

Public Law 96-41
96th Congress

An Act

To revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes.

July 30, 1979

[H.R. 2154]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Strategic and Critical Materials Stock Piling Revision Act of 1979".

SEC. 2. (a) The Strategic and Critical Materials Stock Piling Act is amended by striking out the first section and sections 2 through 9 of such Act (50 U.S.C. 98-98h) and inserting in lieu thereof the following:

Strategic and
Critical
Materials Stock
Piling Revision
Act of 1979.

50 USC 98 note.

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Strategic and Critical Materials Stock Piling Act'.

50 USC 98.

"FINDINGS AND PURPOSE

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

50 USC 98a.

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

"MATERIALS TO BE ACQUIRED: PRESIDENTIAL AUTHORITY AND
GUIDELINES

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

50 USC 98b.

"(b) The President shall make the determinations required to be made under subsection (a) on the basis of the following principles:

National
Defense
Stockpile.

"(1) The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes.

"(2) The quantities of the materials stockpiled should be sufficient to sustain the United States for a period of not less than three years in the event of a national emergency.

Quantity
revision;
notification to
congressional
committees.

"(c) The quantity of any material to be stockpiled under this Act, as determined under subsection (a), may not be revised unless the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed revision and the reasons for such revision at least thirty days before the effective date of such revision.

"MATERIALS CONSTITUTING THE NATIONAL DEFENSE STOCKPILE

50 USC 98c.

"SEC. 4. (a) The stockpile consists of the following materials:

Ante, p. 319.

"(1) Materials acquired under this Act and contained in the national stockpile on the day before the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

"(2) Materials acquired under this Act on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

7 USC 1704.

"(3) Materials in the supplemental stockpile established by section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (as in effect from September 21, 1959, through December 31, 1966) on the day before the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979.

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

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

Post, p. 325.

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

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

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

Excess material,
transfer to
stockpile.

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

"AUTHORITY FOR STOCKPILE OPERATIONS

"SEC. 5. (a) Except for acquisitions made under the authority of paragraph (3) or (4) of section 6(a), no funds may be obligated or appropriated for acquisition of any material under this Act unless funds for such acquisition have been authorized by law. Funds appropriated for such acquisition (and for transportation related to such acquisition) shall remain available for a period of five fiscal years, if so provided in appropriation Acts. 50 USC 98d.

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

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

"STOCKPILE MANAGEMENT

"SEC. 6. (a) The President shall—

50 USC 98e.

"(1) acquire the materials determined under section 3(a) to be strategic and critical materials;

"(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

"(3) provide for the refining or processing of any material in the stockpile when necessary to convert such material into the form most suitable for storage and subsequent disposition;

"(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration of such material by replacement of such material with an equivalent quantity of substantially the same material;

"(5) subject to the notification required by subsection (d)(2), provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

"(6) dispose of materials in the stockpile the disposal of which is specifically authorized by law.

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

"(1) competitive procedures shall be used in the acquisition and disposal of such materials;

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

"(3) disposal of such materials shall be made for domestic consumption.

"(c)(1) The President shall encourage the use of barter in the acquisition of strategic and critical materials for, and the disposal of Barter.

Stockpile materials, transference at fair market value.

materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

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

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

Acquisition or disposal, waiver. Notification to congressional committees.

"(d)(1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1), (2), or (3) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committees on Armed Services of the Senate and House of Representatives in writing of the proposed acquisition or disposal at least thirty days before any obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

Proposed disposal; notification to congressional committees.

"(2) Materials in the stockpile may be disposed of under subsection (a)(5) only if the Committees on Armed Services of the Senate and House of Representatives are notified in writing of the proposed disposal at least thirty days before any obligation of the United States is incurred in connection with such disposal.

Leasehold interests in property, acquisition.

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

"SPECIAL DISPOSAL AUTHORITY OF THE PRESIDENT

50 USC 98f.

"SEC. 7. (a) Materials in the stockpile may be released for use, sale, or other disposition—

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

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

Report to congressional committees.

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

"MATERIALS DEVELOPMENT AND RESEARCH

Investigations. 50 USC 98g.

"SEC. 8. (a)(1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, preparation, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, or in its territories or possessions, (B) are essential to the national defense, industrial, and

essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

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

Purpose.

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

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

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

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

Investigations on public or private lands.

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

Domestic sources of supplies of agricultural material or commodities, development.

"NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

"SEC. 9. (a) There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the 'fund').

Fund establishment.
50 USC 98h.

"(b)(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 6(a) shall be covered into the fund. Such moneys shall remain in the fund until appropriated or until the end of the third fiscal year following the fiscal year in which they are received. Any such moneys remaining in the fund after the end of such third fiscal year that have not been appropriated shall be transferred to miscellaneous receipts of the Treasury. Any of such moneys that are appropriated shall be disbursed from the fund in the order in which they were covered into the fund.

"(2) Moneys covered into the fund under paragraph (1) shall be available, when appropriated therefor, only for the acquisition of strategic and critical materials under section 6(a)(1) of this Act (and for transportation related to such acquisition).

"(3) If so provided in appropriation Acts, moneys in the fund, when appropriated, shall remain available for a period of five fiscal years.

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

"ADVISORY COMMITTEES

"SEC. 10. (a) The President may appoint advisory committees composed of individuals with expertise relating to materials in the stockpile or with expertise in stockpile management to advise the President with respect to the acquisition, transportation, processing, refining, storage, security, maintenance, rotation, and disposal of such materials under this Act.

Presidential appointment.
50 USC 98h-1.

"(b) Each member of an advisory committee established under subsection (a) while serving on the business of the advisory committee

Travel expenses.

away from such member's home or regular place of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

"REPORTS TO CONGRESS

50 USC 98h-2.

"SEC. 11. The President shall submit to the Congress every six months a written report detailing operations under this Act. Each such report shall include—

"(1) information with respect to foreign and domestic purchases of materials during the preceding six-month period;

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

"(3) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made from the fund during the next fiscal year; and

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

"DEFINITIONS

50 USC 98h-3.

"SEC. 12. For the purposes of this Act:

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

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

50 USC 98h-4.

(b)(1) Section 10 of such Act (50 U.S.C. 98h-1) is redesignated as section 13.

(2) Section 11 of such Act is repealed.

Repeal.
50 USC 98 note.
Commodity
set-aside,
reduction.

SEC. 3. (a)(1) Section 103(a) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes", approved August 28, 1954 (7 U.S.C. 1743(a)), is amended—

(A) by striking out "the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98-98h)" in paragraph (4) and inserting in lieu thereof "the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)";

(B) by striking out "the national stockpile established pursuant to the Act of June 7, 1939, as amended" in the third sentence and inserting in lieu thereof "the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act"; and

50 USC 98 note.

(C) by striking out "funds appropriated pursuant to section 8 of such Act of June 7, 1939" in the third sentence and inserting in lieu thereof "funds appropriated for the purposes of that Act".

Computation of
carry-over.

(2) Section 105 of such Act (7 U.S.C. 1745) is amended by striking out "the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98-98h)" and inserting in lieu thereof

"the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)."

(b) Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended—

Commodity
Credit
Corporation,
general powers.
50 USC 98a.

(1) by striking out "section 2 of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596)" and inserting in lieu thereof "section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a)"; and

50 USC 98b.

(2) by striking out "the Munitions Board of the National Military Establishment" and inserting in lieu thereof "the President".

(c) Section 303(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(f)) is amended—

Transfer of
excess materials
to stockpile.

(1) by striking out "the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U.S.C. 98-98h)," in the first sentence and inserting in lieu thereof "the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)"; and

(2) by striking out "from funds available under such Act of June 7, 1939, as amended" and inserting in lieu thereof "from funds appropriated for the purposes of such Act".

(d) Section 204(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(f)) is amended by striking out "the Munitions Board" and inserting in lieu thereof "the President".

Acceptance of
property in lieu
of cash.

SEC. 4. Any provision authorizing the enactment of new budget authority contained in the amendments made by this Act shall be effective on October 1, 1979.

Effective date.
50 USC 98 note.

Approved July 30, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-46 (Comm. on Armed Services).
SENATE REPORT No. 96-201 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 125 (1979):

Mar. 19, considered and passed House.

June 13, considered and passed Senate, amended.

July 13, House concurred in Senate amendment.