

TITLE VII—GENERAL PROVISIONS

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in section 2166 of this Appendix.

§ 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 exe-

¹ See References in Text note below.

cution of the national security strategy of the United States.

(3) Critical technology

The term “critical technology” includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681¹ of title 42, United States Code, or section 2508¹ of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

(4) Critical technology item

The term “critical technology item” means materials directly employing, derived from, or utilizing a critical technology.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Foreign source

The term “foreign source” means a business entity other than a “domestic source”.

(11) 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.

(12) 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.

(13) 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.].

(14) 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.

(15) 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.

(16) 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.

(17) 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.)

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. (3), was omitted from the Code.

Section 2508 of title 10, referred to in par. (3), 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. (13), 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, 114 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

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.