTRUCTION OF 2004 AMENDMENT

Pub. L. 108–458, title VII, § 7102(c)(2), Dec. 17, 2004, 118 Stat. 3777, provided that: ''Nothing in this subsection [amending this section and enacting provisions set out as a note under this section] or the amendments made by this subsection shall be construed as affecting any determination made by the Secretary of State pursuant to section 6(j) of the Export Administration Act of 1979 [50 U.S.C. App. 2405(j)] with respect to a country prior to the date of enactment of this Act [Dec. 17, 2004].''

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under 2403 of this Appendix, with exception of functions conferred upon President under subsec. (g) of this section which were delegated to Secretary of State and functions conferred upon President under subsec. (k) of this section which were reserved to President.

IMPLEMENTATION

Pub. L. 108–458, title VII, § 7102(c)(3), Dec. 17, 2004, 118 Stat. 3777, provided that: ''The President shall implement the amendments made by paragraph (1) [amending this section] by exercising the authorities of the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).''

EXERCISE OF STATUTORY AUTHORITIES RESPECTING IMPOSITION OF TOTAL EMBARGO IN EVENT OF SOVIET OR WARSAW PACT MILITARY ACTION IN POLAND

Section 7 of Pub. L. 97–145 provided that: ''Notwithstanding any other provision of law, no provision of the Export Administration Act of 1979, as amended by this Act [sections 2401 to 2420 of this Appendix], or of any other Act shall be construed to prohibit the exercise of authorities contained in the Export Administration Act of 1979 to impose a total embargo in the event of Soviet or Warsaw Pact military action against Poland.''

ADMINISTRATION OF EXPORT CONTROLS ON ENCRYPTION PRODUCTS

For provision that subsec. (h)(2) to (4) of this section is not applicable with respect to export controls on encryption products, see Ex. Ord. No. 13026, § 1(a), set out as a note under section 2403 of this Appendix.

§ 2406. Short supply controls

(a) Authority

(1) In order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) Monitoring

(1) In order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812[1] of the Agricultural Act of 1970 [7 U.S.C. 612c–3]) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(c) Petitions for monitoring or controls

(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, that is representative of an industry or a substantial segment of an industry that processes metallic materials capable of being recycled may transmit a written petition to the Secretary requesting the monitoring of exports or the imposition of export controls, or both, with respect to any such material, in order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix].

(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating that each of the criteria set forth in paragraph (3)(A) of this subsection is satisfied.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall—

(A) include the name of the material that is the subject of the petition,

(B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States,

(C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and

(D) provide that interested persons shall have a period of 30 days beginning on the date of publication of such notice to submit to the Secretary written data, views or arguments, with or without opportunity for oral presentation, with respect to the matter involved.

At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material that is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3)(A) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall determine whether to impose monitoring or controls, or both, on the export of the material that is the subject of the petition, in order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix]. In making such determination, the Secretary shall determine whether—

(i) there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand;

(ii) there has been a significant increase in the domestic price of such material or a domestic shortage of such material relative to demand;

(iii) exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand found under clause (ii);

(iv) a domestic price increase or shortage relative to demand found under clause (ii) has significantly adversely affected or may significantly adversely affect the national economy or any sector thereof, including a domestic industry; and

(v) monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix].

(B) The Secretary shall publish in the Federal Register a detailed statement of the reasons for

[1] See References in Text note below.

the Secretary's determination pursuant to subparagraph (A) of whether to impose monitoring or controls, or both, including the findings of fact in support of that determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days after the publication of such proposed regulations, and after considering any public comments on the proposed regulations, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses to such petitions, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after the consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

(8) The Secretary may impose monitoring or controls, on a temporary basis, on the export of a metallic material after a petition is filed under paragraph (1)(A) with respect to that material but before the Secretary makes a determination under paragraph (3) with respect to that material only if—

(A) the failure to take such temporary action would result in irreparable harm to the entity filing the petition, or to the national economy or segment thereof, including a domestic industry, and

(B) the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix].

(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act [sections 2401 to 2420 of this Appendix], except that if the Secretary determines, on the Secretary's own initiative, to impose monitoring or controls, or both, on the export of metallic materials capable of being recycled, under the authority of this section, the Secretary shall publish the reasons for such action in accordance with paragraph (3)(A) and (B) of this subsection.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act [sections 2401 to 2420 of this Appendix], or to preclude consideration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

(d) Domestically produced crude oil

(1) Notwithstanding any other provision of this Act [sections 2401 to 2420 of this Appendix] and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States, or (C) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under subparagraphs (A) and (B), except that any ocean transportation of such oil shall be by vessels documented under section 12106[1] of title 46, United States Code) may be exported from the United States, or any of its territories and possessions, subject to paragraph (2) of this subsection.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President so recommends to the Congress after making and publishing express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within 3 months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act [sections 2401 to 2420 of this Appendix]; and

(B) the President includes such findings in his recommendation to the Congress and the

Congress, within 60 days after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 [30 U.S.C. 185(u)], the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(e) Refined petroleum products

(1) In any case in which the President determines that it is necessary to impose export controls on refined petroleum products in order to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix], the President shall notify the Congress of that determination. The President shall also notify the Congress if and when he determines that such export controls are no longer necessary. During any period in which a determination that such export controls are necessary is in effect, no refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than 5 days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Secretary may not grant such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

(3) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

(4) For purposes of this subsection, ''refined petroleum product'' means gasoline, kerosene, distillates, propane or butane gas, diesel fuel, and residual fuel oil refined within the United States or entered for consumption within the United States.

(5) The Secretary may extend any time period prescribed in section 10 of this Act [section 2409 of this Appendix] to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection.

(f) Certain petroleum products

Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed under this section except that, if the Secretary finds that a product is in short supply, the Secretary may issue such regulations as may be necessary to limit exports.

(g) Agricultural commodities

(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (A) or (B) of paragraph (2) of section 3 of this Act [section 2402(2)(A) or (B) of this Appendix]. The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.

(2) Upon approval of the Secretary, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix] subsequent to such approval. The Secretary may not grant such approval unless the Secretary receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary may issue such regulations as may be necessary to implement this paragraph.

(3)(A) If the President imposes export controls on any agricultural commodity in order to carry out the policy set forth in paragraph (2)(B), (2)(C), (7), or (8) of section 3 of this Act [section 2402(2)(B), (2)(C), (7), or (8) of this Appendix], the President shall immediately transmit a report on such action to the Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If

the Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to paragraph (4) approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(B) The provisions of subparagraph (A) and paragraph (4) shall not apply to export controls—

(i) which are extended under this Act [sections 2401 to 2420 of this Appendix] if the controls, when imposed, were approved by the Congress under subparagraph (A) and paragraph (4); or

(ii) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

(4)(A) For purposes of this paragraph, the term ''joint resolution'' means only a joint resolution the matter after the resolving clause of which is as follows: ''That, pursuant to section 7(g)(3) of the Export Administration Act of 1979, the President may impose export controls as specified in the report submitted to the Congress on .'', with the blank space being filled with the appropriate date.

(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (3), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(C) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(D) If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(E) A joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this paragraph, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this paragraph which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(F) In the case of a joint resolution described in subparagraph (A), if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(5) In the computation of the period of 60 days referred to in paragraph (3) and the period of 30 days referred to in subparagraph (D) of paragraph (4), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(h) Barter agreements

(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(C) of this Act [section 2402(2)(C) of this Appendix].

(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term ''barter agreement'' means any agreement which is made for the exchange, without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

(4) This subsection shall apply only with respect to barter agreements entered into after

the effective date of this Act [September 30, 1979].

(i) Unprocessed red cedar

(1) The Secretary shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Secretary shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the 3-year period beginning on the effective date of this Act [September 30, 1979] as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(B) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs harvested from State or Federal lands may be exported from the United States.

(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of this Act [section 2403(a)(2) of this Appendix] in lieu of validated licenses for exports under this subsection.

(3) The Secretary shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(4) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(5) As used in this subsection, the term ''unprocessed western red cedar'' means red cedar timber which has not been processed into—

(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

(j) Effect of controls on existing contracts

The export restrictions contained in subsection (i) of this section and any export controls imposed under this section shall not affect any contract to harvest unprocessed western red cedar from State lands which was entered into before October 1, 1979, and the performance of which would make the red cedar available for export. Any export controls imposed under this section on any agricultural commodity (including fats, oils, and animal hides and skins) or on any forest product or fishery product, shall not affect any contract to export entered into before the date on which such controls are imposed. For purposes of this subsection, the term ''contract to export'' includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology.

(k) Oil exports for use by United States military facilities

For purposes of subsection (d) of this section, and for purposes of any export controls imposed under this Act [sections 2401 to 2420 of this Appendix], shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.

(Pub. L. 96–72, §7, Sept. 29, 1979, 93 Stat. 515; Pub. L. 99–64, title I, §§109, 110, July 12, 1985, 99 Stat. 137, 139; Pub. L. 100–180, div. A, title XII, §1246, Dec. 4, 1987, 101 Stat. 1165; Pub. L. 100–418, title II, §2424(a), Aug. 23, 1988, 102 Stat. 1359; Pub. L. 100–449, title III, §305(a), Sept. 28, 1988, 102 Stat. 1876.)

REFERENCES IN TEXT

Section 812 of the Agricultural Act of 1970, referred to in subsec. (b)(1), which was classified to section 612c–3 of Title 7, Agriculture, was repealed by Pub. L. 101–624, title XV, §1578, Nov. 28, 1990, 104 Stat. 3702.

Section 12106 of title 46, referred to in subsec. (d)(1)(C), was omitted, and its provisions restated, in the general amendment of chapter 121 of Title 46, Shipping, by Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1491. See sections 12102, 12112, 12116, 12117, and 12119 of Title 46 and Prior Provisions note under new section 12106 of Title 46.

Section 7(g)(3) of the Export Administration Act of 1979, referred to in subsec. (g)(4)(A), is classified to subsec. (g)(3) of this section.

Section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (g)(4)(E), is section 601(b)(4) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and is not classified to the Code.

PRIOR PROVISIONS

A prior section 2406, Pub. L. 91–184, §7, Dec. 30, 1969, 83 Stat. 845; Pub. L. 95–52, title I, §§113(a), 114, title II, §201(c), June 22, 1977, 91 Stat. 241, 246, setting forth enforcement procedures applicable to the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (d)(1). Pub. L. 100–449 struck out ''or'' before ''(B)'' and inserted '', or (C) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under subparagraphs (A) and (B), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code'' after ''reenters the United States''.

Subsec. (d)(4). Pub. L. 100–418 struck out par. (4) which provided that notwithstanding section 2419 of this Appendix, the provisions of this subsection expire Sept. 30, 1990.

1987—Subsec. (k). Pub. L. 100–180 added subsec. (k).

1985—Subsec. (c). Pub. L. 99–64, §109, amended subsec. (c) generally to require the Secretary to make and publish certain determinations of private petitions as well as on self-initiated motions before imposing monitoring or controls or both on exports of metallic materials capable of being recycled, to require that each petition

filed requesting the imposition of monitoring, controls, or both, on metallic materials capable of being recycled indicate that each of the criteria in par. (3)(A) is satisfied, to require the Secretary to publish certain determinations, including findings of fact in support of the determinations, before deciding whether to impose monitoring, controls, or both on exports of such material, including whether there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand, and whether exports of such material are as important as any other cause of the domestic price increase or shortage relative to demand, to allow the Secretary to impose monitoring, controls, or both, on a temporary basis after a petition is filed if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of the Act, but before the Secretary makes a determination under par. (3) only if failure to take such temporary action would result in irreparable harm to the entity filing the petition, or to the national economy or segment thereof, including a domestic industry, requires that if the Secretary determines, on his initiative, to monitor, control, or both, the export of such material, the Secretary shall publish the reasons for such determination in accordance with par. (3)(A) and (B), requires that exports of material be as important as any other cause of the increased domestic prices or shortage, and sets a standard under which exports need not be the sole or principal cause of the price rise or domestic shortage in order for exports of the material to be controlled or monitored.

Subsec. (d)(1). Pub. L. 99–64, §110(a)(1), substituted ''subject to paragraph (2) of this subsection'' for ''unless the requirements of paragraph (2) of this subsection are met''.

Subsec. (d)(2)(A). Pub. L. 99–64, §110(a)(2), substituted ''the President so recommends to the Congress after making and publishing'' for ''the President makes and publishes'' in the provisions preceding cl. (i).

Subsec. (d)(2)(B). Pub. L. 99–64, §110(a)(3), substituted ''includes such findings in his recommendation'' for ''reports such findings'' and ''after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law'' for ''thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings''.

Subsec. (d)(4). Pub. L. 99–64, §110(a)(4), added par. (4).

Subsec. (e)(1). Pub. L. 99–64, §110(b), substituted ''In any case in which the President determines that it is necessary to impose export controls on refined petroleum products in order to carry out the policy set forth in section 3(2)(C) of this Act, the President shall notify the Congress of that determination. The President shall also notify the Congress if and when he determines that such export controls are no longer necessary. During any period in which a determination that such export controls are necessary is in effect, no'' for ''No''.

Subsec. (g)(3). Pub. L. 99–64, §110(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''If the authority conferred by this section or section 6 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.''

Subsec. (g)(4), (5). Pub. L. 99–64, §110(d), added pars. (4) and (5).

Subsec. (i)(1). Pub. L. 99–64, §110(c)(1), inserted ''harvested from State or Federal lands'' after ''red cedar logs'' in concluding provision.

Subsec. (i)(2). Pub. L. 99–64, §110(c)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (i)(3), (4). Pub. L. 99–64, §110(c)(2), redesignated former pars. (2) and (3) as (3) and (4), respectively. Former pars. (3) and (4) redesignated (4) and (5), respectively.

Subsec. (i)(5). Pub. L. 99–64, §110(c)(2), redesignated former par. (4) as (5).

Subsec. (i)(5)(A). Pub. L. 99–64, §110(c)(4), amended subpar. (A) generally, substituting ''lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better'' for ''lumber without wane''.

Subsec. (j). Pub. L. 99–64, §110(e), added subsec. (j) and struck out former subsec. (j) which related to the export of horses.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

REGULATIONS

Section 19(b)(2) of Pub. L. 96–72 provided that: ''Regulations implementing the provisions of section 7(c) of this Act [subsec. (c) of this section] shall be issued and take effect not later than January 1, 1980.''

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix, with exception of functions conferred upon President under subsec. (d)(2) of this section which were reserved to President.

ADEQUACY OF EXISTING STATUTORY RESTRICTIONS ON EXPORT OF CRUDE OIL PRODUCED IN CONTIGUOUS UNITED STATES IN PROTECTING ENERGY AND NATIONAL SECURITY INTEREST AND AMERICAN CONSUMER; STUDY AND REPORT TO CONGRESSIONAL COMMITTEES

Section 2424(b) of Pub. L. 100–418 directed Secretary of Commerce, in consultation with Secretary of Energy, to submit to Congress not later than 12 months after Aug. 23, 1988, a report containing results of a comprehensive review undertaken to assess whether existing statutory restrictions on export of crude oil produced in contiguous United States were adequate to protect energy and national security interests of United States and American consumers, taking into account such things as adequacy of domestic supplies of crude oil and refined petroleum products in meeting national security as well as consumer needs in the United States generally and on West Coast particularly, and further provided for public hearing and comment on this review as well as consultation with other Federal agencies and committees of Congress.

MONITORING OF WOOD EXPORTS

Section 2432 of Pub. L. 100–418 directed Secretary of Commerce, for a period of 2 years beginning on Aug. 23, 1988, to monitor exports of processed and unprocessed wood to all countries of the Pacific Rim, and to include results of such monitoring in monthly reports to Congress, setting forth, with respect to each item monitored, actual exports, destination by country, and domestic and worldwide price, supply, and demand.

UNPROCESSED RED CEDAR EXEMPT FROM EXPORT REGULATIONS

Pub. L. 98–411, title V, §514, Aug. 30, 1984, 98 Stat. 1575, provided that: ''None of the funds appropriated or made

available by this Act [Pub. L. 98–411] may be used to enforce or give effect to any restriction on the export of unprocessed western red cedar harvested from State lands pursuant to a harvesting contract entered into prior to October 1, 1979.''

Pub. L. 96–126, title III, § 308, Nov. 27, 1979, 93 Stat. 980, provided that: ''Notwithstanding the provisions of any other law, the State of Alaska is exempted from application of the provisions of section 7(i) of the Export Administration Act of 1979 (Public Law 96–72) [subsec. (i) of this section].''

In making continuing appropriations for fiscal year 1981, Pub. L. 96–536, §§ 101(*o*), 102, Dec. 16, 1980, 94 Stat. 3169, as amended by Pub. L. 97–12, § 401, June 5, 1981, 95 Stat. 95, provided in part for the period Dec. 15, 1980, to Sept. 30, 1981: ''such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress.'' H.R. 7584, which was enacted by the Congress and vetoed by the President Dec. 13, 1980, contained a section 610 that read: ''None of the funds appropriated or made available by this Act may be used to enforce or give effect to the quantitative restrictions required to be imposed by subsection 7(i)(1) of the Export Administration Act of 1979 (Public Law 96–72) [subsec. (i)(1) of this section] in any way which would make such restrictions applicable to the export of: (a) up to ninety million board feet (computed without regard to exports or export authorizations made prior to the effective date of this Act) of unprocessed western red cedar harvested from State or Federal lands pursuant to a harvesting contract entered into prior to October 1, 1979, or any extension thereof; or (b) lumber of American Lumber Standards Grades of Number 3 dimensions or better, of Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 Common or better.''. Continuing appropriations for fiscal year 1982 were made, subject to specified provisions and under the authority and conditions provided in the above cited appropriation Act for fiscal 1981, as follows: For the period Oct. 1, 1981, to Dec. 15, 1981, by Pub. L. 97–51, §§ 101(a)(1), (4), 102, Oct. 1, 1981, 95 Stat. 958, 959, 961, as amended by Pub. L. 97–85, Nov. 23, 1981, 95 Stat. 1098; and for the period Dec. 15, 1981, to Sept. 30, 1982, by Pub. L. 97–92, §§ 101(h), 102, Dec. 15, 1981, 95 Stat. 1190, 1193, as amended by Pub. L. 97–161, Mar. 31, 1982, 96 Stat. 22.

§ 2407. Foreign boycotts

(a) Prohibitions and exceptions

(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this Act [section 2402(5)(A) or (B) of this Appendix], the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or

conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) Foreign policy controls

(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 6 of this Act [section 2405 of this Appendix] shall implement the policies set forth in section 3(5) [section 2402(5) of this Appendix].

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) [section 2402(5) of this Appendix] shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out the policies set forth in section 3(5) of this Act [section 2402(5) of this Appendix].

(c) Preemption

The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

(Pub. L. 96–72, § 8, Sept. 29, 1979, 93 Stat. 521.)

PRIOR PROVISIONS

A prior section 2407, Pub. L. 91–184, § 8, Dec. 30, 1969, 83 Stat. 846; Pub. L. 95–52, title II, § 203(b), June 22, 1977, 91 Stat. 247, relating to exemption from administrative procedure and judicial review provisions, expired on Sept. 30, 1979.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

§ 2408. Procedures for hardship relief from export controls

(a) Filing of petitions

Any person who, in such person's domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a good historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a good, may transmit a petition of hardship to the Secretary requesting an exemption from such controls in order to alleviate any unique hard-

ship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Decision of Secretary

Not later than 30 days after receipt of any petition under subsection (a), the Secretary shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary considers appropriate.

(c) Factors to be considered

For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of export controls shall reflect the Secretary's consideration of factors such as the following:

(1) Whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary shall take into account—

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the good under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular good.

(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits shall not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

(Pub. L. 96–72, § 9, Sept. 29, 1979, 93 Stat. 524.)

PRIOR PROVISIONS

A prior section 2408, Pub. L. 91–184, § 9, Dec. 30, 1969, 83 Stat. 846, relating to providing information to exporters, expired on Sept. 30, 1979.

§ 2409. Procedures for processing export license applications; other inquiries

(a) Primary responsibility of Secretary

(1) All export license applications required under this Act [sections 2401 to 2420 of this Appendix] shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Secretary shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

(b) Initial screening

Within 10 days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Secretary shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(c) Action on certain applications

Except as provided in subsection (*o*), in each case in which the Secretary determines that it is not necessary to refer an application to any other department or agency for its information and recommendations, a license shall be formally issued or denied within 60 days after a properly completed application has been submitted pursuant to this section.

(d) Referral to other departments and agencies

Except in the case of exports described in subsection (*o*), in each case in which the Secretary

determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, within 20 days after the submission of a properly completed application—

(1) refer the application, together with all necessary analysis and recommendations of the Department of Commerce, concurrently to all such departments or agencies; and

(2) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be referred to any such department or agency with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

Notwithstanding the 10-day period set forth in subsection (b), in the case of exports described in subsection (*o*), in each case in which the Secretary determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, immediately upon receipt of the properly completed application, refer the application to such department or agency for its review. Such review shall be concurrent with that of the Department of Commerce.

(e) Action by other departments and agencies

(1) Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary the information or recommendations requested with respect to the application. The information or recommendations shall be submitted within 20 days after the department or agency receives the application or, in the case of exports described in subsection (*o*), before the expiration of the time periods permitted by that subsection. Except as provided in paragraph (2), any such department or agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(2)(A) Except in the case of exports described in subsection (*o*), if the head of any such department or agency notifies the Secretary before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review by such department or agency, such department or agency shall have an additional 20-day period to submit its recommendations to the Secretary. If such department or agency does not submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(B) In the case of exports described in subsection (*o*), if the head of any such department or agency notifies the Secretary, before the expiration of the 15-day period provided in subsection (*o*)(1), that more time is required for review by such department or agency, the Secretary shall notify the applicant, pursuant to subsection (*o*)(1)(C), that additional time is required to consider the application, and such department or agency shall have additional time to consider the application within the limits permitted by subsection (*o*)(2). If such department or agency does not submit its recommendations within the time periods permitted under subsection (*o*), it shall be deemed by the Secretary to have no objection to the approval of such application.

(f) Action by Secretary

(1) Within 60 days after receipt of the recommendations of other departments and agencies with respect to a license application, as provided in subsection (e), the Secretary shall formally issue or deny the license. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of a department or agency with respect to the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the 60-day period provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations. The provisions of this paragraph shall not apply in the case of exports described in subsection (*o*).

(2) In cases where the Secretary receives questions or negative considerations or recommendations from any other department or agency with respect to an application, the Secretary shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant in writing of the specific questions raised and any such negative considerations or recommendations. Before a final determination with respect to the application is made, the applicant shall be entitled—

(A) to respond in writing to such questions, considerations, or recommendations within 30 days after receipt of such information from the Secretary; and

(B) upon the filing of a written request with the Secretary within 15 days after the receipt of such information, to respond in person to the department or agency raising such questions, considerations, or recommendations.

The provisions of this paragraph shall not apply in the case of exports described in subsection (*o*).

(3) In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of—

(A) the determination,

(B) the statutory basis for the proposed denial,

(C) the policies set forth in section 3 of this Act [section 2402 of this Appendix] which would be furthered by the proposed denial,

(D) what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with export controls imposed under this Act [sections 2401 to 2420 of this Appendix],

(E) which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate,

(F) to the extent consistent with the national security and foreign policy of the

United States, the specific considerations which led to the determination to deny the application, and

(G) the availability of appeal procedures.

The Secretary shall allow the applicant at least 30 days to respond to the Secretary's determination before the license application is denied. In the event decisions on license applications are deferred inconsistent with the provisions of this section, the applicant shall be so informed in writing within 5 days after such deferral.

(4) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Secretary may extend any time period prescribed in this section. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor. The provisions of this paragraph shall not apply in the case of exports described in subsection (*o*).

(g) Special procedures for Secretary of Defense

(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Secretary pursuant to this paragraph and, not later than 20 days after notification of the request, shall—

(A) recommend to the President and the Secretary that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify the Secretary that he would recommend approval subject to specified conditions; or

(C) recommend to the Secretary that the export of goods or technology be approved.

Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense. If the President notifies the Secretary, within 20 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country. If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification.

(3) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

(h) Multilateral controls

In any case in which an application, which has been finally approved under subsection (c), (f), or (g) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Secretary shall notify the applicant of the approval of the application (and the date of such approval) by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within 40 days after such date, the Secretary's approval of the license shall be final and the license shall be issued, unless the Secretary determines that issuance of the license would prove detrimental to the national security of the United States. At the time at which the Secretary makes such a determination, the Secretary shall notify the applicant of the determination and shall notify the Congress of the determination, the reasons for the determination, the reasons for which the multilateral review could not be concluded within such 40-day period, and the actions planned or being taken by the United States Government to secure conclusion of the multilateral review. At the end of every 40-day period after such notification to Congress, the Secretary shall advise the applicant and the Congress of the status of the application, and shall report to the Congress in detail on the reasons for the further delay and any further actions being taken by the United States Government to secure conclusion of the multilateral review. In addition, at the time at which the Secretary issues or denies the license upon conclusion of the multilateral review, the Secretary shall notify the Congress of such issuance or denial and of the total time required for the multilateral review.

(i) Records

The Secretary and any department or agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Secretary or by any such department or agency, including, in the case of the Secretary, any dissenting recommendations received from any such department or agency.

(j) Appeal and court action

(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application of the applicant.

(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (f)(4) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within 20 days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

(k) Changes in requirements for applications

Except as provided in subsection (b)(3) of this section, in any case in which, after a license application is submitted, the Secretary changes the requirements for such a license application, the Secretary may request appropriate additional information of the applicant, but the Secretary may not return the application to the applicant without action because it fails to meet the changed requirements.

(*l*) Other inquiries

(1) In any case in which the Secretary receives a written request asking for the proper classification of a good or technology on the control list, the Secretary shall, within 10 working days after receipt of the request, inform the person making the request of the proper classification.

(2) In any case in which the Secretary receives a written request for information about the applicability of export license requirements under this Act [sections 2401 to 2420 of this Appendix] to a proposed export transaction or series of transactions, the Secretary shall, within 30 days after receipt of the request, reply with that information to the person making the request.

(m) Small business assistance

Not later than 120 days after the date of the enactment of this subsection [July 12, 1985], the Secretary shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process under this Act [sections 2401 to 2420 of this Appendix]. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures. The Secretary shall, not later than 120 days after the date of the enactment of the Export Enhancement Act of 1988 [Aug. 23, 1988], report to the Congress on steps taken to implement the plan developed under this subsection to assist small businesses in the export licensing application process.

(n) Reports on license applications

(1) Not later than 180 days after the date of the enactment of this subsection [July 12, 1985], and not later than the end of each 3-month period thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing—

(A) all applications on which action was completed during the preceding 3-month period and which required a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, before notification of a decision to approve or deny the application was sent to the applicant; and

(B) in a separate section, all applications which have been in process for a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, and upon which final action has not been taken.

(2) With regard to each application, each listing shall identify—

(A) the application case number;

(B) the value of the goods or technology to which the application relates;

(C) the country of destination of the goods or technology;

(D) the date on which the application was received by the Secretary;

(E) the date on which the Secretary approved or denied the application;

(F) the date on which the notification of approval or denial of the application was sent to the applicant; and

(G) the total number of days which elapsed between receipt of the application, in its properly completed form, and the earlier of the last day of the 3-month period to which the report relates, or the date on which notification of approval or denial of the application was sent to the applicant.

(3) With respect to an application which was referred to other departments or agencies, the listing shall also include—

(A) the departments or agencies to which the application was referred;

(B) the date or dates of such referral; and

(C) the date or dates on which recommendations were received from those departments or agencies.

(4) With respect to an application referred to any other department or agency which did not submit or has not submitted its recommendations on the application within the period permitted under subsection (e) of this section to submit such recommendations, the listing shall also include—

(A) the office responsible for processing the application and the position of the officer responsible for the office; and

(B) the period of time that elapsed before the recommendations were submitted or that has elapsed since referral of the application, as the case may be.

(5) Each report shall also provide an introduction which contains—

(A) a summary of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, grouped according to—

(i) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, as follows: 61 to 75 days, 76 to 90 days, 91 to 105 days, 106 to 120 days, and more than 120 days; and

(ii) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, beyond the period permitted under subsection (c), (f)(1), or (h) of this section for the processing of applications, as follows: not more than 15 days, 16 to 30 days, 31 to 45 days, 46 to 60 days, and more than 60 days; and

(B) a summary by country of destination of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, on which action was not completed within 60 days.

(*o*) Exports to members of Coordinating Committee

(1) Fifteen working days after the date of formal filing with the Secretary of an individual validated license application for the export of goods or technology to a country that maintains export controls on such goods or technology pursuant to the agreement of the governments participating in the group known as the Coordinating Committee, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless—

(A) the application has been otherwise approved by the Secretary, in which case it shall be valid and effective according to the terms of the approval;

(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied; or

(C) the Secretary requires additional time to consider the application and the applicant has been so informed.

(2) In the event that the Secretary notifies an applicant pursuant to paragraph (1)(C) that more time is required to consider an individual validated license application, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license 30 working days after the date that such license application was formally filed with the Secretary unless—

(A) the application has been otherwise approved by the Secretary, in which case it shall be valid and effective according to the terms of the approval; or

(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied.

(3) In reviewing an individual license application subject to this subsection, the Secretary shall evaluate the information set forth in the application and the reliability of the end-user.

(4) Nothing in this subsection shall affect the scope or availability of licenses authorizing multiple exports set forth in section 4(a)(2) of this Act [section 2403(a)(2) of this Appendix].

(5) The provisions of this subsection shall take effect 4 months after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985].

(Pub. L. 96–72, §10, Sept. 29, 1979, 93 Stat. 525; Pub. L. 99–64, title I, §111, July 12, 1985, 99 Stat. 142; Pub. L. 100–418, title II, §2425(a), (c), Aug. 23, 1988, 102 Stat. 1360, 1361.)

PRIOR PROVISIONS

A prior section 2409, Pub. L. 91–184, §10, Dec. 30, 1969, 83 Stat. 846; Pub. L. 93–500, §3(b), Oct. 29, 1974, 88 Stat. 1552; Pub. L. 93–608, §2(1), Jan. 2, 1975, 88 Stat. 1971; Pub. L. 95–52, title I, §116(a), (b)(2), June 22, 1977, 91 Stat. 241, 242, setting forth requirements respecting semiannual reports to President and Congress, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (g)(2). Pub. L. 100–418, §2425(a)(1)–(3), substituted ''President and the Secretary'' for ''President'' in subpar. (A), inserted before last sentence ''Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense.'', and inserted at end ''If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification.''

Subsec. (g)(4). Pub. L. 100–418, §2425(a)(4), struck out par. (4) which read as follows: ''Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any recommendation made by the Secretary of Defense under subsection (c) or (d) of section 5 of this Act with respect to the list of goods and technologies controlled for national security purposes, the President

shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.''

Subsec. (m). Pub. L. 100–418, § 2425(c), inserted sentence at end requiring the Secretary, not later than 120 days after Aug. 23, 1988, to report to Congress on steps taken to implement the plan developed to assist small businesses in the export licensing application process.

1985—Pub. L. 99–64, § 111(e)(1), inserted ''; other inquiries'' in section catchline.

Subsec. (c). Pub. L. 99–94, § 111(a)(2), (b)(1), substituted ''Except as provided in subsection (*o*) of this section, in each case'' for ''In each case'' and ''60'' for ''90''.

Subsec. (d). Pub. L. 99–64, § 111(a)(3), (b)(2), substituted ''Except in the case of exports described in subsection (*o*) of this section, in each case'' for ''In each case'' and ''20'' for ''30'' in provisions preceding par. (1), and inserted flush provision following par. (2) relating to exports described in subsec. (*o*) when it becomes necessary to refer an application to another department or agency for information and recommendations.

Subsec. (e)(1). Pub. L. 99–64, § 111(b)(3)(A), substituted ''Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary the information or recommendations requested with respect to the application'' for ''Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary, within 30 days after its receipt of the application, the information or recommendations requested with respect to such application'' and inserted sentence directing that information or recommendations be submitted within 20 days after the department or agency receives the application or, in the case of exports described in subsection (*o*), before the expiration of the time periods permitted by that subsection.

Subsec. (e)(2)(A). Pub. L. 99–64, § 111(a)(3), (b)(3)(B)(i), designated existing provisions of par. (2) as subpar. (A) and substituted ''Except in the case of exports described in subsection (*o*), if the head'' for ''If the head'' and ''20'' for ''30''.

Subsec. (e)(2)(B). Pub. L. 99–64, § 111(b)(3)(B)(ii), added subpar. (B).

Subsec. (f)(1). Pub. L. 99–64, § 111(a)(2), (b)(4), substituted ''60'' for ''90'' in two places and inserted sentence providing that the provisions of this paragraph shall not apply in the case of exports described in subsection (*o*).

Subsec. (f)(2). Pub. L. 99–64, § 111(c), inserted ''in writing'' after ''inform the applicant'', and substituted provisions describing the steps to which the applicant is entitled before a final determination with respect to the application is made and providing that the provisions of this paragraph shall not apply in the case of exports described in subsection (*o*), for provision that the Secretary accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

Subsec. (f)(3). Pub. L. 99–64, § 111(d), inserted two new sentences describing the content of the writing which the applicant is entitled to receive when the Secretary determines that an application should be denied and directing that the Secretary allow the applicant at least 30 days to respond to the Secretary's determination before the license application is denied, and struck out existing sentence which had provided: ''In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of the determination, of the statutory basis for denial, the policies set forth in section 3 of the Act [section 2402 of this Appendix] which would be furthered by denial, and, to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the denial, and of the availability of appeal procedures.''

Subsec. (f)(4). Pub. L. 99–64, § 111(b)(4), inserted sentence providing that provisions of this paragraph shall not apply in the case of exports described in subsec. (*o*).

Subsec. (g)(2). Pub. L. 99–64, § 111(a)(3), substituted ''20'' for ''30'' in provisions preceding subpar. (A) and in provisions following subpar. (C).

Subsec. (h). Pub. L. 99–64, § 111(a)(1), substituted ''40'' for ''60'' wherever appearing.

Subsec. (j)(3). Pub. L. 99–64, § 111(a)(3), substituted ''20'' for ''30''.

Subsecs. (k) to (*o*). Pub. L. 99–64, § 111(e)(2), added subsecs. (k) to (*o*).

REGULATIONS

Section 19(b)(1) of Pub. L. 96–72 provided that: ''Regulations implementing the provisions of section 10 of this Act [this section] shall be issued and take effect not later than July 1, 1980.''

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix, with exception of functions conferred upon President under subsec. (g) of this section which were reserved to President.

§ 2410. Violations

(a) In general

Except as provided in subsection (b) of this section, whoever knowingly violates or conspires to or attempts to violate any provision of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(b) Willful violations

(1) Whoever willfully violates or conspires to or attempts to violate any provision of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued thereunder, with knowledge that the exports involved will be used for the benefit of, or that the destination or intended destination of the goods or technology involved is, any controlled country or any country to which exports are controlled for foreign policy purposes—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and

(B) in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than 10 years, or both.

(2) Any person who is issued a validated license under this Act [sections 2401 to 2420 of this Appendix] for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and

(B) in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(3) Any person who possesses any goods or technology—

(A) with the intent to export such goods or technology in violation of an export control imposed under section 5 or 6 of this Act [section 2404 or 2405 of this Appendix] or any regulation, order, or license issued with respect to such control, or

(B) knowing or having reason to believe that the goods or technology would be so exported,

shall, in the case of a violation of an export control imposed under section 5 [section 2404 of this Appendix] (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in paragraph (1) of this subsection and shall, in the case of a violation of an export control imposed under section 6 [section 2405 of this Appendix] (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in subsection (a).

(4) Any person who takes any action with the intent to evade the provisions of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix] shall be subject to the penalties set forth in subsection (a), except that in the case of an evasion of an export control imposed under section 5 or 6 of this Act [section 2404 or 2405 of this Appendix] (or any regulation, order, or license issued with respect to such control), such person shall be subject to the penalties set forth in paragraph (1) of this subsection.

(5) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act [sections 2401 to 2420 of this Appendix].

(c) Civil penalties; administrative sanctions

(1) The Secretary (and officers and employees of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $10,000 for each violation of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix], either in addition to or in lieu of any other liability or penalty which may be imposed, except that the civil penalty for each such violation involving national security controls imposed under section 5 of this Act [section 2404 of this Appendix] or controls imposed on the export of defense articles and defense services under section 38 of the Arms Export Control Act [22 U.S.C. 2778] may not exceed $100,000.

(2)(A) The authority under this Act [sections 2401 to 2420 of this Appendix] to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the regulations issued pursuant to section 8(a) of this Act [section 2407(a) of this Appendix].

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act [sections 2401 to 2420 of this Appendix] for a violation of the regulations issued pursuant to section 8(a) of this Act [section 2407(a) of this Appendix] may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 8(a) of this Act [section 2407(a) of this Appendix] shall be made available for public inspection and copying.

(3) An exception may not be made to any order issued under this Act [sections 2401 to 2420 of this Appendix] which revokes the authority of a United States person to export goods or technology unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are first consulted concerning the exception.

(4) The President may by regulation provide standards for establishing levels of civil penalty provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the Government in disclosing the violation.

(d) Payment of penalties

The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Refunds

Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c), or any amounts realized from the forfeiture of any property interest or proceeds pursuant to subsection (g), shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty imposed pursuant to subsection (c), within 2 years after payment, on the ground of a material error of fact or law in the imposition of the penalty. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) Actions for recovery of penalties

In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Forfeiture of property interest and proceeds

(1) Any person who is convicted under subsection (a) or (b) of a violation of an export control imposed under section 5 of this Act [section 2404 of this Appendix] (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of section 1963 of title 18, United States Code.

(h) Prior convictions

(1) No person convicted of a violation of this Act [sections 2401 to 2420 of this Appendix] (or any regulation, license, or order issued under this Act [sections 2401 to 2420 of this Appendix]), any regulation, license, or order issued under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),[1] or section 38 of the Arms Export Control Act (22 U.S.C. 2778) shall be eligible, at the discretion of the Secretary, to apply for or use any export license under this Act [sections 2401 to 2420 of this Appendix] for a period of up to 10 years from the date of the conviction. The Secretary may revoke any export license under this Act [sections 2401 to 2420 of this Appendix] in which such person has an interest at the time of the conviction.

(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act [section 2412(c) of this Appendix].

(i) Other authorities

Nothing in subsection (c), (d), (f), (g), or (h) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act [sections 2401 to 2420 of this Appendix], or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix];

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act [sections 2401 to 2420 of this Appendix], or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix]; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

(Pub. L. 96–72, § 11, Sept. 29, 1979, 93 Stat. 529; Pub. L. 97–145, § 4(a)–(c), Dec. 29, 1981, 95 Stat. 1727; Pub. L. 99–64, title I, § 112, July 12, 1985, 99 Stat. 146; Pub. L. 100–418, title II, § 2426, Aug. 23, 1988, 102 Stat. 1361.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (h)(1), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

Section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), referred to in subsec. (h)(1), was redesignated as section 4(a) of that Act, 50 U.S.C. 783(a), by Pub. L. 103–199, title VIII, § 803(2)(B), Dec. 17, 1993, 107 Stat. 2329.

PRIOR PROVISIONS

A prior section 2410, Pub. L. 91–184, § 11, Dec. 30, 1969, 83 Stat. 846; Pub. L. 95–52, title II, § 204, June 22, 1977, 91 Stat. 247, defining ''person'' and ''United States person'' for purposes of the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (h). Pub. L. 100–418, § 2426, designated existing provisions as par. (1), inserted ''this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act,'' after ''violation of'', and added par. (2).

1985—Subsec. (a). Pub. L. 99–64, § 112(a), inserted ''or conspires to or attempts to violate''.

Subsec. (b)(1). Pub. L. 99–64, § 112(b)(1), in provisions preceding subpar. (A), substituted ''Whoever willfully violates or conspires to or attempts to violate any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that the exports involved will be used for the benefit of, or that the destination or intended destination of the goods or technology involved is, any controlled country or any country to which exports are controlled for foreign policy purposes'' for ''Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes''.

Subsec. (b)(2). Pub. L. 99–64, § 112(b)(2), struck out sentence which provided that for purposes of this paragraph, ''controlled country'' means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Subsec. (b)(3) to (5). Pub. L. 99–64, § 112(b)(3), added pars. (3) to (5).

Subsec. (c)(1). Pub. L. 99–64, § 112(c)(1), substituted ''Secretary (and officers and employees of the Department of Commerce specifically designated by the Secretary)'' for ''head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof,''.

Subsec. (c)(3), (4). Pub. L. 99–64, § 112((c)(2), added pars. (3) and (4).

[1] See References in Text note below.

Subsec. (e). Pub. L. 99–64, §112(d), inserted ", or any amounts realized from the forfeiture of any property interest or proceeds pursuant to subsection (g)," after "Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c)", and inserted "imposed pursuant to subsection (c)" after "refund any such penalty".

Subsecs. (g), (h). Pub. L. 99–64, §112(e)(2), added subsecs. (g) and (h). Former subsec. (g) redesignated (i).

Subsec. (i). Pub. L. 99–64, §112(e)(1), (f), redesignated former subsec. (g) as (i) and substituted "(f), (g), or (h)" for "or (f)" in provisions preceding par. (1).

1981—Subsec. (b)(1). Pub. L. 97–145, §4(a), in penalty provisions, substituted separate penalties for individuals and others in subpars. (A) and (B), for provisions prescribing a fine of not more than five times the value of the exports involved or $100,000, whichever was greater, or imprisonment of not more than 10 years, or both.

Subsec. (b)(2). Pub. L. 97–145, §4(b), in penalty provisions, substituted separate penalties for individuals and others in subpars. (A) and (B), for provisions prescribing a fine of not more than five times the value of the exports involved or $100,000, whichever was greater, or imprisonment for not more than 5 years, or both.

Subsec. (c)(1). Pub. L. 97–145, §3(c), inserted exception that the civil penalty for each violation involving national security controls imposed under section 2404 of this Appendix or controls imposed on the export of defense articles and defense services under section 2778 of title 22 may not exceed $100,000.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 4(d) of Pub. L. 97–145 provided that: "The amendments made by this section [amending this section] apply with respect to violations occurring after the date of the enactment of this Act [Dec. 29, 1981]."

§2410a. Multilateral export control violations

(a) Determination by the President

The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after the date of the enactment of the Export Enhancement Act of 1988 [Aug. 23, 1988].

(b) Sanctions

The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

(c) Exceptions

The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) Exclusion

The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

(B) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

(C) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

(D) a system of export control documentation to verify the movement of goods and technology; and

(E) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

(e) Definitions

For purposes of this section—

(1) the term ''component part'' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term ''finished product'' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term ''sanctioned person'' means a foreign person, and any parent, affiliate, subsidiary, or successor entity of the foreign person, upon whom sanctions have been imposed under this section.

(f) Subsequent modifications of sanctions

The President may, after consultation with the Congress, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of available evidence, itself violated the export control regulation involved, either directly or through a course of conduct;

(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in subsection (d)(2);

(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the export control regime implemented under paragraph (2); and

(4) the impact of the sanctions imposed on the parent, affiliate, subsidiary, or successor entity is proportionate to the increased defense expenditures imposed on the United States.

Notwithstanding the preceding sentence, the President may not limit the scope of the sanction referred to in subsection (b)(1) with respect to the parent of the foreign person determined to have committed the violation, until that sanction has been in effect for at least 2 years.

(g) Reports to Congress

The President shall include in the annual report submitted under section 14 [section 2413 of this Appendix], a report on the status of any sanctions imposed under this section, including any exceptions, exclusions, or modifications of sanctions that have been applied under subsection (c), (d), or (f).

(h) Discretionary imposition of sanctions

If the President determines that a foreign person has violated a regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, but in a case in which subsection (a)(2) may not apply, the President may apply the sanctions referred to in subsection (b) against that foreign person for a period of not more than 5 years.

(i) Compensation for diversion of militarily critical technologies to controlled countries

(1) In cases in which sanctions have been applied against a foreign person under subsection (a), the President shall initiate discussions with the foreign person and the government with jurisdiction over that foreign person regarding compensation on the part of the foreign person in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and the allies of the United States to counteract the effect of the technological advance achieved by the Soviet Union as a result of the violation by that foreign person.

(2) The President shall, at the time that discussions are initiated under paragraph (1), report to the Congress that such discussions are being undertaken, and shall report to the Congress the outcome of those discussions.

(j) Other actions by the President

Upon making a determination under subsection (a) or (h), the President shall—

(1) initiate consultations with the foreign government with jurisdiction over the foreign person who committed the violation involved, in order to seek prompt remedial action by that government;

(2) initiate discussions with the governments participating in the Coordinating Committee regarding the violation and means to ensure that similar violations do not occur; and

(3) consult with and report to the Congress on the nature of the violation and the actions the President proposes to take, or has taken, to rectify the situation.

(k) Damages for certain violations

(1) In any case in which the President makes a determination under subsection (a), the Secretary of Defense shall determine the costs of restoring the military preparedness of the United States on account of the violation involved. The Secretary of Defense shall notify the Attorney General of his determination, and the Attorney General may bring an action for damages, in any appropriate district court of the United States, to recover such costs against the person who committed the violation, any person that is owned or controlled by the person who committed the violation, and any person who owns and controls the person who committed the violation.

(3)[1] The total amount awarded in any case brought under paragraph (2)[1] shall be determined by the court in light of the facts and circumstances, but shall not exceed the amount of the net loss to the national security of the

[1] So in original. Subsec. (k) was enacted without a par. (2).

United States. An action under this subsection shall be commenced not later than 3 years after the violation occurs, or one year after the violation is discovered, whichever is later.

(*l*) Definition

For purposes of this section, the term ''foreign person'' means any person other than a United States person.

(Pub. L. 96–72, § 11A, as added Pub. L. 100–418, title II, § 2444, Aug. 23, 1988, 102 Stat. 1366.)

PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

Pub. L. 101–165, title IX, § 9087, Nov. 21, 1989, 103 Stat. 1148, provided that during period beginning Nov. 21, 1989, and through Dec. 28, 1991, no product manufactured or assembled by Toshiba America, Inc., or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire), with an exception for microwave ovens manufactured or assembled in the United States. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–463, title VIII, § 8092, Oct. 1, 1988, 102 Stat. 2270–34.

Pub. L. 100–456, div. A, title III, § 313, Sept. 29, 1988, 102 Stat. 1951.

MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG

Sections 2442 and 2443 of Pub. L. 100–418 contained congressional statement of findings, directed President to impose, for a period of 3 years, (1) a prohibition on contracting with, and procurement of products and services from, Toshiba Machine Company and Kongsberg Trading Company, and any other foreign person whom President found to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union, by any department, agency, or instrumentality of United States Government, and (2) a prohibition on importation into United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any such foreign person; and directed President to impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government, with certain exceptions.

§ 2410b. Missile proliferation control violations

(a) Violations by United States persons

(1) Sanctions

(A) If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act [22 U.S.C. 2797 et seq.], section 5 or 6 of this Act [section 2404 or 2405 of this Appendix], or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act [sections 2401 to 2420 of this Appendix].

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act [sections 2401 to 2420 of this Appendix].

(2) Discretionary sanctions

In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 11 of this Act [section 2410 of this Appendix].

(3) Waiver

The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) Transfers of missile equipment or technology by foreign persons

(1) Sanctions

(A) Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of the enactment of this section [Nov. 5, 1990], knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act [sections 2401 to 2420 of this Appendix],

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act [22 U.S.C. 2797b(a)], then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act [sections 2401 to 2420 of this Appendix].

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act [sections 2401 to 2420 of this Appendix].

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) Inapplicability with respect to MTCR adherents

Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) Effect of enforcement actions by MTCR adherents

Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) Advisory opinions

The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) Waiver and report to Congress

(A) In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) Additional waiver

The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) Exceptions

The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) Definitions

For purposes of this section and subsections (k) and (*l*) of section 6 [section 2405(k) and (*l*) of this Appendix]—

(1) the term ''missile'' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(2) the term ''Missile Technology Control Regime'' or ''MTCR'' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(3) the term ''MTCR adherent'' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(4) the term ''MTCR Annex'' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

(5) the terms ''missile equipment or technology'' and ''MTCR equipment or technology'' mean those items listed in category I or category II of the MTCR Annex;

(6) the term ''foreign person'' means any person other than a United States person;

(7)(A) the term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ''person'' means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

(8) the term ''otherwise engaged in the trade of'' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

(Pub. L. 96–72, § 11B, as added Pub. L. 101–510, div. A, title XVII, § 1702(b), Nov. 5, 1990, 104 Stat. 1741.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(1)(A)(i), is Pub. L. 90–269, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 7 of the Act is classified generally to subchapter VII (§ 2797 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce, with certain exceptions, by section 2(b) of Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of Title 22, Foreign Relations and Intercourse.

§ 2410c. Chemical and biological weapons proliferation sanctions

(a) Imposition of sanctions

(1) Determination by the President

Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after October 28, 1991, has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act [sections 2401 to 2420 of this Appendix], or

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act [sections 2401 to 2420 of this Appendix],

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) Countries, projects, or entities receiving assistance

Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 6(j) of this Act [section 2405(j) of this Appendix] to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) Persons against which sanctions are to be imposed

Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were

the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) Consultations with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) Actions by government of jurisdiction

In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress

The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanctions

(1) Description of sanctions

The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) Procurement sanction

The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) Import sanctions

The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) Exceptions

The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Termination of sanctions

The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) Waiver

(1) Criterion for waiver

The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) Notification of and report to Congress

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) Definition of foreign person

For the purposes of this section, the term ''foreign person'' means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the

laws of a foreign country or which has its principal place of business outside the United States.

(Pub. L. 96–72, §11C, as added and amended Pub. L. 102–182, title III, §§305(a), 309(b)(1), Dec. 4, 1991, 105 Stat. 1247, 1258.)

PRIOR PROVISIONS

A prior section 2410c, Pub. L. 96–72, §11C, as added Pub. L. 102–138, title V, §505(a), Oct. 28, 1991, 105 Stat. 724, contained provisions substantially identical to those added by section 305(a) of Pub. L. 102–182, prior to repeal by Pub. L. 102–182, §309(a).

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–182, §309(b)(1), substituted ''October 28, 1991'' for reference to the ''date of the enactment of this section'' which was enacted Dec. 4, 1991.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, with certain exceptions, by section 1(a) of Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of Title 22, Foreign Relations and Intercourse.

§2411. Enforcement

(a) General authority

(1) To the extent necessary or appropriate to the enforcement of this Act [sections 2401 to 2420 of this Appendix] or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949 [former sections 2021 to 2032 of this Appendix] or the Export Administration Act of 1969 [former sections 2401 to 2413 of this Appendix], the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations within the United States, and the Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. In addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act [section 2407 of this Appendix].

(2)(A) Subject to subparagraph (B) of this paragraph, the United States Customs Service is authorized, in the enforcement of this Act [sections 2401 to 2420 of this Appendix], to search, detain (after search), and seize goods or technology at those ports of entry or exit from the United States where officers of the Customs Service are authorized by law to conduct such searches, detentions, and seizures, and at those places outside the United States where the Customs Service, pursuant to agreements or other arrangements with other countries, is authorized to perform enforcement activities.

(B) An officer of the United States Customs Service may do the following in carrying out enforcement authority under this Act [sections 2401 to 2420 of this Appendix]:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act [sections 2401 to 2420 of this Appendix].

(ii) Search any package or container in which such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act [sections 2401 to 2420 of this Appendix].

(iii) Detain (after search) or seize and secure for trial any goods or technology on or about such vehicle, vessel, aircraft, or person, or in such package or container, if such officer has probable cause to believe the goods or technology has been, is being, or is about to be exported from the United States in violation of this Act [sections 2401 to 2420 of this Appendix].

(iv) Make arrests without warrant for any violation of this Act [sections 2401 to 2420 of this Appendix] committed in his or her presence or view or if the officer has probable cause to believe that the person to be arrested has committed or is committing such a violation.

The arrest authority conferred by clause (iv) of this subparagraph is in addition to any arrest authority under other laws. The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3) [section 2403(a)(3) of this Appendix]. In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.

(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall have the responsibility for the enforcement of section 8 of this

Act [section 2407 of this Appendix] and, in the enforcement of the other provisions of this Act [sections 2401 to 2420 of this Appendix], the Secretary is authorized to search, detain (after search), and seize goods or technology at those places within the United States other than those ports specified in paragraph (2)(A) of this subsection. The search, detention (after search), or seizure of goods or technology at those ports and places specified in paragraph (2)(A) may be conducted by officers or employees of the Department of Commerce designated by the Secretary with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(B) The Secretary may designate any employee of the Office of Export Enforcement of the Department of Commerce to do the following in carrying out enforcement authority under this Act [sections 2401 to 2420 of this Appendix]:

(i) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act [sections 2401 to 2420 of this Appendix].

(ii) Make arrests without warrant for any violation of this Act [sections 2401 to 2420 of this Appendix] committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing such a violation.

(iii) Carry firearms in carrying out any activity described in clause (i) or (ii).

(4) The authorities first conferred by the Export Administration Amendments Act of 1985 under paragraph (3) shall be exercised pursuant to guidelines approved by the Attorney General. Such guidelines shall be issued not later than 120 days after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985].

(5) All cases involving violations of this Act [sections 2401 to 2420 of this Appendix] shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 11(c) of this Act [section 2410(c) of this Appendix], or to the Attorney General for criminal action in accordance with this Act [sections 2401 to 2420 of this Appendix].

(6) Notwithstanding any other provision of law, the United States Customs Service may expend in the enforcement of export controls under this Act [sections 2401 to 2420 of this Appendix] not more than $12,000,000 in the fiscal year 1985 and not more than $14,000,000 in the fiscal year 1986.

(7) Not later than 90 days after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], the Secretary, with the concurrence of the Secretary of the Treasury, shall publish in the Federal Register procedures setting forth, in accordance with this subsection, the responsibilities of the Department of Commerce and the United States Customs Service in the enforcement of this Act [sections 2401 to 2420 of this Appendix]. In addition, the Secretary, with the concurrence of the Secretary of the Treasury, may publish procedures for the sharing of information in accordance with subsection (c)(3) of this section, and procedures for the submission to the appropriate departments and agencies by private persons of information relating to the enforcement of this Act [sections 2401 to 2420 of this Appendix].

(8) For purposes of this section, a reference to the enforcement of this Act [sections 2401 to 2420 of this Appendix] or to a violation of this Act [sections 2401 to 2420 of this Appendix] includes a reference to the enforcement or a violation of any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix].

(b) Immunity

No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) Confidentiality

(1) Except as otherwise provided by the third sentence of section 8(b)(2) [section 2407(b)(2) of this Appendix] and by section 11(c)(2)(C) of this Act [section 2410(c)(2)(C) of this Appendix], information obtained under this Act [sections 2401 to 2420 of this Appendix] on or before June 30, 1980, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this Act [sections 2401 to 2420 of this Appendix] after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act [sections 2401 to 2420 of this Appendix] shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act [sections 2401 to 2420 of this Appendix] had not been enacted.

(2) Nothing in this Act [sections 2401 to 2420 of this Appendix] shall be construed as authorizing the withholding of information from the Congress or from the Government Accountability Office. All information obtained at any time under this Act [sections 2401 to 2420 of this Appendix] or previous Acts regarding the control of exports, including any report or license application required under this Act [sections 2401 to 2420 of this Appendix], shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request of the chairman or ranking minority member of such committee or subcommittee. No such committee or subcommittee, or member thereof, shall disclose any information obtained under this Act [sections 2401 to 2420 of this Appendix] or previous Acts regarding the control of exports

which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information referred to in the second sentence of this paragraph shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 313 of the Budget and Accounting Act 1921 [31 U.S.C. 716], be made available only by that agency, upon request, to the Comptroller General of the United States or to any officer or employee of the Government Accountability Office who is authorized by the Comptroller General to have access to such information. No officer or employee of the Government Accountability Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(3) Any department or agency which obtains information which is relevant to the enforcement of this Act [sections 2401 to 2420 of this Appendix], including information pertaining to any investigation, shall furnish such information to each department or agency with enforcement responsibilities under this Act [sections 2401 to 2420 of this Appendix] to the extent consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities. The provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and return information, as defined in subsection (b) of section 6103 of the Internal Revenue Code of 1986 [26 U.S.C. 6103(b)], may be disclosed only as authorized by such section. The Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions. The Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.

(d) Reporting requirements

In the administration of this Act [sections 2401 to 2420 of this Appendix], reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act [sections 2401 to 2420 of this Appendix] to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) Simplification of regulations

The Secretary, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(h) [section 2404(h) of this Appendix], shall review the regulations issued under this Act [sections 2401 to 2420 of this Appendix] and the commodity control list in order to determine how compliance with the provisions of this Act [sections 2401 to 2420 of this Appendix] can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

(Pub. L. 96–72, §12, Sept. 29, 1979, 93 Stat. 530; Pub. L. 97–145, §§3, 5, Dec. 29, 1981, 95 Stat. 1727, 1728; Pub. L. 99–64, title I, §113, July 12, 1985, 99 Stat. 148; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–418, title II, §2427, Aug. 23, 1988, 102 Stat. 1361; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

The Export Control Act of 1949, referred to in subsec. (a)(1), is act Feb. 26, 1949, ch. 11, 63 Stat. 7, as amended, which was classified to sections 2021 to 2032 of this Appendix, and terminated on Dec. 31, 1969, pursuant to the terms of that Act. For complete classification of this Act to the Code, see Tables.

The Export Administration Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91–184, Dec. 30, 1969, 83 Stat. 841, as amended, which was classified generally to sections 2401 to 2413 of this Appendix, and terminated on Sept. 30, 1979, pursuant to the terms of that Act. For complete classification of this Act to the Code, see Tables.

The Export Administration Amendments Act of 1985, referred to in subsec. (a)(4), is titles I and II of Pub. L. 99–64, July 12, 1985, 99 Stat. 120, which, among other amendments, enacted par. (3) of subsec. (a) of this section. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 2401 of this Appendix and Tables.

Section 313 of the Budget and Accounting Act 1921, referred to in subsec. (c)(2), is section 313 of act June 10, 1921, ch. 18, title III, 42 Stat. 26, which was classified to section 54 of former Title 31, and which was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as section 716 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 2411, Pub. L. 91–184, §12, Dec. 30, 1969, 83 Stat. 846, relating to the effect on the Act of Feb. 15, 1936 (49 Stat. 1140) and section 414 of the Mutual Security Act of 1934 (22 U.S.C. 1934) provisions of the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' wherever appearing.

1988—Subsec. (a)(2)(B). Pub. L. 100–418 inserted at end ''The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.''

1986—Subsec. (c)(3). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1985—Subsec. (a)(1). Pub. L. 99–64, §113(a), designated existing provisions of subsec. (a) as par. (1), substituted ''such investigations within the United States, and the

Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may'' for ''such investigations and'', and ''a district court of the United States,'' for ''the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and'', and inserted sentence providing that in addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act.

Subsec. (a)(2) to (8). Pub. L. 99–64, § 113(a)(5), added pars. (2) to (8).

Subsec. (c)(3). Pub. L. 99–64, § 113, substituted ''Any department or agency which obtains information which is relevant to the enforcement of this Act, including information pertaining to any investigation, shall furnish such information to each department or agency'' for ''Departments or agencies which obtain information which is relevant to the enforcement of this Act shall furnish such information to the department or agency'', and inserted sentences providing that the Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions and that the Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.

1981—Subsec. (c)(2). Pub. L. 97–145, § 5, substantially reenacted existing provisions, inserted provisions that the information may not be withheld from the General Accounting Office, and that the information be made available to the Comptroller General of the United States or to any officer or employee of the General Accounting Office who is authorized to have access to such information which is submitted on a confidential basis and from which any individual can be identified, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with section 54 of title 31, be made available only by that agency.

Subsec. (c)(3). Pub. L. 97–145, § 3, added par. (3).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2411a. Omitted

CODIFICATION

A prior section 2411a, Pub. L. 91–184, § 13, as added Pub. L. 95–52, title I, § 102, June 22, 1977, 91 Stat. 235, authorizing appropriations to carry out purposes of provisions of Export Administration Act of 1969, expired on Sept. 30, 1979.

§ 2412. Administrative procedure and judicial review

(a) Exemption

Except as provided in section 11(c)(2) [section 2410(c)(2) of this Appendix] and subsection (c) of this section, the functions exercised under this Act [sections 2401 to 2420 of this Appendix] are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) Public participation

It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act [sections 2401 to 2420 of this Appendix] be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act [sections 2401 to 2420 of this Appendix] is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

(c) Procedures relating to civil penalties and sanctions

(1) In any case in which a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8 [section 2407 of this Appendix]) is sought under section 11 of this Act [section 2410 of this Appendix], the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Subject to the provisions of this subsection, any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his or her representative. After the hearing, the administrative law judge shall make findings of fact and conclusions of law in a written decision, which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving the decision. The order of the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3).

(2) The proceedings described in paragraph (1) shall be concluded within a period of 1 year after the complaint is submitted, unless the administrative law judge extends such period for good cause shown.

(3) The order of the Secretary under paragraph (1) shall be final, except that the charged party may, within 15 days after the order is issued, appeal the order in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may, while the appeal is pending, stay the order of the Secretary. The court may review only those issues necessary to determine liability for the civil penalty or other sanction involved. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the

court finds there is not substantial evidence on the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(4) An administrative law judge referred to in this subsection shall be appointed by the Secretary from among those considered qualified for selection and appointment under section 3105 of title 5, United States Code. Any person who, for at least 2 of the 10 years immediately preceding the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], has served as a hearing commissioner of the Department of Commerce shall be included among those considered as qualified for selection and appointment to such position.

(d) Imposition of temporary denial orders

(1) In any case in which it is necessary, in the public interest, to prevent an imminent violation of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix], the Secretary may, without a hearing, issue an order temporarily denying United States export privileges (hereinafter in this subsection referred to as a ''temporary denial order'') to a person. A temporary denial order may be effective no longer than 180 days unless renewed in writing by the Secretary for additional 180-day periods in order to prevent such an imminent violation, except that a temporary denial order may be renewed only after notice and an opportunity for a hearing is provided.

(2) A temporary denial order shall define the imminent violation and state why the temporary denial order was granted without a hearing. The person or persons subject to the issuance or renewal of a temporary denial order may file an appeal of the issuance or renewal of the temporary denial order with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that the temporary denial order be affirmed, modified, or vacated. Parties may submit briefs and other material to the judge. The recommendation of the administrative law judge shall be submitted to the Secretary who shall either accept, reject, or modify the recommendation by written order within 5 working days after receiving the recommendation. The written order of the Secretary under the preceding sentence shall be final and is not subject to judicial review, except as provided in paragraph (3). The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act [sections 2401 to 2420 of this Appendix] or any regulation, order, or license issued under this Act [sections 2401 to 2420 of this Appendix]. All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the courts.

(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the standard for issuing the temporary denial order has been met. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) Appeals from license denials

A determination of the Secretary, under section 10(f) of this Act [section 2409(f) of this Appendix], to deny a license may be appealed by the applicant to an administrative law judge who shall have the authority to conduct proceedings to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days after the appeal is filed. Any determination by an administrative law judge under this subsection and all materials filed before such judge in the proceedings shall be reviewed by the Secretary, who shall either affirm or vacate the determination in a written decision within 30 days after receiving the determination. The Secretary's written decision shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act [section 2411(c) of this Appendix], the Secretary's decision shall be published in the Federal Register.

(Pub. L. 96–72, § 13, Sept. 29, 1979, 93 Stat. 531; Pub. L. 99–64, title I, § 114, July 12, 1985, 99 Stat. 150; Pub. L. 100–418, title II, § 2428, Aug. 23, 1988, 102 Stat. 1361.)

PRIOR PROVISIONS

A prior section 2412, Pub. L. 91–184, § 14, formerly § 13, Dec. 30, 1969, 83 Stat. 847; renumbered § 14, Pub. L. 95–52, title I, § 102, June 22, 1977, 91 Stat. 235, which set forth the effective date of the Export Administration Act of 1969 as the date upon which the Export Control Act of 1949 expired, Dec. 31, 1969, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (c)(1). Pub. L. 100–418, § 2428(a)(1)(A), inserted '', except as provided in paragraph (3)'' before period at end.

Subsec. (c)(3), (4). Pub. L. 100–418, § 2428(a)(1)(B), (C), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(1). Pub. L. 100–418, § 2428(b), substituted ''180'' for ''60'' in two places in second sentence.

Subsec. (d)(2). Pub. L. 100–418, § 2428(a)(2), inserted '', except as provided in paragraph (3)'' after ''judicial review'' before period at end of fifth sentence and inserted sentence at end that all materials submitted to the administrative law judge and the Secretary constitute the administrative record for purposes of review.

Subsec. (d)(3). Pub. L. 100–418, § 2428(a)(2)(B), added par. (3).

1985—Pub. L. 99–64, § 114(1), struck out ''Exemption from certain provisions relating to'' in section catchline.

Subsec. (a). Pub. L. 99–64, § 114(2), inserted ''and subsection (c) of this section''.

Subsecs. (c) to (e). Pub. L. 99–64, § 114(3), added subsecs. (c) to (e).

§ 2413. Annual report

(a) Contents

Not later than December 31 of each year, the Secretary shall submit to the Congress a report

on the administration of this Act [sections 2401 to 2420 of this Appendix] during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3 [section 2402 of this Appendix];

(2) general licensing activities under sections 5, 6, and 7 [sections 2404, 2405, and 2406 of this Appendix], and any changes in the exercise of the authorities contained in sections 5(a), 6(a), and 7(a) [sections 2404(a), 2405(a), and 2406(a) of this Appendix];

(3) the results of the review of United States policy toward individual countries pursuant to section 5(b) [section 2404(b) of this Appendix];

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 5(c)(3) [section 2404(c)(3) of this Appendix];

(5) actions taken to carry out section 5(d) [section 2404(d) of this Appendix];

(6) changes in categories of items under export control referred to in section 5(e) [section 2404(e) of this Appendix];

(7) determinations of foreign availability made under section 5(f) [section 2404(f) of this Appendix], the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 5(f)(6) [section 2404(f)(6) of this Appendix];

(9) the operation of the indexing system under section 5(g) [section 2404(g) of this Appendix];

(10) consultations with the technical advisory committees established pursuant to section 5(h) [section 2404(h) of this Appendix], the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act [sections 2401 to 2420 of this Appendix];

(11) the effectiveness of export controls imposed under section 6 [section 2405 of this Appendix] in furthering the foreign policy of the United States;

(12) export controls and monitoring under section 7 [section 2406 of this Appendix];

(13) the information contained in the reports required by section 7(b)(2) [section 2406(b)(2) of this Appendix], together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act [sections 2401 to 2420 of this Appendix] or section 812[1] of the Agricultural Act of 1970 [7 U.S.C. 612c–3];

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(14) actions taken by the President and the Secretary to carry out the antiboycott policies set forth in section 3(5) of this Act [section 2402(5) of this Appendix];

(15) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act [sections 2401 to 2420 of this Appendix], including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 10 [section 2409 of this Appendix], including an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(16) delegations of authority by the President as provided in section 4(e) of this Act [section 2403(e) of this Appendix];

(17) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act [sections 2401 to 2420 of this Appendix];

(18) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 12(d) [section 2411(d) of this Appendix], and any action taken, on the basis of the review required by section 12(e) [section 2411(e) of this Appendix], to simplify regulations issued under this Act [sections 2401 to 2420 of this Appendix];

(19) violations under section 11 [section 2410 of this Appendix] and enforcement activities under section 12 [section 2411 of this Appendix]; and

(20) the issuance of regulations under the authority of this Act [sections 2401 to 2420 of this Appendix], including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 13(b) [section 2412(b) of this Appendix].

(b) Report on certain export controls

To the extent that the President determines that the policies set forth in section 3 of this Act [section 2402 of this Appendix] require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) Report on negotiations

The President shall include in each annual report a detailed report on the progress of the negotiations required by section 5(i) [section 2404(i) of this Appendix], until such negotiations are concluded.

(d) Report on exports to controlled countries

The Secretary shall include in each annual report a detailed report which lists every license for exports to controlled countries which was approved under this Act [sections 2401 to 2420 of this Appendix] during the preceding fiscal year. Such report shall specify to whom the license was granted, the type of goods or technology ex-

[1] See References in Text note below.

ported, and the country receiving the goods or technology. The information required by this subsection shall be subject to the provisions of section 12(c) of this Act [section 2411(c) of this Appendix].

(e) Report on domestic economic impact of exports to controlled countries

The Secretary shall include in each annual report a detailed description of the extent of injury to United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries. The annual report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to controlled countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.

(f) Annual report of the President

The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.

(Pub. L. 96–72, § 14, Sept. 29, 1979, 93 Stat. 532; Pub. L. 99–64, title I, § 115, July 12, 1985, 99 Stat. 152; Pub. L. 100–418, title II, §§ 2418(c), 2445, Aug. 23, 1988, 102 Stat. 1357, 1369.)

REFERENCES IN TEXT

Section 812 of the Agricultural Act of 1970, referred to in subsec. (a)(13)(A), which was classified to section 612c–3 of Title 7, Agriculture, was repealed by Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

PRIOR PROVISIONS

A prior section 2413, Pub. L. 91–184, § 15, formerly § 14, Dec. 30, 1969, 83 Stat. 847; Pub. L. 92–37, June 30, 1971, 85 Stat. 89; Pub. L. 92–150, Oct. 30, 1971, 85 Stat. 416; Pub. L. 92–284, Apr. 29, 1972, 86 Stat. 133; Pub. L. 92–412, title I, § 106, Aug. 29, 1972, 86 Stat. 646; Pub. L. 93–327, June 30, 1974, 88 Stat. 287; Pub. L. 93–372, Aug. 14, 1974, 88 Stat. 444; Pub. L. 93–500, § 13, Oct. 29, 1974, 88 Stat. 1557; renumbered § 15 and amended Pub. L. 95–52, title I, §§ 101, 102, June 22, 1977, 91 Stat. 235, providing for the termination of authority granted by the Export Administration Act of 1969, expired on Sept. 30, 1979.

AMENDMENTS

1988—Subsec. (a)(8). Pub. L. 100–418, § 2418(c), substituted ''5(f)(6)'' for ''5(f)(5)''.

Subsec. (f). Pub. L. 100–418, § 2445, added subsec. (f).

1985—Subsec. (a)(15). Pub. L. 99–64, § 115(a), struck out ''an analysis of the time required to process license applications, the number and disposition of export license applications taking more than 30 days to process, and'' after ''requirements of section 10, including''.

Subsecs. (d), (e). Pub. L. 99–64, § 115(b), added subsecs. (d) and (e).

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

§ 2414. Administrative and regulatory authority

(a) Under Secretary of Commerce

The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary under this Act [sections 2401 to 2420 of this Appendix] and such other statutes that relate to national security which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration before the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985], and such other functions under this Act [sections 2401 to 2420 of this Appendix] which were delegated to such office before such date of enactment, as the Secretary may delegate. The President shall appoint, by and with the advice and consent of the Senate, two Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.

(b) Issuance of regulations

The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act [sections 2401 to 2420 of this Appendix]. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) [section 2404(a), 2405(a), 2406(a), or 2407(b) of this Appendix] may apply to the financing, transporting, or other servicing of exports and the participation therein by any person. Any such regulations the purpose of which is to carry out the provisions of section 5 [section 2404 of this Appendix], or of section 4(a) [section 2403(a) of this Appendix] for the purpose of administering the provisions of section 5 [section 2404 of this Appendix], may be issued only after the regulations are submitted for review to the Secretary of Defense, the Secretary of State, such other departments and agencies as the Secretary considers appropriate, and the appropriate technical advisory committee. The preceding sentence does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(c) Amendments to regulations

If the Secretary proposes to amend regulations issued under this Act [sections 2401 to 2420 of this Appendix], the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the technical advisory committees authorized under section 5(h) of this Act [section 2404(h) of this Appendix] in formulating or amending regulations issued under this Act [sections 2401 to 2420 of this Appendix]. The procedures defined by regulations in effect on January 1, 1984, with respect to sections 4 and 5 of this Act [sections 2403 and 2404 of this Appendix], shall remain in effect unless the Secretary

determines, on the basis of substantial and reliable evidence, that specific change is necessary to enhance the prevention of diversions of exports which would prove detrimental to the national security of the United States or to reduce the licensing and paperwork burden on exporters and their distributors.

(Pub. L. 96–72, § 15, Sept. 29, 1979, 93 Stat. 533; Pub. L. 99–64, title I, § 116(a), July 12, 1985, 99 Stat. 152; Pub. L. 100–418, title II, §§ 2420(b), 2429, Aug. 23, 1988, 102 Stat. 1358, 1362.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418, § 2429, inserted ''and such other statutes that related to national security'' after ''Secretary under this Act''.

Subsec. (b). Pub. L. 100–418, § 2420(b), substituted ''such other'' for ''and such other'' and inserted '', and the appropriate technical advisory committee'' after ''appropriate''.

1985—Pub. L. 99–64 substituted ''Administrative and regulatory authority'' for ''Regulatory authority'' as section catchline, and amended text generally. Prior to amendment, section read as follows: ''The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.''

EFFECTIVE DATE OF 1985 AMENDMENT

Subsec. (a) of this section effective Oct. 1, 1987, see section 116(d) of Pub. L. 99–64, set out as a note under section 5314 of Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

SPENDING AUTHORITY UNDER 1985 AMENDMENT

Section 116(e) of Pub. L. 99–64 provided that: ''Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this section [amending this section and sections 5314 and 5315 of Title 5, Government Organization and Employees] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.''

§ 2415. Definitions

As used in this Act [sections 2401 to 2420 of this Appendix]—

(1) the term ''person'' includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term ''United States person'' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term ''good'' means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data;

(4) the term ''technology'' means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;

(5) the term ''export'' means—

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term ''controlled country'' means a controlled country under section 5(b)(1) of this Act [section 2404(b)(1) of this Appendix];

(7) the term ''United States'' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(8) the term ''Secretary'' means the Secretary of Commerce.

(Pub. L. 96–72, § 16, Sept. 29, 1979, 93 Stat. 533; Pub. L. 99–64, title I, § 117, July 12, 1985, 99 Stat. 153.)

AMENDMENTS

1985—Par. (3). Pub. L. 99–64, § 117(1), inserted ''natural or manmade substance,''.

Par. (4). Pub. L. 99–64, § 117(2), amended par. (4) generally, substituting ''the term 'technology' means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;'' for ''the information and knowhow that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves; and''.

Pars. (5) to (8). Pub. L. 99–64, § 117(3), (4), added pars. (5) to (7) and redesignated former par. (5) as (8).

DELEGATION OF FUNCTIONS

Functions conferred upon President under this section delegated to Secretary of Commerce by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

§ 2416. Effect on other Acts

(a) In general

Except as otherwise provided in this Act [sections 2401 to 2420 of this Appendix], nothing contained in this Act [sections 2401 to 2420 of this Appendix] shall be construed to modify, repeal,

supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) Coordination of controls

The authority granted to the President under this Act [sections 2401 to 2420 of this Appendix] shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) Civil aircraft equipment

Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act [sections 2401 to 2420 of this Appendix]. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act [22 U.S.C. 2778(b)(2)].

(d) Nonproliferation controls

(1) Nothing in section 5 or 6 of this Act [section 2404 or 2405 of this Appendix] shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)].

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)], is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 10 of this Act [section 2409 of this Appendix] shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Secretary, the applicant shall have the rights of appeal and court action provided in section 10(j) of this Act [section 2409(j) of this Appendix].

(e) Termination of other authority

On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d), is superseded.

(f) Agricultural Act of 1970

Nothing in this Act [sections 2401 to 2420 of this Appendix] shall affect the provisions of the last sentence of section 812[1] of the Agricultural Act of 1970 (7 U.S.C. 612c–3).

(Pub. L. 96–72, § 17, Sept. 29, 1979, 93 Stat. 534; Pub. L. 99–64, title I, § 118, July 12, 1985, 99 Stat. 154.)

REFERENCES IN TEXT

The Mutual Defense Assistance Control Act of 1951, referred to in subsec. (e), is act Oct. 26, 1951, ch. 575, 65 Stat. 644, as amended, which was classified generally to chapter 20A (§ 1611 et seq.) of Title 22, Foreign Relations and Intercourse, prior to its supersedure by subsec. (e) of this section. For complete classification of this Act to the Code, see Tables.

[1] See References in Text note below.

Section 812 of the Agricultural Act of 1970, referred to in subsec. (f), which was classified to section 612c–3 of Title 7, Agriculture, was repealed by Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–64, § 118(a)(1), substituted ''Except as otherwise provided in this Act, nothing'' for ''Nothing''.

Subsec. (c). Pub. L. 99–64, § 118(a)(2), struck out sentence which provided that for purposes of this subsection ''controlled country'' means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Subsec. (f). Pub. L. 99–64, § 118(b), added subsec. (f).

DELEGATION OF FUNCTIONS

Functions conferred upon President under sections 2401 to 2420 of this Appendix delegated to Secretary of Commerce, with certain exceptions, by Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

§ 2417. Authorization of appropriations

(a) Requirement of authorizing legislation

(1) Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix] may be obligated or expended only if—

(A) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985]; or

(B) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix] authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the Export Administration Amendments Act of 1985 [July 12, 1985] which specifically repeals, modifies, or supersedes the provisions of this subsection.

(b) Authorization

There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act [sections 2401 to 2420 of this Appendix]—

(1) $42,813,000 for the fiscal year 1993;

(2) such sums as may be necessary for the fiscal year 1994; and

(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

(Pub. L. 96–72, § 18, Sept. 29, 1979, 93 Stat. 534; Pub. L. 97–145, § 2(a), Dec. 29, 1981, 95 Stat. 1727; Pub. L. 99–64, title I, § 119, July 12, 1985, 99 Stat. 154; Pub. L. 99–633, § 1, Nov. 7, 1986, 100 Stat. 3522; Pub. L. 100–418, title II, § 2430, Aug. 23, 1988, 102 Stat. 1362; Pub. L. 103–10, § 1, Mar. 27, 1993, 107 Stat. 40.)

AMENDMENTS

1993—Subsec. (b)(1) to (3). Pub. L. 103–10 added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

''(1) $35,935,000 for the fiscal year 1988, of which $12,746,000 shall be available only for enforcement, $2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and $21,189,000 shall be available for all other activities under this Act;

''(2) $46,913,000 for the fiscal year 1989, of which $15,000,000 shall be available only for enforcement, $5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, $4,000,000 shall be available only for regional export control assistance centers, and $22,913,000 shall be available for all other activities under this Act; and

''(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.''

1988—Subsec. (b)(1). Pub. L. 100–418, § 2430(1), substituted ''the fiscal year 1988'' for ''each of the fiscal years 1987 and 1988'' and struck out ''for each such year'' after ''available'' in three places and ''and'' after semicolon at end.

Subsec. (b)(2), (3). Pub. L. 100–418, § 2430(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.''

1986—Subsec. (b). Pub. L. 99–633 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

''(1) $24,600,000 for the fiscal year 1985, of which $8,712,000 shall be available only for enforcement, $1,851,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $14,037,000 shall be available for all other activities under this Act;

''(2) $29,382,000 for the fiscal year 1986, of which $9,243,000 shall be available only for enforcement, $2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $18,139,000 shall be available for all other activities under this Act; and

''(3) such additional amounts for each of the fiscal years 1985 and 1986 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.''

1985—Subsec. (a). Pub. L. 99–64, § 119, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.''

Subsec. (b). Pub. L. 99–64, § 119, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

''(1) $9,659,000 for each of the fiscal years 1982 and 1983; and

''(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.''

1981—Subsec. (b)(1). Pub. L. 97–145 substituted authorization of appropriation of $9,659,000 for each of the fiscal years 1982 and 1983 for authorization of appropriation of $8,000,000 for each of the fiscal years 1980 and 1981, of which $1,250,000 were to be available for each such fiscal year only for purpose of carrying out foreign availability assessments pursuant to section 2404(f)(5) of this Appendix.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2(b) of Pub. L. 97–145 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of October 1, 1981.''

§ 2418. Effective date

This Act [sections 2401 to 2420 of this Appendix] shall take effect upon the expiration of the Export Administration Act of 1969 [former sections 2401 to 2413 of this Appendix].

(Pub. L. 96–72, § 19(a), Sept. 29, 1979, 93 Stat. 535.)

REFERENCES IN TEXT

The Export Administration Act of 1969, referred to in text, is Pub. L. 91–184, Dec. 30, 1969, 83 Stat. 841, as amended, which was classified generally to sections 2401 to 2413 of this Appendix, and terminated on Sept. 30, 1979, pursuant to the terms of that Act. For complete classification of this Act to the Code, see Tables.

§ 2419. Termination date

The authority granted by this Act [sections 2401 to 2420 of this Appendix] terminates on August 20, 2001.

(Pub. L. 96–72, § 20, Sept. 29, 1979, 93 Stat. 535; Pub. L. 98–108, § 1, Oct. 1, 1983, 97 Stat. 744; Pub. L. 98–207, Dec. 5, 1983, 97 Stat. 1391; Pub. L. 98–222, Feb. 29, 1984, 98 Stat. 36; Pub. L. 99–64, title I, § 120, July 12, 1985, 99 Stat. 155; Pub. L. 100–418, title II, § 2431, Aug. 23, 1988, 102 Stat. 1362; Pub. L. 103–10, § 2, Mar. 27, 1993, 107 Stat. 40; Pub. L. 103–277, July 5, 1994, 108 Stat. 1407; Pub. L. 106–508, Nov. 13, 2000, 114 Stat. 2360.)

AMENDMENTS

2000—Pub. L. 106–508 substituted ''August 20, 2001'' for ''August 20, 1994''.

1994—Pub. L. 103–277 substituted ''August 20, 1994'' for ''June 30, 1994''.

1993—Pub. L. 103–10 substituted ''June 30, 1994'' for ''September 30, 1990''.

1988—Pub. L. 100–418 substituted ''1990'' for ''1989''.

1985—Pub. L. 99–64 amended section generally, substituting ''September 30, 1989'' for ''March 30, 1984, or upon any prior date which the President by proclamation may designate.''

1984—Pub. L. 98–222 substituted ''March 30'' for ''February 29''.

1983—Pub. L. 98–207 substituted ''February 29, 1984'' for ''October 14, 1983''.

Pub. L. 98–108 substituted ''October 14, 1983'' for ''September 30, 1983''.

DELEGATION OF FUNCTIONS

Functions conferred upon President under sections 2401 to 2420 of this Appendix delegated to Secretary of Commerce with certain exceptions, among them functions conferred upon President under this section, which were reserved to President, see Ex. Ord. No. 12214, May 2, 1980, 45 F.R. 29783, set out under section 2403 of this Appendix.

CONTINUATION OF EXPORT CONTROL REGULATIONS

Provisions relating to continued effectiveness of the Export Administration Act of 1979, 50 U.S.C. App. 2401 et seq., and to issuance and continued effectiveness of rules, regulations, orders, licenses, and other forms of administrative action and delegations of authority relating to administration of that Act, were contained in the following:

Ex. Ord. No. 13222, Aug. 17, 2001, 66 F.R. 44025, listed in a table under section 1701 of Title 50, War and National Defense.

Ex. Ord. No. 13206, Apr. 4, 2001, 66 F.R. 18397, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12924, Aug. 19, 1994, 59 F.R. 43437, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 13206, § 1, Apr. 4, 2001, 66 F.R. 18397.

Ex. Ord. No. 12923, June 30, 1994, 59 F.R. 34551, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12924, § 4, Aug. 19, 1994, 59 F.R. 43438.

Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12730, Sept. 30, 1990, 55 F.R. 40373, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747.

Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12470, Mar. 30, 1984, 49 F.R. 13099, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757.

Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12444, Oct. 14, 1983, 48 F.R. 48215, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563.

§ 2420. Savings provisions

(a) In general

All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 [former sections 2021 to 2032 of this Appendix] or the Export Administration Act of 1969 [former sections 2401 to 2413 of this Appendix] and which are in effect at the time this Act takes effect [September 30, 1979] shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act [sections 2401 to 2420 of this Appendix].

(b) Administrative proceedings

This Act [sections 2401 to 2420 of this Appendix] shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969 [former sections 2401 to 2413 of this Appendix], which is pending at the time this Act takes effect [September 30, 1979].

(Pub. L. 96–72, § 21, Sept. 29, 1979, 93 Stat. 535.)

REFERENCES IN TEXT

The Export Control Act of 1949, referred to in subsec. (a), is act Feb. 26, 1949, ch. 11, 63 Stat. 7, as amended, which was classified to sections 2021 to 2032 of this Appendix, and terminated on Dec. 31, 1969, pursuant to the terms of that Act. For complete classification of this Act to the Code, see Tables.

The Export Administration Act of 1969, referred to in text, is Pub. L. 91–184, Dec. 30, 1969, 83 Stat. 841, as amended, which was classified generally to sections 2401 to 2413 of this Appendix, and terminated on Sept. 30, 1979, pursuant to the terms of that Act. For complete classification of this Act to the Code, see Tables.