

§ 33.1

§§ 2061–2171; 50 U.S.C. App § 468; Executive Order 12742, (56 FR 1079, January 8, 1991); Executive Order 13603, (77 FR 16651, March 16, 2012).

SOURCE: 77 FR 59800, Oct. 1, 2012, unless otherwise noted.

EFFECTIVE DATE NOTE: At 77 FR 59800, Oct. 1, 2012, Part 33 was added, effective Nov. 30, 2012.

Subpart A—General

§ 33.1 Purpose of this part.

This part provides guidance and procedures for use of the Defense Production Act priorities and allocations authority with respect to all forms of civil transportation. The guidance and procedures in this part are generally consistent with the guidance and procedures provided in other regulations issued under EO 13603 authority.

§ 33.2 Priorities and allocations authority.

(a) Section 201 of Executive Order 13603 (77 FR 16651, March 16, 2012) delegates the President's authority under section 101 of the Defense Production Act to require acceptance and priority performance of contracts and 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 to:

(1) The Secretary of Agriculture with respect to food resources, food resource facilities, livestock resources, veterinary resources, plant health resources, 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) Section 202 of Executive Order 13603 states that the priorities and allo-

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cations authority delegated in section 201 of the order may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense:

(1) By the Secretary of Defense with respect to military production and construction, military assistance to foreign nations, military use of civil transportation, stockpiles, managed by the Department of Defense, space, and directly related activities;

(2) By the Secretary of Energy with respect to energy production and construction, distribution and use, and directly related activities; and

(3) By the Secretary of Homeland Security with respect to all other national defense programs, including civil defense and continuity of Government.

§ 33.3 Program eligibility.

Certain programs to promote the national defense are eligible for priorities and allocations support. These include programs for military and energy production or construction, military or critical infrastructure assistance to any foreign nation, homeland security, stockpiling, space, and any directly related activity. Other eligible programs include 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.

Subpart B—Definitions

§ 33.20 Definitions.

The following definitions pertain to all sections of this part:

Allocation means the control of the distribution of materials, services, or facilities for a purpose deemed necessary or appropriate to promote the national defense.

Allocation authority means the authority of the Department of Transportation, pursuant to section 101 of the Defense Production Act, to allocate materials, services, and facilities for use in approved programs.