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Folder Title:
National Security Resources Preparedness

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Jack,

I was involved with the DOD
Industrial Base Initiative, but
not this - Hence, I am returning
to you for disposition

Tom C. Dwyer

Document Originally
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Following Page



Federal Emergency Management Agency

Washington, D.C. 20472

FEB 8 1988

The Honorable William A. Cockell
Special Assistant to the President and
Senior Director Defense Policy
National Security Council
Washington, D.C. 20506

Dear Admiral Cockell:

Pursuant to the National Security Emergency Preparedness (NSEP) priorities established by Mr. Carlucci on September 15, 1987, I am requesting the National Mobilization Interagency Group (NMIG) endorse the proposed amendments to Executive Order 10480 and resolve the remaining issues. Revision of Executive Order 10480 is essential to provide for a stronger mobilization preparedness posture and for the effective management of the mobilization preparedness programs of the Defense Production Act (DPA) of 1950, as amended.

Over the past nine months an Interagency Task Force of the Mobilization Readiness Subgroup has been revising E.O. 10480. In June 1987, a draft was circulated to all the subgroup agencies for comment. The Task Force members from the Departments of Agriculture, Commerce, Defense, Energy, Transportation, the National Communications System and the Federal Emergency Management Agency have reviewed and incorporated many of those comments.

The Executive Order revisions:

- provide policy guidance on resource preparedness;
- delegate the Defense Production Act mobilization authorities uniformly to the major departments;
- require periodic reporting to the President on resource preparedness programs and activities;
- emphasize exercising of resource preparedness capabilities; and
- update definitions and removes obsolete sections.

I believe the revised Executive Order provides the policy guidance and organizational assignments necessary to effectively and efficiently develop and implement the resource preparedness programs necessary to meet national defense mobilization needs (Enclosure 1). A comparison of the current and proposed Executive Order and comments on the proposed changes is also provided (Enclosure 2).

To expedite consideration of this NSEP priority project, I am recommending that the NMIG address these issues:

- inclusion of related mobilization authorities on priorities and plant seizure;
- delegation of DPA authorities to Health and Human Services and Housing and Urban Development; and
- certification of programs directly related to the national defense.

The pros and cons of these issues are presented in Enclosure 3.

Thank you for your assistance in expediting clearance of this important Executive Order. Its approval and promulgation will represent a significant step in the President's effort to improve our resource mobilization preparedness capabilities.

Sincerely,



Paul K. Krueger
Chairman
Mobilization Readiness Subgroup

Enclosures

cc: Mobilization Readiness
Subgroup Members

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

February 10, 1988

MEMORANDUM FOR KENNETH A, GILLES
Assistant Secretary
Marketing and Inspection Services
Department of Agriculture

KAY BULOW
Assistant Secretary for Administration
Department of Commerce

CRAIG ALDERMAN, JR.
Deputy Undersecretary of Defense for Policy
Department of Defense

DAVID B. WALLER
Assistant Secretary for Energy Emergencies
and International Affairs
Department of Energy

S. ANTHONY McCANN
Assistant Secretary, Management and Budget
Department of Health and Human Services

JAMES W. ZIGLAR
Assistant Secretary for Water and Science
Department of the Interior

WILLIAM F. WELD
Assistant Attorney General, Criminal Division
Department of Justice

THOMAS C. KOMAREK
Assistant Secretary for Administration and
Management
Department of Labor

JOSEPH E. LAKE
Director of the Operations Center
Department of State

JOHN F.W. ROGERS
Assistant Secretary for Management
Department of the Treasury

M. CYNTHIA DOUGLASS
Administrator, Research and Special Programs
Administration
Department of Transportation

GEORGE WOLOSHYN
Associate Director, National Preparedness
Federal Emergency Management Agency

L. WAYNE ARNY
Associate Director, National Security
and International Affairs
Office of Management and Budget

BENHAM E. MORRISS
Deputy Manager
National Communications System

SUBJECT: Proposed Revisions to Executive Order 10480

Executive Order 10480 assigns Defense Production Act responsibilities to the departments and agencies and is a central element in the nation's mobilization programs. The revision of this Executive Order has been designated as one of the highest priorities in the national security emergency preparedness area.

The Mobilization Readiness Subgroup of the National Mobilization Interagency Group has developed a proposed revision of the Executive Order and has raised three issues for resolution. The Subgroup's proposed revision and issue briefs are attached for your review.

The issues directly involve several departments and agencies, among them the Department of Housing and Urban Development and the National Aeronautics and Space Administration, which are not members of the IG and which are being asked for input through a separate memorandum.

These issues need to be resolved and the proposed Executive Order finalized for April 1 submission to the Office of Management and Budget for formal interagency clearance. By February 26, IG members are asked to indicate their department and agency positions on these three issues:

1. Whether additional mobilization authorities should be included in the revised Executive Order. The Subgroup indicates that these authorities do not appear to be covered by another Executive Order or regulation. On the other hand the authorities are more narrow than the Defense Production Act and may best be addressed separately.

2. Whether the Departments of Health and Human Services and Housing and Urban Development should be delegated Defense Priority and Allocation System (DPAS) authorities, or whether the specific authority should remain with the Department of Commerce.
3. Whether the Executive Order should require that the Departments of Defense or Energy, or the National Aeronautics and Space Administration certify requests for DPAS support as being directly related to programs listed in section 202(b) of the proposed Executive Order. Agencies should determine whether national security related programs (e.g., civil defense) could or should receive DPAS support under these provisions.



William A. Cockell
Special Assistant to the President
and Senior Director for Defense Policy

ISSUE 1: INCLUSION OF RELATED MOBILIZATION AUTHORITIES

The inclusion of the Selective Service Act of 1948 and 10 U.S.C. 4501 and 9501 would make the proposed Executive Order a much more comprehensive mobilization document (Section 101).

Selective Service Act of 1948

This statute authorizes the President to place an order for any articles or materials required for the exclusive use of the armed forces, with an owner or operator of a plant, mine, or other facility capable of producing such articles or materials, whenever the President determines that it is in the interest of the national security for the Government to obtain prompt delivery of the required items. If the facility owner or operator fails or refuses (1) to give precedence to the orders placed with the facility or to make timely delivery of the required items, (2) to produce the kind or quality of items ordered, or (3) to furnish the items at a reasonable price, the President is authorized to take immediate possession of the facility and operate it to produce the required items.

Fair and just compensation as rental must be paid for this taking. If warranted, criminal penalties of up to three years imprisonment and/or \$50,000 fine may also be imposed. Use of this statute is limited by a provision requiring Congressional review of any order placed with a facility owner or operator in excess of \$25 million.

10 U.S.C. 4501 and 9501

These two statutes provide similar authority to that of the Selective Service Act. In time of war, or when war is imminent, the President may order from any manufacturer, necessary products or materials of the type usually produced or capable of being produced by that manufacturer. The manufacturer must comply with the order and give it precedence over all orders not placed under these authorities. No dollar limit on orders is included.

Both statutes also authorize the taking of immediate possession and operation of, any plant equipped to or capable of being converted into, the manufacture of arms or ammunition, parts thereof, or necessary supplies for the Army (10 U.S.C. 4501) or the Air Force precedence to an order placed under the statutes, (2) to manufacture the kind, quantity, or quality of these items, or (3) to furnish them at a reasonable price. Fair and just compensation for the items ordered must be paid. If the plant is seized, the owner or operator is entitled to a fair and just rental. Criminal penalties of up to three years imprisonment and/or a \$50,000 fine are authorized.

Pro

These three statutes contain sufficient authority to support a priorities system similar to the Defense Production Act. These statutes also provide stronger compliance incentives because of their facility seizure and heavier criminal penalty provisions.

Con

Despite the advantages, use of three statutes is limited in several respects:

- o These priorities authorities appear to contain limited authority to support a resource allocation system, the forced conversion of industrial facilities, restrictions on the use of critical resources, inventory controls, or the acquisition of essential civilian requirements. Such authority would be essential to ensure the production and equitable distribution of critical items to meet both defense and essential civilian requirements during an emergency.
- o The Selective Service Act limits orders placed under its authority to \$25 million, absent Congressional review. Because of this provision, this statute is the least useful of the three and would greatly limit its use as a supplement to the DPA authority during a national emergency.
- o 10 U.S.C. 4501 and 9501 can not be used unless we are at war or "when war is imminent". Whether the current state of world affairs and our international relations would lead to the conclusion that "war is imminent" is debatable and could be the subject of a court challenge if any compliance or enforcement action were taken under these authorities. Also, a narrow reading of these statutes would suggest that they could not be used to support Navy requirements, as only the Army and Air Force are referenced.

Of the three statutes discussed above, the DPA provides the President with the most extensive and flexible authority to support and promote national security emergency planning and readiness. If the DPA expired, these more limited authorities could be delegated to meet defense requirements. Also the delegation would be limited and not involve as many civil agencies as the DPA delegations.

ISSUE 2: DELEGATION OF DPA² AUTHORITIES TO HHS AND HUD

The proposed delegation of DPA authorities to the Departments of Health and Human Services (HHS) and Housing and Urban Development (HUD) includes the potential use of priorities and allocation, financial incentives and voluntary agreements for their specific resource areas (Section 202(a)(3) and (4)).

Pro

The proposed amendment delegates DPA authorities with respect to health facilities and resources to HHS. This delegation is essential for the increased role of HHS in meeting national defense health care needs. This is particularly important with the increased reliance on the private sector health care facilities and services for military personnel and for the effective handling of repatriation programs in the case of a wartime emergency.

The delegation of DPA authorities to HUD acknowledges the vital role it must play in meeting national defense needs for housing. Greater reliance on the private sector for additional temporary housing for military personnel and other essential personnel requires contingency planning for facilities, such as motels, hotels and new housing facilities for use in emergencies. This function is best performed by HUD which is the resource agency for housing facilities and has the necessary staff and expertise to support the function.

Con

The delegation of the DPA authorities to additional departments broadens the span of potential programs activities and increases the management oversight problem. It increases the potential for conflict between agencies for resources in an emergency. Also the limited use of housing and medical supplies and facilities for national defense needs could be handled by the Department of Commerce which has priorities and allocations responsibilities for all other materials and facilities not specifically delegated to another agency.

ISSUE 3: CERTIFICATION OF PROGRAMS AS "DIRECTLY RELATED"
TO THE NATIONAL DEFENSE

This proposal clarifies department and agency roles in certifying programs as "directly related activities" and FEMA's role in approving such programs. It requires that agencies obtain certification from the agencies (Defense, Energy, NSAS, and Stockpile Manager) for "directly related activities" before FEMA can approve the program for priorities support (Section 202(b)).

Pro

This inclusion in the Executive Order can help formally document these actions, improve program accountability and assure that the program determination can be supported as being the best informed and reasonably supportable application of the subsection 101(a) authority within the terms of the DPA definition of "national defense."

The departments, such as DOD, have the information, experience, and other capabilities needed to make the most informed and reasonable determination as to what constitutes military production, military construction, and related directly related activity. In the event of a lawsuit over the propriety of a priority contract action or allocation, the Government may be called on to demonstrate that its action was within its authority under the DPA and would need to document that the agency making the determination did so after a well-informed review of the pertinent information involved in the decision. The major capability and information sources for such determinations lie in the cognizant agency for each program designated in the DPA definition of national defense.

Con

Some departments object to the inclusion of this paragraph and recommend that this certification requirement be placed in 44 CFR 322 which spells out the details of priorities and allocations program management. Traditionally, FEMA and its predecessors would seek a certification from Defense when a specific request was made, for example, for priorities support for ships by the Maritime Administration.

PROPOSED CHANGES

EXECUTIVE ORDER 10480

NATIONAL SECURITY

RESOURCES PREPAREDNESS

FEBRUARY 5, 1988

PROPOSED CHANGES

EXECUTIVE ORDER 10480

NATIONAL SECURITY RESOURCES PREPAREDNESS

PART I. PURPOSE, POLICY AND IMPLEMENTATION

SEC.101. Purpose

a. This Order delegates authority and addresses national security resources preparedness policies and programs under the Defense Production Act of 1950, as amended (hereinafter referred to as the Act) except for the Energy Security Act amendments of 1980 and telecommunication authorities under E.O. 12472. These delegations, functions, and activities ensure national defense preparedness and provide the foundation for mobilizing essential resources for national security needs.

b. This Order integrates the programs authorized under the Act with national security functions and activities assigned to the departments and agencies under E.O. 11490, as amended.

SEC.102 Policy

(a) The United States must have the capability to rapidly mobilize its resources in response to any national security emergency. Therefore, to achieve timely and sufficient availability of resources in a national emergency to meet military and essential civilian requirements, and to lend credibility to national security strategy and policy. we must maximize the potential contributions of the United States' resources base in mobilization and sustainability planning.

(b) Resources preparedness capability is an essential element in our deterrence posture, and an essential prerequisite in sustaining our armed forces and in ensuring that essential civilian needs are met during a national security emergency. It is also a critical factor in responding to the material needs of our allies.

SEC.103. Implementation

To provide the foundation for the United States to mobilize effectively essential resources to meet national security needs, the federal departments and agencies shall:

(a) Develop mobilization requirements for the full spectrum of national security emergencies, including both military and essential civilian demand.

(b) Identify and analyze periodically the resources and infrastructure base capacities and related economic and technological trends, and evaluate their impact on national security objectives.

(c) Identify options and develop solutions for industrial production and infrastructure resource constraints and shortfalls in meeting military and essential civilian requirements.

(d) Maximize response to warning indicators to ensure the availability of industrial and infrastructure resources for national defense requirements.

(e) Integrate resources responsiveness capability considerations into the development of military strategy, military operation plans, and the acquisition process.

(f) Utilize North American defense resources and infrastructure base assets in emergency preparedness planning.

(g) Plan for the conversion of civilian industry and substitution of commercial manufacturing technologies, components, and materials, to meet specific national defense needs in an emergency.

(h) Assess U.S. resources and infrastructure capabilities to support allied requirements in an emergency and determine allied capability to support U.S. requirements.

PART II. RESOURCES PREPAREDNESS PROGRAMS

SEC. 201. Coordination and Guidance

(a) The Director of the Federal Emergency Management Agency shall, on behalf of the President, coordinate all mobilization activities of the executive branch of the Government, including all such activities relating to production, procurement, labor force, energy, health resources, housing, food resources, stabilization, and transport.

Every officer and agency of the Government assigned functions under the Act shall perform these functions subject to the coordination and guidance of the Director of the Federal Emergency Management Agency.

The Functions of the Director of the Federal Emergency Management Agency, under this Order, shall include:

(1) Performing the central programming and coordinating functions incident to the determination of the production, priorities, and allocations programs required to meet national defense needs.

(2) Making determinations as to the provision of adequate facilities for national defense production, distribution, and allocations and as to the procedures and methods followed by certain departments and agencies of the Government with respect to national defense production, priorities, and allocations programs.

(3) Issuing policy and program guidance to departments and agencies of the Government to assist them in carrying out the functions assigned to them by this Order, and to resolve interagency issues which otherwise would require the attention of the President.

(4) Reporting to the President periodically concerning all mobilization preparedness programs under this Order.

(5) Approving department and agency plans and programs (certified by the delegated agencies as authorized programs) for priorities and allocations support under Title I of the Act.

SEC.202. Priorities and Allocations

(a) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the authority of the President, under subsection 101(a) of the Act, to (1) require priority in the performance of contracts or orders (other than contracts of employment) to promote the national defense, and to require acceptance and performance in preference to other contracts or orders, and (2) to allocate materials and facilities as deemed necessary or appropriate to promote the national defense, is hereby delegated to the following agency heads, respectively:

(1) The Secretary of Agriculture with respect to food resources and the domestic distribution of farm equipment and commercial fertilizer.

(2) The Secretary of Energy with respect to petroleum, gas, solid fuels, electric power, atomic and all other forms of energy.

(3) The Secretary of Health and Human Services with respect to health resources.

(4) The Secretary of Housing and Urban Development with respect to housing facilities.

(5) The Secretary of Transportation with respect to all forms of civil transportation, including the movement of persons and things by all modes.

(6) The Secretary of Defense with respect to water resources.

(7) the Secretary of Commerce with respect to all other materials and facilities.

(b) The authority of subsection 101(a) of the Act, to require preference in the performance of contracts and orders and to allocate materials and facilities to promote the national defense may not be used except to further:

(1) programs for military construction, production, military assistance to any foreign nation, and directly related activity, certified by the Secretary of Defense;

(2) programs for atomic energy production or construction, and directly related activity, certified by the Secretary of Energy;

(3) stockpiling programs, and directly related activity, certified by the National Defense Stockpile Manager; and

(4) the space program, and directly related activity, certified by the Administrator of National Aeronautics and Space.

(c) The Director of the Federal Emergency Management Agency is delegated the authority of the President to approve findings provided for under subsection 101(b) of the Act, regarding control of the general distribution of any material (including applicable service) in the civilian market, in cases where such material is a scarce and critical material essential to the national defense and where the requirements of 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.

(d) Findings made under or pursuant to and for the purposes of section 101(b) of the Act shall not be effective until approved by the Director of the Federal Emergency Management Agency.

(e) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the Secretary of Commerce is delegated authority to perform the functions provided by subsection 101(c)(1) of the Act to require the allocation of, or the priority performance under contracts (other than contracts of employment) relating to, supplies of materials and equipment to maximize domestic energy supplies, and the functions provided by subsection 101(c)(3) of the Act with respect to the findings that the supplies of materials and equipment are scarce and that it is necessary to exercise the authority provided by subsection 101(c)(1).

(f) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the Secretary of Energy is delegated authority to perform the functions provided by subsection 101(c)(3)(A) of the Act with respect to making the findings that certain supplies of materials and equipment are critical and essential to the maintenance or furtherance of exploration, production, refining, transportation, or the conservation of energy supplies, or for the construction and maintenance of energy facilities.

(g) The Director of the Federal Emergency Management Agency is delegated the authority of the President, under subsection 101(c)(4) of the Act, to take such action as may be appropriate to assure that the authority conferred by subsection 101(c) of the Act is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection 101(a) of the Act and in effect during the same period.

Sec.203. Expansion of Productive Capacity and Supply

(a) Subject to the functions of the Director of the Federal Emergency Management Agency under section 201 of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other

Government department or agency engaged in procurement for the national defense (referred to as "quaranteeing agency officials" in this section), shall develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense. They shall take into consideration North American and other allied requirements and capabilities when developing these measures.

(b) (1) Each guaranteeing agency official is authorized, in accordance with section 301 of the Act, and, subject to the provision of this section, in order to expedite production and deliveries or services under Government contracts, and 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 official to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for 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 the Small Business Act, as amended) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(2) Each Federal Reserve Bank is designated and authorized to act, on behalf of any guaranteeing agency official, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of section 301 of the Act, with respect to private financing institutions.

(3) All actions and operations of Federal Reserve Banks, under authority of or pursuant to the Act as amended shall be subject to the supervision of the Board of Governors of the Federal Reserve System. The Board is authorized, after consultation with the appropriate guaranteeing agency officials, (1) to prescribe such regulations governing the actions and operations of fiscal agents hereunder as it may deem necessary, (2) 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 agency officials, and (3) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(c) Subject to the functions of the Director of the Federal Emergency Management Agency under the provisions of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other Government department or agency engaged in procurement for the national defense, shall purchase and make commitments to purchase metals, minerals, and other materials, for Government use or resale, as authorized by and subject to the provisions of section 303 of the Act: Provided, that the Secretary of

Agriculture may also exercise the functions under section 303 of the Act with respect to food resources, and with respect to plant fibers (except abaca) not included in the definition of food resources to the extent that the procurement of such fibers involves the encouragement and development of sources of supply within the United States and its Territories and possessions.

(d) The Director of the Federal Emergency Management Agency is authorized and directed to encourage the exploration, development and mining of critical and strategic minerals and metals, and to make provision for the development of substitutes for strategic and critical materials, as authorized by and subject to the provisions of section 303 of the Act.

(e) Subject to the functions of the Director of the Federal Emergency Management Agency under the provisions of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any Government department or agency engaged in procurement for the national defense shall: make subsidy payments, to determine the amounts, manner, terms, and conditions thereof, and to make findings, as authorized by and subject to the provisions of section 303(c) of the Act.

(f) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, the functions conferred upon the President by section 303(e) of the Act with respect to the installation of additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and with respect to the installation of Government-owned equipment in plants, factories, and other industrial facilities owned by private persons, are delegated to each officer assigned functions under section 202(a) of this Order the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other Government department of engaged in procurement for the national defense.

(g) The functions conferred upon the President by section 303(f) of the Act, with respect to transfers to the stockpile referred to in this section, are delegated to the Director of the Federal Emergency Management Agency.

(h) All functions provided for in sections 203(c) to 203(q), inclusive, and in sections 203(i) and 203(j) of this Order, shall be carried out within such amounts of funds as may be made available pursuant to the Act.

(i)(1) The Secretary of the Treasury, referred to in this section as the Secretary, is authorized and directed to make loans (including participation in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals. exclusive of such expansion, development and production in foreign countries, as authorized by and subject to section 302 of the Act. The functions assigned to the Secretary by this section include the administration and servicing of all loans (including participation in, or guarantees of, loans) made by the Reconstruction Finance Corporation prior to September 29, 1953, pursuant to section 302 of the Act.

(2) Loans under section 203(i)(1) shall be made upon such terms and conditions as the Secretary shall determine, (2) shall be made only after the Secretary has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Federal Emergency Management Agency.

(3) Applications for loans under section 203(i)(1) shall be received from applicants by the Secretary or by such departments or agencies of the Government as the Secretary shall designate for this purpose.

(j)(1) The Export-Import Bank of Washington is authorized and directed to make loans (including participations in, or guarantes, of loans) to private business enterprises. for the expansion of capacity, the development of technological processes. and the production of essential materials. including the exploration, development, and mining of strategic and critical metals and minerals. in those cases where such expansion, development or production is carried on in foreign countries, as authorized by and subject to section 302 of the Act.

(2) Loans under section 203(j)(1) (1) shall be made upon such terms and conditions as the said Bank shall determine. (2) shall be made only after the Bank has determined in each instance that financial assistance is not available on reasonable terms from private sources and that the loan involved cannot be made under the provisions of and from funds available to the Bank under the Export-Import Bank Act of 1945, as amended, and (3) shall be made only upon certificate of essentiality of the loan. which certificate shall be made by the Director of the Federal Emergency Management Agency.

(3) Applications for loans under section 203(j)(1) shall be received from applicants by the Bank or by such departments or agencies of the Government as the Bank shall designate for this purpose.

(k) The functions conferred by sections 203(c), 203(d) and 203(e) of this Order shall be carried out in accordance with areas of production, construction, and allocation approved by the Director of the Federal Emergency Management Agency. The head of each department and agency of the Government engaged in the procurement for national defense shall make recommendations to the Director of the Federal Emergency Management Agency for approval or other action under sections 302 and 303 of the Act with respect to the materials and facilities which are, pursuant to the areas of production, construction, and allocation designated by the Director of the Federal Emergency Management Agency under section 203(a) of this Order, within the jurisdiction of such department or agency.

(l) The determination required to be made under sections 301(a)(3), 302(b)(2), and 303(a) of the Act, with notification of this determination given to the Director of the Federal Emergency Management Agency, shall be made by the head of each department or agency, making the guarantee, loan, or other action under the authority of sections 301, 302, or 303 of the Act; Provided, That, except during periods of national emergency, no guarantee or loan may be made, or other action taken, unless the industrial resource shortfall to be corrected, as specified in sections 301(e)(1)(A), 302(c)(1), or 303(a) of the Act, has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, and is accompanied by a statement from the Director of FEMA demonstrating that the budget submission is in accordance with the provisions of Section 301(A)(3) of the Act.

SEC.204. National Defense Executive Reserve

(a)(1) There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons of recognized expertise from various segments of the civilian economy for training for employment in executive positions in the Federal Government in the event of the occurrence of a national security emergency that requires such employment.

(2) Retired government executives are eligible for the National Defense Executive Reserve, but current Federal Government employees are not to be considered for membership. In addition, state and local government employees and military and national guard personnel who have emergency assignment within their own organization, shall not be considered for membership.

(b) The Director of the Federal Emergency Management Agency, referred to in this section as the Director, shall coordinate the Executive Reserve program activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; review prospective members nominated for membership in the Executive Reserve; and issue necessary rules and regulations in connection with the program.

(c) The Director, in carrying out the responsibilities under this section of the Order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

(d) The head of any department or agency of the Federal Government (referred to in this section as a Secretary), after consultation with and authorization by the Director, may establish a unit of the Executive Reserve in that respective department or agency.

(e)(1) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve unit of that Secretary's department or agency, shall submit the name of the prospective designee to the Director for review to avoid duplicate emergency assignments. Following this review, the Secretary may then designate the individual as a member of an Executive Reserve unit of the department or agency.

(2) An individual whose membership in an Executive Reserve Unit has at any time expired may be redesignated as a member under the procedure set forth in paragraph (e)(1) of this section.

(3) An individual whose membership in an Executive Reserve unit is about to expire may be redesignated by the Secretary without prior review by the Director.

(4) A Secretary may terminate the membership of any individual in an Executive Reserve unit at any time.

(5) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve unit at any time, it is directed that continued service of a member and the designation or redesignation of a member under paragraph (e)(1) or (e)(2) of this section, respectively, including any designation of an individual occurring at the expiration of his continued service, shall be for a period not to exceed five years.

(f) Activities of any person by reason of the person's continuance, designation, or redesignation as an Executive Reservist under this Order shall not include acting or advising on any matter pending before any department or agency during pre-call-up volunteer service but shall be limited to receiving training for mobilization assignments under the Reserve program, except during national security emergencies or other national emergencies.

SEC.205. Labor Supply

The Secretary of Labor referred to in this section as the Secretary. shall utilize assigned functions so as to meet most effectively the labor needs of defense industry and essential civilian employment. The Secretary shall:

(a) Assemble and analyze, information on, and make a continuing appraisal of, the nation's labor requirements for defense and other activities and the supply of workers. All agencies of the Government shall cooperate with the Secretary in furnishing information necessary for this purpose.

(b) Consult with and advise each delegate of the Director of the Federal Emergency Management Agency referred to in section 202(a) of this Order and each official of the Government exercising guarantee or loan functions under section 203 of this Order concerning (1) the effect of contemplated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, (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) Utilize the public employment service system, and enlist the cooperation and assistance of management and labor to carry out these plans and programs and accomplish their objectives.

(e) Determine the occupations critical to meeting the labor requirements of defense and essential civilian activities and with the Secretary of Defense, the Director of Selective Service, and such other persons as the Director of the Federal Emergency Management Agency may designate develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves.

SEC.206. Voluntary Agreements

(a) The functions conferred upon the President by section 708(c)(1) and (d) of the Act, are delegated to the Director of the Federal Emergency Management Agency and subject to the functions of the Director for the Federal Emergency Management Agency under section 201 of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, to each officer assigned functions under section 202(a) of this Order, to the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and to the head of any other Government department or agency engaged in procurement for the national defense, except that for the purposes of carrying out the objectives of Title I of the Act, the authority granted in section 708(c)(1) of the Act shall be exercised only by the Director of the Federal Emergency Management Agency.

(b) The functions conferred upon the President by section 708(d) of the Act and delegated under section 205(a) of this Order, relating to the 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 III. GENERAL PROVISIONS

SEC.301. Definitions.

As used in this Order:

(a) "Civil transportation" shall include without limitation, related public storage and warehousing, service, equipment, facilities and systems, the use of production facilities involved in shipbuilding, ship repair or conversion, and transportation carrier shop and repair facilities, but shall exclude petroleum, gas pipelines, and food resource facilities.

(b) "Electric power" shall mean all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(c) "Farm equipment" shall mean 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" shall mean any product or combination of products which contains one or more of the elements--nitrogen, phosphorus, and potassium--for use as a plant nutrient in form for distribution to users thereof.

(e) "Food resources" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk 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. For the purposes of this order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(f) "Food resource facilities" shall mean plants, machinery, vehicles (including on-farm), and other facilities for the production, processing, distribution, and storage (including cold storage) of food resources, and for the domestic distribution of farm equipment, fertilizer, and livestock and poultry feed and seed (excludes transportation).

(g) "Functions" includes powers, duties, authority, responsibilities and discretion.

(h) "Gas" shall mean natural gas and manufactured gas, including pipelines for the movement thereof and facilities designed for their storage.

(i) "Health resources" shall mean materials, facilities, health supplies and equipment (including pharmaceuticals, blood collecting and dispensing supplies, biologicals, surgical textiles and emergency surgical instruments and supplies) required to prevent the impairment of, improve, and restore the physical and mental health conditions of the population.

(j) "Housing facilities" shall mean any and all types of accommodations used as public housing except private dwellings, houses and farms buildings.

(k) "Materials" includes raw materials, articles, commodities, products, supplies, components, technical information, and processes, but excludes special nuclear materials as defined in the Atomic Energy Act of 1954, as amended.

(l) "Metals and minerals" shall mean all raw materials of mineral origin (excluding petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations including their refining smelting, and/or processing, but excluding their fabrication.

(m) "Movement" shall include direction, control, coordination and the establishment of priorities and allocations of civil transportation capacity (services, equipment, facilities, and systems, except petroleum, gas and coal slurry pipelines) for the transport of persons and property by all modes of transportation in intrastate, interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, irrespective of ownership.

(n) "National defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(o) "Petroleum" shall mean crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for the movement thereof and facilities designed for their storage.

(p) "Solid fuels" shall mean all forms of anthracite, bituminous, subbituminous, and lignitic coals, and facilities designed for their storage; coke, and coal chemicals produced in the coke making, coal liquification and gasification processes.

(r) "Water resources" shall mean all useable water, from all sources, within the jurisdiction of the United States, which can be managed, controlled, and allocated to meet emergency mobilization requirements.

SEC.302. Resources Preparedness and Readiness Exercises and Report

(a) For the purpose of determining the readiness status and monitoring the implementation of resources-mobilization policy and programs, federal departments and agencies shall provide appropriate data and information to the Director of the Federal Emergency Management Agency.

(b) All federal departments and agencies shall participate, as appropriate, in national security emergency preparedness exercises designed to demonstrate their resources-mobilization and emergency-management capabilities.

(c) The Director of the Federal Emergency Management Agency shall inform the President of appropriate findings and recommendations for action resulting from activities pursued under 302(a) and 302(b) of this Order and from other department and agency resources-mobilization and emergency-planning assessments.

SEC.303. Functions.

(a) Except as otherwise provided in section 303(c) of this Order, the head of each department and agency of the Government assigned functions under the Act and this Order, may exercise and perform, with respect to these functions, the functions vested in the President by Title VII of the Act.

(b) The functions which may be exercised and performed pursuant to the authority of section 303(a) of this Order shall include, but not by way of limitation, (1) except as otherwise provided in section 708(c) of the Act, the power to redelegate functions, and to authorize the successive redelegation of functions, to departments and agencies, officers, and employees of the Government, (2) the power to create an agency or agencies, under the jurisdiction of the officer concerned, to administer functions assigned by this Order, and (3) the power of subpoena with respect to the functions delegated in section 202 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 referred to in section 303(a) of this Order or by such other person or persons as the officer shall designate.

(c) Excluded from the functions delegated by section 303(a) of this Order are: (1) the functions delegated by section 205 of this Order, (2) the functions of the President with respect to regulations under section 710(b), (c), (d) and (e) of the Act and (3) the functions of the President with respect to fixing compensation under section 703(a) of the Act.

(d)(1) The functions conferred upon the President by section 309 of the Act, with respect to the preparation and submission of annual reports to the Congress concerning offsets shall be performed by the Director of the Office of Management and Budget (OMB). The Director may further delegate to the heads of the departments and agencies responsibility for preparing and submitting for the Director's review particular sections of such reports. The heads of the departments and agencies shall, to the extent provided by law, provide the Director with such information as may be necessary for the effective performance of these functions.

(2) In order to ensure that information gathered pursuant to this authority shall be subject to appropriate confidentiality protections, the United States International Trade Commission, which previously has been designated a central collection agency for this information under 44 U.S.C. 3509, is authorized, pursuant to section 705 of the Act, to collect the information required for compilation of the data base to be used in the preparation of the report to the Congress.

SEC.304. Information

All departments and agencies of the Government shall furnish to each officer of the Government to whom functions under the Act are assigned under this Order, such information relating to defense production or procurement, or otherwise relating to the functions assigned to such officer under this Order, as may be required to perform those functions.

SEC.305. Authority

(a) 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.

(b) The following are superseded or revoked:

- (1) Executive Order No. 10161 of September 9, 1950 (15 FR 6105).
- (2) Executive Order No. 10169 of October 11, 1950 (15 FR 6901).
- (3) Executive Order No. 10193 of December 16, 1950 (15 FR 9031).
- (4) Executive Order No. 10200 of January 3, 1951 (16 FR 61).
- (5) Executive Order No. 10223 of March 10, 1951 (16 FR 2247).
- (6) Executive Order No. 10281 of August 28, 1951 (16 FR 8789).
- (7) Executive Order No. 10324 of February 6, 1952 (17 FR 1171).
- (8) Executive Order No. 10359 of June 9, 1952 (17 FR 5269).
- (9) Executive Order No. 10373 of July 14, 1952 (17 FR 6425).
- (10) Executive Order No. 10377 of July 25, 1952 (17 FR 6891).

(11) Executive Order No. 10390 of August 30, 1952 (17 FR 7995).

(12) Executive Order No. 10433 of February 4, 1953 (18 FR 761).

(13) Executive Order No. 10467 of June 30, 1953 (18 FR 3777).

(14) Section 4, Executive Order No. 11790 of June 25, 1974
(39 F.R. 23185).

(15) Section 7 and 8, Executive Order No. 11912 of April 13, 1976
(41 F.R. 15825).

(16) Section 5(a), Executive Order No. 12038 of February 3, 1978
(43 F.R. 4957).

(17) Section 5-202, Executive Order No. 12148 of July 24, 1979
(44 F.R. 42329).

(c) To the extent that any provision of any prior Executive Order is inconsistent with the provisions of this Order, the latter shall control and such prior provision is amended accordingly.

SEC.306. Updating

Whenever the functions of any department or agency of the Government have been modified in such manner as to require the amendment of this Order, the Director of the Federal Emergency Management Agency shall promptly submit a proposal for amendment to the Director of the Office of Management and Budget in accordance with the provisions of Executive Order 11030, as amended.

SEC.307. Redelegation

Without being relieved of responsibility, therefore, each department and agency head assigned functions by this Order may redelegate such functions to subordinate officers within each department or agency.

EXECUTIVE ORDER 10480

PROPOSED REVISIONS

February 3, 1988

Italicized text indicates proposed additions to original text.

[Text in square brackets indicates proposed deletions from original text.]

Bold typeface indicates original unchanged text.

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EXECUTIVE ORDER 10480

NATIONAL SECURITY RESOURCES PREPAREDNESS

PART I. PURPOSE, POLICY AND IMPLEMENTATION

SEC. 101. Purpose

a. This Order delegates authority and addresses national security resources preparedness policies and programs under the Defense Production Act of 1950, as amended (hereinafter referred to as the Act), except for the Energy Security Act amendments of 1980 and telecommunication authorities under EO 12472. These delegations, functions, and activities ensure national defense preparedness and provide the foundation for mobilizing essential resources for national security needs.

b. This Order integrates the programs authorized under the Act with national security functions and activities assigned to the departments and agencies under E.O. 11490, as amended.

This integrates the delegation of Defense Production Act resource mobilization authorities into a single policy and administrative system under one executive order.

Similar resource mobilization authorities in the Selective Service Act (50 U.S.C. Appx.); 10 U.S.C., Section 4501; and 10 U.S.C. 9501, could be included in this delegation of resource mobilization authorities to make it more comprehensive. On the other hand these authorities are more narrowly focused on military procurements, priorities, possession of manufacturing plants and would be needed only if the Defense Production Act had expired.

EO 10480 compliments EO 11490 on National Security Emergency Preparedness. EO 10480 is an operational order which implements defense production and industrial mobilization preparedness programs, while EO 11490 focuses on emergency preparedness planning assignments.

PROPOSED CHANGESCOMMENTSSEC. 102. Policy

(a) The United States must have the capability to rapidly mobilize its resources in response to any national security emergency. Therefore, to achieve timely and sufficient availability of resources in a national emergency to meet military and essential civilian requirements, and to lend credibility to national security strategy and policy, we must maximize the potential contributions of the United States' resources base in mobilization and sustainability planning.

(b) Resources preparedness capability is an essential element in our deterrence posture, and an essential prerequisite in sustaining our armed forces and in ensuring that essential civilian needs are met during a national security emergency. It is also a critical factor in responding to the material needs of our allies.

The President and the National Security Council establish the national security resources preparedness policy. These paragraphs are extracted from NSDD 47 on Mobilization Preparedness and Draft NSDD on Industrial Preparedness Capabilities.

Adopted from NSDD 47 on Mobilization Preparedness and Draft NSDD on Industrial Preparedness Capabilities and consistent with NSDD's 188 and 47.

PROPOSED CHANGESCOMMENTS

SEC. 103. Implementation

To provide the foundation for the United States to mobilize effectively essential resources to meet national security needs, the federal departments and agencies shall:

(a) Develop mobilization requirements for the full spectrum of national security emergencies, including both military and essential civilian demand.

(b) Identify and analyze periodically the resources and infrastructure base capacities and related economic and technological trends, and evaluate their impact on national security objectives.

(c) Identify options and develop solutions for industrial production and infrastructure resource constraints and shortfalls in meeting military and essential civilian requirements.

(d) Maximize response to warning indicators to ensure the availability of industrial and infrastructure resources for national defense requirements.

The President and the National Security Council establish the national security resources preparedness specific policy emphasis for the departments and agencies. This specific policy guidance is adopted from NSDD 47 on Mobilization Preparedness and Draft NSDD on Industrial Preparedness Capabilities. Almost all of these are emphasized in the Carlucci memorandum on National Security Emergency Preparedness priorities of September 15, 1987.

PROPOSED CHANGES

COMMENTS

(e) Integrate resources responsiveness capability considerations into the development of military strategy, military operation plans, and the acquisition process.

(f) Utilize North American defense resources and infrastructure base assets in emergency preparedness planning.

(g) Plan for the conversion of civilian industry and substitution of commercial manufacturing technologies, components, and materials, to meet specific national defense needs in an emergency.

(h) Assess U.S. resources and infrastructure capabilities to support allied requirements in an emergency and determine allied capability to support U.S. requirements.

PART I. GENERAL DIRECTION OF PROGRAM

[PART I. GENERAL DIRECTION OF PROGRAM]

PART II. RESOURCES PREPAREDNESS

PROGRAMS

SEC. [101] 201. Coordination and Guidance

SECTION 101. (a) The Director of the Federal Emergency Management Agency shall, on behalf of the President, coordinate all mobilization activities of the executive branch of the Government, including all such activities relating to production, procurement, manpower, stabilization, and transport. Every officer and agency of the Government having functions under the Defense Production Act of 1950, as amended, delegated, redelegated, or otherwise assigned thereto by or under the authority of the President after the date of this order (whether heretofore or hereafter acquired, or acquired by this order) shall perform the said functions subject to the direction and control of the Director of the Federal Emergency Management Agency.

(a) The Director of the Federal Emergency Management Agency shall, on behalf of the President, coordinate all mobilization activities of the executive branch of the Government, including all such activities relating to production, procurement, [manpower,] labor force, energy, health resources, housing, food resources, stabilization, and transport.

This section maintains the role of a single agency having overall coordination and guidance responsibility of the DPA and related mobilization programs of the departments and agencies. This program management is subject to the policy direction provided by the President and the National Security Council.

Every officer and agency of the Government [having] assigned functions under the [Defense Production]

FEMA provides overall coordination and program guidance. The departments exercise control over their program operations.

Act [of 1950, as amended], [delegated, redelegated, or otherwise assigned thereto by or under the authority of the President after the date of this Order (whether heretofore or hereafter acquired, or acquired by this Order)] shall perform [the said] these functions subject to the [direction and control of] coordination and guidance of the Director of the Federal Emergency Management Agency.

PROPOSED CHANGESCOMMENTS

(b) In carrying out the functions conferred upon him by this order, the Director of the Federal Emergency Management Agency shall, among other things:

(1) Perform the central programming functions incident to the determination of the production programs required to meet defense needs.

(2) Make determinations as to the provision of adequate facilities for defense production and as to the procedure and methods followed by agencies of the Government with respect to the accomplishments of defense production programs.

(3) Be the certifying authority for the purposes of and within the meaning of subsections (e) and (g) of Section 124A of the Internal Revenue Code, as added by section 216 of the Revenue Act of 1950, approved September 23, 1950.

(b) [In carrying out the functions conferred upon him by this Order, the Director of the Federal Emergency Management Agency shall, among other things:]

The functions of the Director of the Federal Emergency

Management Agency, under this Order, shall include:

(1) Performing the central programming and coordinating functions incident to the determination of the production, priorities, and allocations programs required to meet

national defense needs.

(2) Making determinations as to the provision of adequate facilities for national defense production, distribution, and allocations and as to the procedures and methods followed by certain departments and agencies of the Government with respect to national defense production, priorities, and allocations programs.

Delete. Statute section terminated.

[(3) Being the certifying authority for the purposes

of and within the meaning of subsections (e) and (g) of

Section 124A of the Internal Revenue Code, as added by

section 216 of the Revenue Act of 1950, approved

September 23, 1950.]

Editorial changes to make consistent with the Act.

COMMENTS

PROPOSED CHANGES

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(4) Issue such directives, consonant with law, on policy and program to officers and agencies of the Government for execution by them as may be necessary to carry out the functions assigned to him by this order, and resolve interagency issues which otherwise would require the attention of the President.	[(4)](3) Issuing [such directives, consonant with law, on] policy and program <i>guidance</i> to departments and agencies of the Government [for execution by them] as [may be necessary to carry] <i>to assist them in carrying out</i> the functions assigned to [him] <i>them</i> by this Order, and <i>to</i> resolve interagency issues which otherwise would require the attention of the President.
(5) Report to the President from time to time concerning his operations under this order.	[(5)](4) Reporting to the President [from time to time] <i>periodically concerning [his operations]</i> all mobilization preparedness programs under this Order.
(Sec. 101 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)	(5) Approving departments and agency plans and programs (certified by the delegated agencies as authorized programs) for priorities and allocations support under Title I of the Act.
SEC. 102. (Revoked)	[SEC. 102. (Revoked)]
(Sec. 102 revoked by EO 10773 of July 1, 1958, 23 FR 5061, 1958 Comp., p. 416)	Editorial change.

PROPOSED CHANGESCOMMENTS**PART II. PRIORITIES AND ALLOCATIONS****[PART II.] SEC. 202. Priorities and Allocations**

SEC. 201. (a) The functions conferred upon the President by Title I of the Defense Production Act of 1950, as amended, are hereby delegated to the Director of the Federal Emergency Management Agency, who shall, in carrying out the said functions, provide by redelegation or otherwise for their performance, subject to the provisions of section 101 of this order, by

[SEC. 201. (a) The functions conferred upon the President by Title I of the Defense Production Act of 1950, as amended, are hereby delegated to the Director of the Federal Emergency Management Agency, who shall, in carrying out the said functions, provide by redelegation or otherwise for their performance, subject to the provisions of section 101 of this order, by]

(a) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the authority of the President, under subsection 101(a) of the Act, to

Incorporates priority and allocation language from the Act for greater clarity of authorities being delegated to the agencies.

(1) require priority in the performance of contracts or orders (other than contracts of employment) to promote the national defense, and to require acceptance and performance in preference to other contracts or orders, and (2) to allocate materials and facilities as deemed necessary or appropriate to promote the national defense.

PROPOSED CHANGESCOMMENTS

is hereby delegated to the following agency heads,
respectively:

(1) The Secretary of the Interior with respect to petroleum, gas, solid fuels and electric power. (2) The Secretary of Agriculture with respect to food and with respect to the domestic distribution of farm equipment and commercial fertilizer.	[(1) The Secretary of the Interior with respect to petroleum, gas, solid fuels and electric power.] [(2)](1) The Secretary of Agriculture with respect to food resources and [with respect to] the domestic distribution of farm equipment and commercial fertilizer.	These revisions update the priorities and allocations authorities delegated to current departments and agencies.
(3) The Commissioner of the Interstate Commerce Commission who is responsible for the supervision of the bureau which administers the car-service functions of the Commission as set forth in paragraphs 10 to 17, inclusive, of section 1 of the Interstate Commerce Act, as amended with respect to domestic transportation, storage, and port facilities, or the use thereof, but excluding air transport, coastwise, intercoastal, and overseas shipping.	[(3) The Commissioner of the Interstate Commerce Commission who is responsible for the supervision of the bureau which administers the car-service functions of the Commission as set forth in paragraphs 10 to 17, inclusive, of section 1 of the Interstate Commerce Act, as amended with respect to domestic transportation, storage, and port facilities, or the use thereof, but excluding air transport, coastwise, intercoastal, and overseas shipping.]	
	(2) The Secretary of Energy with respect to petroleum, gas, solid fuels, electric power, atomic and all other forms of energy.	

PROPOSED CHANGESCOMMENTS

(3) *The Secretary of Health and Human Services with respect to health resources.*

(4) *The Secretary of Housing and Urban Development with respect to housing facilities.*

[(6)](5) *The Secretary of Transportation with respect to all forms of civil transportation, including the movement of persons and things by all modes.*

[(7)](6) *The Secretary of Defense with respect to water resources.*

(4) *The Secretary of Commerce with respect to all other materials and facilities.*

[(4)](8)](7) *The Secretary of Commerce with respect to all other materials and facilities.*

(b) *The authority of subsection 101(a) of the Act, to require preference in the performance of contracts and orders and to allocate materials and facilities to promote the national defense may not be used except to further:*

(1) *programs for military construction, production, military assistance to any foreign nation, and directly related activity, certified by the Secretary of Defense;*

This amendment delegates priorities and allocations authority with respect to health facilities and resources to the Department of Health and Human Services (HHS). This delegation is essential for the increased role of HHS in meeting national defense health care needs. This is particularly important with the increased reliance on the private sector health care facilities for military personnel and for the effective handling of repatriation programs in the case of wartime emergencies.

This delegation of priorities and allocations authority acknowledges the vital role Department of Housing and Urban Development (HUD) must play in meeting national defense needs for temporary housing. Greater reliance on the private sector for additional housing for military personnel and other essential personnel requires contingency planning for facilities, such as motels and hotels for use in emergencies. This function is best performed by HUD which is the resource agency for housing facilities and has the necessary staff and expertise to support the function.

This paragraph clarifies department and agency roles in certifying programs as "directly related activities," and FEMA's role in approving such programs. It requires that agencies obtain certification from the listed agencies for "directly related activities" before FEMA can approve the program for priorities support.

PROPOSED CHANGES**COMMENTS**

(2) programs for atomic energy production or construction, and directly related activity, certified by the Secretary of Energy;

(3) stockpiling programs, and directly related activity, certified by the National Defense Stockpile Manager; and

(4) the space program, and directly related activity, certified by the Administrator of National Aeronautics and Space.

Some departments object to the inclusion of this paragraph and recommend that this certification requirement be placed in 44 CFR 322 which spells out the details of priorities and allocations program management.

FEMA strongly supports the inclusion of this paragraph in the Executive Order to help improve program accountability and assure that the determination can be supported as being the best informed and reasonably supportable application of the subsection 101(a) authority within the terms of the DPA definition of "national defense." FEMA argues that the departments such as DoD have the information, experience, and other capabilities needed to make the most informed and reasonable determination as to what constitutes military production, military construction, and related directly related activity. In the event of a lawsuit over the propriety of a priority contract action or allocation, the Government may be called on to demonstrate that its action was within its authority under the DPA and would need to document that the agency making the determination did so after a well-informed review of the pertinent information involved in the decision. The major capability and information sources for such determinations lie in the cognizant agency for each program designated in the DPA definition of national defense.

PROPOSED CHANGESCOMMENTS

(c) The Director of the Federal Emergency Management Agency is delegated the authority of the President to approve findings provided for under subsection 101(b) of the Act, regarding control of the general distribution of any material (including applicable service) in the civilian market, in cases where such material is a scarce and critical material essential to the national defense and where 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.

[b](d) Findings made under or pursuant to and for the purposes of section 101(b) of the Act shall not be effective until approved by the Director of the Federal Emergency Management Agency.

(b) Findings made under or pursuant to and for the purposes of section 101(b) of the Act shall not be effective until approved by the Director of the Federal Emergency Management Agency.

(e) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the Secretary of Commerce is delegated authority to perform the functions provided by subsection 101(c)(1) of the Act to require the allocation of, or the priority performance under contracts (other than contracts of employment) relating to, supplies of materials and equipment to maximize domestic energy supplies, and the functions provided by subsection

Paragraph (d) delegates DPA Act Subsection 101(b) authorities to approve findings and describes the conditions for the use of those authorities.

The next few paragraphs were incorporated from EO 11912 and placed here for a sequential delegation of Title 101(a), 101(b) and 101(c) authorities.

101(c)(3) of the Act with respect to the findings that the supplies of materials and equipment are scarce and that it is necessary to exercise the authority provided by subsection 101(c)(1).

(f) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, the Secretary of Energy is delegated authority to perform the functions provided by subsection 101(c)(3)(A) of the Act with respect to making the findings that certain supplies of materials and equipment are critical and essential to the maintenance or furtherance of exploration, production, refining, transportation, or the conservation of energy supplies, or for the construction and maintenance of energy facilities.

(g) The Director of the Federal Emergency Management Agency is delegated the authority of the President, under subsection 101(c)(4) of the Act, to take such action as may be appropriate to assure that the authority conferred by subsection 101(c) of the Act is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection 101(a) of the Act and in effect during the same period.

Incorporated from EO 11912.

Incorporated from EO 11912.

(Sec. 201 amended by EO 10537 of June 22, 1954, 19 FR 3807, 3 CFR, 1954-1958 Comp., p. 195; EO 11051 of Sept 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

[(Sec. 201 amended by EO 10537 of June 22, 1954, 19 FR 3807, 3 CFR, 1954-1958 Comp., p. 195; EO 11051 of Sept 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

PART III. EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

[PART III.] SEC. 203. Expansion of Productive

Capacity and Supply

SEC. 301. The Department of Defense, the Atomic Energy Commission, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the General Services Administration, and the National Aeronautics and Space Administration, in this Part referred to as guaranteeing agencies, each officer having functions delegated to him pursuant to section 201(a) of this order, and each other agency of the Government having mobilization functions, shall, within areas of production designated by the Director of the Federal Emergency Management Agency, develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense.

[SEC. 301.] (a) [The Department of Defense, [the Atomic Energy Commission,] the Department of Energy, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the Department of Transportation, the General Services Administration, and the National Aeronautics and Space Administration, in this [Part] section referred to as guaranteeing agencies, each officer having functions delegated to him [pursuant to] by section [201(a)] 202(a) of this Order, and each other agency of the Government having mobilization functions, shall, within areas of production [designated] certified by the Director of the Federal Emergency Management Agency,]

Subject to the functions of the Director of the Federal Emergency Management Agency under section 201 of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and

These revisions update the authorities delegated to current departments and agencies.

See Section 201 for list of agencies. Areas of production, construction, allocation refer to specific industrial and resource sectors and subsections which are determined as necessary for national defense needs.

These sectors would be approved within the policy guidelines of the NSC and OMB on the use of DPAct, Title III programs.

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National Aeronautics and Space, and the head of any other Government department or agency engaged in procurement for the national defense (referred to as

"guaranteeing agency officials" in this section).

shall develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense. They shall take into consideration North American and other allied requirements and capabilities when developing these measures.

Acknowledges North American Defense Industrial Base concept and initiative.

(Sec. 301 amended by EO 10819 of May 8, 1959, 24 FR 3779, 3 CFR, 1959-1963 Comp., p. 352; EO of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

(Sec. 301 amended by EO 10819 of May 8, 1959, 24 FR 3779, 3 CFR, 1959-1963 Comp., p. 352; EO of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

SEC. 302. (a) Each guaranteeing agency is hereby authorized, in accordance with section 301 of the Defense Production Act of 1950, as amended, subject to the provisions of this section, in order to expedite production and deliveries or services under Government contracts, and 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 production and deliveries or services under Government contracts for the procurement of materials or the performance of services for 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

[SEC. 302. (a)] (b) (1) Each guaranteeing agency official is [hereby] authorized, in accordance with section 301 of the [Defense Production] Act [of 1950, as amended], *and*, subject to the provisions of this section, in order to expedite production and deliveries or services under Government contracts, and 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 official to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in

Interest of the United States, of any contract made for the national defense; but no small business concern (as defined in section 714(a)(1) of the said Act) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

(b) Each Federal Reserve Bank is hereby designated and 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 section 301 of the said Act, as amended, in respect to private financing institutions.

(c) All actions and operations of Federal Reserve Banks, under authority of or pursuant to section 301 of the said Act, as amended, shall be subject to the supervision of the Board of Governors of the Federal Reserve System. Said Board is hereby authorized, after consultation with the heads of the guaranteeing agencies, (1) to prescribe such regulations governing the actions and operations of fiscal agents hereunder as it may deem necessary, (2) 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 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 714(a)(1) of the said Act]) *the Small Business Act, as amended* shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

[(b)](2) Each Federal Reserve Bank is [hereby] designated and authorized to act, on behalf of any guaranteeing agency official, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of section 301 of the [said] Act, [as amended] *with [in]* respect to private financing institutions.

[(c)] (3) All actions and operations of Federal Reserve Banks, under authority of or pursuant to [section 301 of] the [said] Act as amended shall be subject to the supervision of the Board of Governors of the Federal Reserve System. [Said] *The Board is [hereby] authorized, after consultation with the appropriate [heads of the] guaranteeing agency officials, (1) to prescribe such regulations governing the actions and operations of fiscal agents hereunder as it may deem necessary, (2) 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*

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connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and (3) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

loans, discounts, advances, or commitments guaranteed by the guaranteeing agency officials, [through such fiscal agents,] and (3) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(c) *Subject to the functions of the Director of the Federal Emergency Management Agency under the provisions of this Order, and in areas of production, construction, and allocation [distribution certified] approved by the Director as necessary to promote the national defense, [the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Transportation, the Administrator of General Services, the Administrator of National Aeronautics and Space, and the Director of the Federal Emergency Management Agency are each] each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other Government department or agency engaged in procurement for the national defense, shall*

These revisions update the authorities delegated to current departments and agencies and improve overall program management by ensuring that agencies work together and avoid redundant projects.

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SEC. 303. The Administrator of General Services is hereby authorized and directed to purchase and make commitments to purchase metals, minerals, and other materials, for Government use or resale, as authorized by and subject to the provisions of section 303 of the Defense Production Act of 1950, as amended: Provided, That the Secretary of Agriculture may also exercise the said functions under section 303 of the said Act, as amended, with respect to food, and with respect to plant fibers (except abaca) not included in the definition of food to the extent that the procurement of such fibers involves the encouragement and development of sources of supply within the United States and its Territories and possessions.

[SEC. 303. The Administrator of General Services is hereby authorized and directed to] purchase and make commitments to purchase metals, minerals, and other materials, for Government use or resale, as authorized by and subject to the provisions of section 303 of the [Defense Production] Act [of 1950, as amended]: Provided, that the Secretary of Agriculture may also exercise the [said] functions under section 303 of the [said] Act [as amended] with respect to food resources, and with respect to plant fibers (except abaca) not included in the definition of food resources to the extent that the procurement of such fibers involves the encouragement and development of sources of supply within the United States and its Territories and possessions.

SEC. 304. The Director of the Federal Emergency Management Agency is hereby authorized and directed to encourage the exploration, development and mining of critical and strategic minerals and metals, and to make provision for the development of substitutes for strategic and critical materials, as authorized by and subject to the provisions of section 303 of the Defense Production Act of 1950, as amended.

[SEC. 304.] (d) The Director of the Federal Emergency Management Agency is [hereby] authorized and directed to encourage the exploration, development and mining of critical and strategic minerals and metals, and to make provision for the development of substitutes for strategic and critical materials, as authorized by and subject to the provisions of section 303 of the [Defense Production] Act [of 1950, as amended].

(Sec. 304 amended by EO 10662 of Mar. 13, 1956, 21 FR 1673, 3 CFR, 1954-1958 Comp., p. 318; EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

(Sec. 304 amended by EO 10662 of Mar. 13, 1956, 21 FR 1673, 3 CFR, 1954-1958 Comp., p. 318; EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

(e) Subject to the functions of the Director of the Federal Emergency Management Agency under the provisions of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, each officer assigned functions under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other Government department or agency engaged in procurement for the national defense shall:

These revisions update the authorities delegated to current departments and agencies and improve overall program management by ensuring that agencies work together and avoid redundant projects.

SEC. 305. The Director of the Federal Emergency Management

Agency is hereby authorized and directed to make subsidy payments, to determine the amounts, manner, terms, and conditions thereof, and to make findings, as authorized by and subject to the provisions of section 303(c) of the Defense Production Act of 1950, as amended.

(Sec. 305 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

[SEC. 305. The Director of the Federal Emergency

Management Agency is] [hereby authorized and directed to] make subsidy payments, to determine the amounts, manner, terms, and conditions thereof, and to make findings, as authorized by and subject to the provisions of section 303(c) of the [Defense Production] Act [of 1950, as amended].

[(Sec. 305 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

(1) Subject to the functions of the Director of the Federal Emergency Management Agency, under the provisions of this Order, and in areas of production, construction and allocation approved by the Director as necessary to promote the national defense.

These revisions update the authorities delegated to current departments and agencies and improve overall program management by ensuring that agencies work together and avoid redundant projects.

SEC. 306. The functions conferred upon the President by

section 303(e) of the Defense Production Act of 1950, as amended, with respect to the installation of additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and with respect to the installation of Government-owned equipment in plants, factories, and other industrial facilities owned by private persons, are hereby delegated to the Administrator of General Services.

[SEC. 306.] the functions conferred upon the President by section 303(e) of the [Defense Production] Act [of 1950, as amended], with respect to the installation of additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and with respect to the installation of Government-owned equipment in plants, factories, and other industrial facilities owned by private persons, are [hereby] delegated to [the Administrator of

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These revisions update the authorities delegated to current departments and agencies.

General Services, *each officer assigned functions*

under section 202(a) of this Order, the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and the head of any other Government department or agency engaged in in procurement for the national defense.

SEC. 307. The functions conferred upon the President by section 303(f) of the Defense Production Act of 1950, as amended, with respect to transfers to the stockpile referred to in the said section, are hereby delegated to the Director of the Federal Emergency Management Agency.

(Sec. 307 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

[SEC. 307.] (g) The functions conferred upon the President by section 303(f) of the [Defense Production] Act [of 1950, as amended], with respect to transfers to the stockpile referred to in [the said] *this* section, are [hereby] delegated to the Director of the Federal Emergency Management Agency.

[(Sec. 307 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

SEC. 308. The authority conferred upon the President by section 304(b) of the Defense Production Act of 1950, as amended, to approve borrowing from the Treasury of the United States is hereby delegated to the Director of the Federal Emergency Management Agency.

(Sec. 308 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp. p. 412)

SEC. 309. All functions provided for in sections 303 to 307, inclusive, and in section 310 and 311 of this order, shall be carried out within such amounts of funds as may be made available pursuant to the Defense Production Act of 1950, as amended.

SEC. 310. (a) The Secretary of the Treasury, hereafter in this section referred to as the Secretary, is hereby authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of

[SEC. 308. The authority conferred upon the President by section 304(b) of the Defense Production Act of 1950, as amended, to approve borrowing from the Treasury of the United States is hereby delegated to the Director of the Federal Emergency Management Agency.]

[Sec. 308 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp. p. 412)]

[SEC. 309.] (h) All functions provided for in sections [303 to 307] 203(c) to 203(g), inclusive, and in sections [310] 203(i) and [311] 203(j) of this Order, shall be carried out within such amounts of funds as may be made available pursuant to the [Defense Production] Act [of 1950, as amended].

[SEC. 310. (a)] (i) (1) The Secretary of the Treasury, referred to in this section as the Secretary, is [hereby] authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of

Authority terminated. Delete this section.

of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, exclusive of such expansion, development and production in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended. The functions assigned to the Secretary by this section include the administration and servicing of all loans (including participations in, or guarantees of, loans) made by the Reconstruction Finance Corporation prior to September 29, 1953, pursuant to the said section 302.

(b) Loans under section 310(a) hereof (1) shall be made upon such terms and conditions as the Secretary shall determine, (2) shall be made only after the Secretary has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Federal Emergency Management Agency.

(c) Applications for loans under section 310(a) hereof shall be received from applicants by the Secretary or by such agencies of the Government as the Secretary shall designate for this purpose.

capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, exclusive of such expansion, development and production in foreign countries, as authorized by and subject to section 302 of the [Defense Production] Act [of 1950, as amended]. The functions assigned to the

Secretary by this section include the administration and servicing of all loans (including participations in, or guarantees of, loans) made by the Reconstruction Finance Corporation prior to September 29, 1953, pursuant to the [said] section 302 of the Act.

[(b)] (2) Loans under section [310(a)] 203(i)(1) [hereof] (1) shall be made upon such terms and conditions as the Secretary shall determine, (2) shall be made only after the Secretary has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Federal Emergency Management Agency.

[(c)] (3) Applications for loans under section [310(a)] 203(i)(1) [hereof] shall be received from applicants by the Secretary or by such Departments or agencies of the Government as the Secretary shall designate for this purpose.

(Sec. 310 amended by EO 10489 of Sept. 26, 1953, 18 FR 6201, 3 CFR, 1949-1953 Comp., p. 972; EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

SEC. 311. (a) The Export-Import Bank of Washington is hereby authorized and directed to make loans (including participations in, or guarantees, of loans) to private business enterprises, for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, in those cases where such expansion, development or production is carried on in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended.

(b) Loans under section 311(a) hereof (1) shall be made upon such terms and conditions as the said Bank shall determine, (2) shall be made only after the Bank has determined in each instance that financial assistance is not available on reasonable terms from private sources and that the loan involved cannot be made under the provisions of and from funds available to the Bank under the Export-Import Bank Act of 1945, as amended, and (3)

[Sec. 310 amended by EO 10489 of Sept. 26, 1953, 18 FR 6201, 3 CFR, 1949-1953 Comp., p. 972; EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412]

[SEC. 311. (a) (1) The Export-Import Bank of Washington is [hereby] authorized and directed to make loans (including participations in, or guarantees, of loans) to private business enterprises, for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, in those cases where such expansion, development or production is carried on in foreign countries, as authorized by and subject to section 302 of the [Defense Production] Act [of 1950, as amended].

[(b)] (2) Loans under section [311(a)] 203(j)(1) [hereof] (1) shall be made upon such terms and conditions as the said Bank shall determine, (2) shall be made only after the Bank has determined in each instance that financial assistance is not available on reasonable terms from private sources and that the loan involved cannot be made under the provisions of and from funds available to the Bank under the Export-Import Bank Act of 1945, as amended, and (3) shall be made only upon certificate of

shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Federal Emergency Management Agency.

(c) Applications for loans under section 311(a) hereof shall be received from applicants by the said Bank or by such agencies of the Government as the Bank shall designate for this purpose.

(Sec. 311 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

essentiality of the loan, which certificate shall be made by the Director of the Federal Emergency Management Agency.

[(c)] (3) Applications for loans under section 311(a)]
203(j)(1) [hereof] shall be received from applicants by the [said] Bank or by such Departments or agencies of the Government as the Bank shall designate for this purpose.

[(Sec. 311 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

SEC. 312. The functions conferred by sections 303, 305 and 306 of this order shall be carried out in accordance with programs certified by the Director of the Federal Emergency Management Agency. Each officer and agency of the Government having mobilization functions shall make recommendations to the Director of the Federal Emergency Management Agency for the issuance of certificates or other action under sections 302 and 303 of the Defense Production Act of 1950, as amended, and for the issuance of certificates under subsections (e) and (g) of section 168 of the Internal Revenue Code of 1954, with respect to

[SEC. 312.] (k) The functions conferred by sections 303, 305 and 306] 203(c), 203(d) and 203(e) of this Order shall be carried out in accordance with areas of production, construction and allocation approved by the Director of the Federal Emergency Management Agency. The head of each department and agency of the Government [having] engaged in the procurement for national defense shall make recommendations to the Director of the Federal Emergency Management Agency for [issuance] approval or other action under sections 302 and 303 of the [Defense Production] Act [of 1950, as amended, and for the issuance of certificates under subsections (e) and (g) of section 168

the materials and facilities which are, pursuant to the designation of areas of production by the Director of the Federal Emergency Management Agency under section 301 of this order, as amended, within the jurisdiction of such officer or agency.

(Sec. 312 amended by EO 10574 of Nov. 5, 1954, 19 FR 7249, 3 CFR 1954-1958 Comp., p. 212; EO 11051 of Sept. 27, 1962, 27 FT9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

of the Internal Revenue Code of 1954], with respect to the materials and facilities which are, pursuant to the areas of production, construction, and allocation designated by the Director of the Federal Emergency Management Agency under section [301] 203(a) of this Order, within the jurisdiction of such department or agency.

(Sec. 312 amended by EO 10574 of Nov. 5, 1954, 19 FR 7249, 3 CFR 1954-1958 Comp., p. 212; EO 11051 of Sept. 27, 1962, 27 FT9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

Implements the 1984 amendments to the Act.

(1) *The determination required to be made under sections 301(a)(3), 302(b)(2), and 303(a) of the Act, with notification of this determination given to the Director of the Federal Emergency Management Agency, shall be made by the head of each department or agency, making the guarantee, loan, or other action under the authority of sections 301, 302, or 303 of the Act; Provided, That, except during periods of national emergency, no guarantee or loan may be made, or other action taken, unless the industrial resource shortfall to be corrected, as specified in sections*

301(e)(1)(A), 302(c)(1), or 303(a) of the Act, has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, and is accompanied by a statement from the Director of FEMA demonstrating that the budget submission is in accordance with the provisions of Section 301(A)(3) of the Act.

SEC. 313. The Director of the Federal Emergency Management Agency is hereby authorized and directed to submit to the Congress the reports required by the second proviso of section 304(b) of the Defense Production Act of 1950, as amended.

(Sec. 313 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp. p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

[SEC. 313. The Director of the Federal Emergency Management Agency is hereby authorized and directed to submit to the Congress the reports required by the second proviso of section 304(b) of the Defense Production Act of 1950, as amended.]

Authority terminated. Delete this section.

[(Sec. 313 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp. p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

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SEC. 204. National Defense Executive Reserve.

(a)(1) *There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons of recognized expertise from various segments of the civilian economy for training for employment in executive positions in the Federal Government in the event of the occurrence of a national security emergency that requires such employment.*

Extracted from EO 11179 with minor modifications. This spells out the NDER roles and responsibilities.

Includes changes proposed by NDER Interagency Group.

(2) *Retired government executives are eligible for the National Defense Executive Reserve, but current Federal Government employees are not to be considered for membership. In addition, state and local government employees and military and national guard personnel who have emergency assignment within their own organization, shall not be considered for membership.*

Prevents individuals from having more than one emergency assignment.

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(b) The Director of the Federal Emergency Management Agency, (hereinafter) in this section referred to in this section as the Director), shall [administer] coordinate the Executive Reserve program [coordinate the] activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; [approve] review prospective members nominated for membership in [of] the Executive Reserve; and issue necessary rules and regulations in connection with the program.

[(Sec. 2 amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

(c) The Director, in carrying out the responsibilities under this section of the Order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

(d) The head of any department or agency of the Federal Government (hereinafter in this section referred to) referred to in this section as a Secretary), after consultation with and authorization by the Director, may establish a unit of the Executive Reserve in that respective department or agency.

PROPOSED CHANGESCOMMENTS

- (e)(1) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve unit of [his or her] that Secretary's department or agency, shall submit the name of the prospective designee to the Director for [approval] review to avoid duplicate emergency assignments. [Upon approval of the prospective designee by the Director.] Following this review, the Secretary [concerned] may then designate the individual as a member of an Executive Reserve unit of the [concerned] department or agency.
- (2) An individual whose membership in an Executive Reserve Unit has at any time expired may be redesignated as a member under the procedure set forth in paragraph (e)(1) of this section.
- (3) An individual whose membership in an Executive Reserve unit is about to expire may be redesignated by the Secretary without prior review by the Director.
- (4) A Secretary may terminate the membership of any individual in an Executive Reserve unit at any time.

PROPOSED CHANGESCOMMENTS

(5) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve unit at any time, it is directed that continued service of a member and the designation or redesignation of a member under paragraph (e)(1) or (e)(2) of this section, respectively, including any designation of an individual occurring at the expiration of his continued service, shall be for a period not to exceed five years.

(f) Activities of any person by reason of [his] the person's continuance, designation, or redesignation as an Executive Reservist under this Order shall not include acting or advising on any matter pending before any department or agency during pre-call-up volunteer service but shall be limited to receiving training for mobilization assignments under the Reserve program, except during national security emergencies or other national emergencies.

[(g) The Director shall report to the President annually, and at such other times as may be appropriate, on the status and operation of the Executive Reserve program.]

PART IV. LABOR SUPPLY

[PART IV.] SEC. [206] 205. Labor Supply

SEC. 401. The Secretary of Labor shall utilize the functions vested in him so as to meet most effectively the labor needs of defense industry and essential civilian employment, and to this end he shall:

(a) Assemble and analyze information on, and make a continuing appraisal of, the nation's labor requirements for defense and other activities and the supply of workers. All agencies of the Government shall cooperate with the Secretary in furnishing information necessary for this purpose.

(b) Consult with and advise each delegate of the Director of the Federal Emergency Management Agency referred to in section 201(a) of this order and each official of the Government exercising guarantee or loan functions under Part III of this order concerning (1) the effect of contemplated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, (3) such other matters as will assist in making the exercise of priority and allocations functions consistent with effective utilization and distribution of labor.

[SEC. 401.] The Secretary of Labor, referred to in this section as the Secretary, shall utilize [the] assigned functions [vested in him] so as to meet most effectively the labor needs of defense industry and essential civilian employment. [and to this end he shall:] The Secretary shall:

(a) Assemble and analyze information on, and make a continuing appraisal of, the nation's labor requirements for defense and other activities and the supply of workers. All agencies of the Government shall cooperate with the Secretary in furnishing information necessary for this purpose.

(b) Consult with and advise each delegate of the Director of the Federal Emergency Management Agency referred to in section [201(a)] 202(a) of this Order and each official of the Government exercising guarantee or loan functions under [Part III] section 203 of this Order concerning (1) the effect of contemplated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, (3) such other matters as will assist in making the exercise of priority and allocations functions consistent with effective utilization and distribution of labor.

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(c) Formulate plans, programs, and policies for meeting defense and essential civilian labor requirements.

(d) Utilize the public employment service system, and enlist the cooperation and assistance of management and labor to carry out these plans and programs and accomplish their objectives.

(e) Determine the occupations critical to meeting the labor requirements of defense and essential civilian activities and with the Secretary of Defense, the Director of Selective Service, and such other persons as the Director of the Federal Emergency Management Agency may designate develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves.

(Sec. 401 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

(c) Formulate plans, programs, and policies for meeting defense and essential civilian labor requirements.

(d) Utilize the public employment service system, and enlist the cooperation and assistance of management and labor to carry out these plans and programs and accomplish their objectives.

(e) Determine the occupations critical to meeting the labor requirements of defense and essential civilian activities and with the Secretary of Defense, the Director of Selective Service, and such other persons as the Director of the Federal Emergency Management Agency may designate develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves.

(Sec. 401 amended by EO 11051 of Sept. 27, 1962, 27 FR 9683, 3 CFR, 1959-1963 Comp., p. 635; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

PART V. VOLUNTARY AGREEMENTS[PART V.] SEC. [205] 206. Voluntary Agreements

SEC. 501. (a) The functions conferred upon the President by section 708(c)(1) and (d) of the Defense Production Act, as amended, are hereby delegated to the Director of the Federal Emergency Management Agency and, subject to the provisions of section 101 of this order, to the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Transportation, except that for the purposes of carrying out the objectives of Title I of the Act, the authority granted in section 708(c)(1) of the Act shall be exercised only by the Director of the Federal Emergency Management Agency.

[SEC. 501.] (a) The functions conferred upon the President by section 708(c)(1) and (d) of the [Defense Production] Act, [as amended,] are [hereby] delegated to the Director of the Federal Emergency Management Agency and, [subject to the provisions of section [101]

201 of this Order, to the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, and the Secretary of Transportation,] subject to the functions of the Director for the Federal Emergency Management Agency under section 201 of this Order, and in areas of production, construction, and allocation approved by the Director as necessary to promote the national defense, to each officer assigned functions under section 202(a) of this Order, to the Secretary of Defense, the Administrators of General Services and National Aeronautics and Space, and to the head of any other Government department of agency engaged in procurement for the national defense, except that for the purposes of carrying out the objectives of Title I of the Act, the authority granted in section 708(c)(1) of the Act shall be exercised only by the Director of the Federal Emergency Management Agency.

These revisions update the authorities delegated to current departments and agencies.

(b) The functions conferred upon the President by section 708(d) of the Defense Production Act and delegated under section 501(a) of this order, relating to the establishment of advisory committees, shall be exercised only after consultation with, and in accordance with guidelines and procedures established by, the Director of the Office of Management and Budget.

(Sec. 501 amended by EO 11956 of Jan. 13, 1977, 42 FR 2947, 3 CFR, 1977 Comp., p. 78; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)

PART VI. GENERAL PROVISIONS

SEC. 601. As used in this order:

(b) The functions conferred upon the President by section 708(d) of the [Defense Production] Act and delegated under section [501(a)] 205(a) of this Order, relating to the establishment of advisory committees, shall be exercised only after consultation with, and in accordance with guidelines and procedures established by, the [Director of the Office of Management and Budget] *Administrator of General Services.*

[(Sec. 501 amended by EO 11956 of Jan. 13, 1977, 42 FR 2947, 3 CFR, 1977 Comp., p. 78; EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412)]

PART [VI.] III. GENERAL PROVISIONS

SEC. [601.] 301. *Definitions.*

As used in this Order:

[(k)](a) "Civil transportation" shall include without limitation, related public storage and warehousing, service, equipment, facilities and systems, the use of production facilities involved in shipbuilding, ship repair or conversion, and transportation carrier shop and repair facilities, but shall exclude petroleum, [and] gas pipelines, and food resource facilities.

Update.

Updated definitions.

This section has been reordered alphabetically and renumbered appropriately.

(f) The term "electric power" shall mean all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(i) The term "farm equipment" shall mean equipment manufactured for use on farms in connection with the production or processing of food.

(j) The term "fertilizer" shall mean fertilizer in form for distribution to the users thereof.

[(f)](b) [The term] "Electric power" shall mean all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

[(i)](c) [The term] "Farm equipment" shall mean equipment, machinery, and repair parts manufactured for use on farms in connection with the production [or processing of food] or preparation for market use of food resources.

[(j)] The term "fertilizer" shall mean fertilizer in form for distribution to the users thereof.]

(d) "Fertilizer" shall mean any product or combination of products which contains one or more of the elements-- nitrogen, phosphorus, and potassium--for use as a plant nutrient in form for distribution to users thereof.

(h) The term "food" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk 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. For the purposes of this order the term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(h)(e) [The term] "Food resources" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk 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. For the purposes of this Order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(f) "Food resource facilities" shall mean plants, machinery, vehicles (including on-farm), and other facilities for the production, processing, distribution, and storage (including cold storage) of food resources, and for the domestic distribution of farm equipment, fertilizer, and livestock and poultry feed and seed (excludes transportation).

PROPOSED CHANGES

COMMENTS

(a) The term "functions" includes powers, duties, authority, responsibilities and discretion.

(d) The term "gas" shall mean natural gas and manufactured gas, including pipelines for the movement thereof.

(a)(g) [The term] "Functions" includes powers, duties, authority, responsibilities and discretion.
(d)(h) [The term] "Gas" shall mean natural gas and manufactured gas, including pipelines for the movement thereof and facilities designed for their storage.

(o)(i) "Health resources" shall mean materials, facilities, health supplies and equipment (including pharmaceuticals, blood collecting and dispensing supplies, biologicals, surgical textiles and emergency surgical instruments and supplies) required to prevent the impairment of, improve, and restore the physical and mental health conditions of the population.

(n)(j) "Housing facilities" shall mean any and all types of accommodations used as public housing except private dwellings, houses and farms buildings.

(b) The term "materials" includes raw materials, articles, commodities, products, supplies, components, technical information, and processes, but excludes fissionable materials as defined in the Atomic Energy Act of 1946.

(b)(k) [The term] "Materials" includes raw materials, articles, commodities, products, supplies, components, technical information, and processes, but excludes [fissionable] special nuclear materials as defined in the Atomic Energy Act of [1946] 1954, as amended.

(k) The term "domestic transportation, storage, and port facilities" shall include locomotives, cars, motor vehicles, watercraft used on inland waterways, in harbors, and on the Great Lakes, and other vehicles, vessels, and all instrumentalities of shipment or carriage, irrespective of ownership, and all services in or in connection with the carriage of persons or property in Intrastate, Interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, except movement of petroleum and gas by pipeline; and warehouses, piers, docks, wharves, loading and unloading equipment, and all other structures and facilities used in connection with the transshipment of persons and property between domestic carriers and carriers engaged in coastwise, intercoastal, and overseas transportation.

(g) The term "metals and minerals" shall mean all raw materials of mineral origin, including their refining and processing but excluding their fabrication.

[(k)] The term "domestic transportation, storage, and port facilities" shall include locomotives, cars, motor vehicles, watercraft used on inland waterways, in harbors, and on the Great Lakes, and other vehicles, vessels, and all instrumentalities of shipment or carriage, irrespective of ownership, and all services in or in connection with the carriage of persons or property in Intrastate, Interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, except movement of petroleum and gas by pipeline; and warehouse, piers, docks, wharves, loading and unloading equipment, and all other structures and facilities used in connection with the transshipment of persons and property between domestic carriers and carriers engaged in coastwise, intercoastal, and overseas transportation.]

[(g)] The term "metals and minerals" shall mean all raw materials of mineral origin, including their refining and processing but excluding their fabrication.]

[(g)] (1) "Metals and minerals" shall mean all raw materials of mineral origin (excluding petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations including their refining smelting, and/or processing, but excluding their fabrication.

PROPOSED CHANGESCOMMENTS

~~[(l)](m)~~ "Movement" shall include direction, control, coordination and the establishment of priorities and allocations of civil transportation capacity (services, equipment, [and] facilities, and systems, except petroleum, gas and coal slurry pipelines) for the transport of persons and property by all modes of transportation in intrastate, interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, irrespective of ownership.

~~[(m)](n)~~ "National defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

Extracted from the Act.

(c) The term "petroleum" shall mean crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for the movement thereof.

~~[(c)](o)~~ The term "Petroleum" shall mean crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for the movement thereof and facilities designed for their storage.

(e) The term "solid fuels" shall mean all forms of anthracite, bituminous, subbituminous, and lignitic coals; coke; and coal chemicals.

~~[(e)]~~ The term "Solid Fuels" shall mean all forms of anthracite, bituminous, subbituminous, and lignitic coals; coke; and coal chemicals.]

PROPOSED CHANGES

COMMENTS

((e))(p) "Solid fuels" shall mean all forms of anthracite, bituminous, subbituminous, and lignitic coals, and facilities designed for their storage; coke, and coal chemicals produced in the coke making, coal liquification and gasification processes.

(r) "Water resources" shall mean all useable water, from all sources, within the jurisdiction of the United States, which can be managed, controlled, and allocated to meet emergency mobilization requirements.

PROPOSED CHANGESCOMMENTSSEC. 302. Resources Preparedness and ReadinessExercises and Reports

(a) For the purpose of determining the readiness status and monitoring the implementation of resources-mobilization policy and programs, federal departments and agencies shall provide appropriate data and information to the Director of the Federal

Emergency Management Agency.

(b) All federal departments and agencies shall participate, as appropriate, in national security emergency preparedness exercises designed to demonstrate their resources-mobilization and emergency-management capabilities.

(c) The Director of the Federal Emergency Management Agency shall inform the President of appropriate findings and recommendations for actions resulting from activities pursued under 302(a) and 302(b) of this Order and from other department and agency resources-mobilization and emergency-planning assessments.

Increases emphasis on resources preparedness capabilities and on the importance of readiness training, exercises and games.

This reporting requirement is on the overall mobilization preparedness of the Federal Civil departments and agencies. It is broader than the DPAAct programs and is consistent with E.O. 11490.

SEC. [602.] 303. *Functions.*

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| <p>SEC. 602. (a) Except as otherwise provided in section 602(c) of this order, each officer or agency of the Government having functions under the Defense Production Act of 1950, as amended, delegated or assigned thereto by or pursuant to this Executive order may exercise and perform, with respect to such functions, the functions vested in the President by Title VII of the said Act.</p> <p>(b) The functions which may be exercised and performed pursuant to the authority of section 602(a) of this order shall include, but not by way of limitation, (1) except as otherwise provided in section 708(c) of the Defense Production Act of 1950, as amended, the power to redelegate functions, and to authorize the successive redelegation of functions, to agencies, officers, and employees of the Government, (2) the power to create an agency or agencies, under the jurisdiction of the officer concerned, to administer functions delegated or assigned by or pursuant to this order, and (3) in respect of Part II of this order, the power of subpoena: Provided, That the subpoena power</p> | <p>(a) Except as otherwise provided in section [602] 303 (c) of this Order, the head of each department and agency of the Government [having] assigned functions under the [Defense Production] Act and this Order. [of 1950, as amended] [delegated or assigned thereto by or pursuant to this Executive order] may exercise and perform, with respect to [such] these functions, the functions vested in the President by Title VII of the [said] Act.</p> <p>(b) The functions which may be exercised and performed pursuant to the authority of section [602] 303(a) of this Order shall include, but not by way of limitation,</p> <p>(1) except as otherwise provided in section 708(c) of the [Defense Production] Act [of 1950, as amended], the power to redelegate functions, and to authorize the successive redelegation of functions, to department and agencies, officers, and employees of the Government, (2) the power to create an agency or agencies, under the jurisdiction of the officer concerned, to administer functions [delegated or] assigned by [or pursuant to] this Order, and (3) [in respect of] [Part II] [section 202 of this order] the power of subpoena with</p> |
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shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been designed either by the appropriate officer referred to in section 602(a) of this order or by such other person or persons as he shall designate.

respect to the functions delegated in section 202 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 referred to in section [602] 303(a) of this Order or by such other person or persons as [he] the officer shall designate.

(c) There are excluded from the functions delegated by section 602(a) of this order (1) the functions delegated by Part V of this Order, (2) the functions of the President with respect to regulations under section 710 (b), (c), (d) and (e) of the Defense Production Act of 1950, as amended, and (3) the functions of the President with respect to fixing compensation under section 703(a) of the said Act.

(c) [There are] Excluded from the functions delegated by section [602] 303(a) of this Order are: (1) the functions delegated by [Part V] section 205 of this Order, (2) the functions of the President with respect to regulations under section 710 (b), (c), (d) and (e) of the [Defense Production] Act [of 1950, as amended], and (3) the functions of the President with respect to fixing compensation under section 703(a) of the [said] Act.

(d)(1) The functions conferred upon the President by Section 309 of the Defense Production Act, as amended, with respect to the preparation and submission of reports to the Congress concerning offsets shall be performed by the Director of the Office of Management and Budget (OMB). The Director may further delegate to the heads of

(d) (1) The functions conferred upon the President by section 309 of the [Defense Production] Act, [as amended,] with respect to the preparation and submission of *annual* reports to the Congress concerning offsets shall be performed by the Director of the Office of Management and Budget (OMB). The Director may further delegate to the heads of the departments and agencies responsibility for

PROPOSED CHANGESCOMMENTS

Executive departments and agencies responsibility for preparing and submitting for his review particular sections of such reports. The heads of Executive departments and agencies shall, to the extent provided by law, provide the Director with such information as may be necessary for the effective performance of these functions.

(2) In order to ensure that information gathered pursuant to this authority shall be subject to appropriate confidentiality protections, the United States International Trade Commission, which designated a central collection agency in gathering this information under 44 U.S.C. 3509, is authorized, pursuant to Section 705 of the Defense Production Act, as amended, to collect the information required for compilation of the data base to be used in the preparation of the first such report to Congress.

(Sec. 602 amended by EO 10662 of Mar. 13, 1956, 21 FR 1673, 3 CFR, 1954-1958 Comp., p. 318)

preparing and submitting for [his] the Director's review particular sections of such reports. The heads of the departments and agencies shall, to the extent provided by law, provide the Director with such information as may be necessary for the effective performance of these functions.

(2) In order to ensure that information gathered pursuant to this authority shall be subject to appropriate confidentiality protections, the United States International Trade Commission, which previously has been designated a central collection agency [in] for this information under 44 U.S.C. 3509, is authorized, pursuant to section 705 of the [Defense Production] Act, [as amended,] to collect the information required for compilation of the data base to be used in the preparation of the [first such] report to the Congress.

(Sec. 602 amended by EO 10662 of Mar. 13, 1956, 21 FR 1673, 3 CFR, 1954-1958 Comp., p. 318)

SEC. 603. All agencies of the Government (including, as used in this order, departments, establishments, and corporations) shall furnish to each officer of the Government to whom functions under the Defense Production Act of 1950, as amended, are delegated or assigned by or pursuant to this order such information relating to defense production or procurement, or otherwise relating to the said functions, delegated or assigned to such officer by or pursuant to this order as may be required to perform those functions.

SEC. [603.] 304. *Information*

All departments and agencies of the Government shall furnish to each officer of the Government to whom functions under the [Defense Production] Act [of 1950, as amended] are assigned *under* this Order, such information relating to defense production or procurement, or otherwise relating to the functions assigned to such officer *under* this Order, as may be required to perform those functions.

SEC. 604. The Defense Materials Procurement Agency established by Executive Order No. 10281 of August 28, 1951 (16 FR 8789), is hereby abolished and the personnel, records, and unexpended balances of appropriations, allocations and other funds thereof shall be transferred from it to the General Services Administration for use in connection with the functions assigned or delegated to the Administrator of General Services by or pursuant to this order or for purpose of liquidation, as the said Administrator shall determine.

[SEC. 604. The Defense Materials Procurement Agency established by Executive Order No. 10281 of August 28, 1951 (16 FR 8789), is hereby abolished and the personnel, records, property, and unexpended balances of appropriations, allocations and other funds thereof shall be transferred from it to the General Services Administration for use in connection with the functions assigned or delegated to the Administrator of General Services by or pursuant to this order or for purpose of liquidation, as the said Administrator shall determine.]

Terminated. Delete section.

SEC. 605. The Economic Stabilization Agency, established by Executive Order 10161 of September 9, 1950, is continued to October 31, 1953, under the direction of the Director of the Office of Defense Mobilization who shall serve ex officio as the Economic Stabilization Administrator for the purpose of winding up and liquidating the affairs of said Agency.

[SEC. 605. The Economic Stabilization Agency, established by Executive Order 10161 of September 9, 1950, is continued to October 31, 1953, under the direction of the Director of the Office of Defense Mobilization who shall serve ex officio as the Economic Stabilization Administrator for the purpose of winding up and liquidating the affairs of said Agency.]

Terminated. Delete section.

SEC. 606. All 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 herewith or are hereafter amended or revoked under proper authority, and nothing in this order shall affect the validity or force of anything heretofore done under previous delegations or other assignment of authority under the Defense Production Act of 1950 as amended.

(a) 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 [herewith] with this Order or are [hereafter] subsequently amended or revoked under proper authority. Nothing in this Order shall affect the validity or force of anything [heretofore] done under previous delegations or other assignment of authority under the [Defense Production] Act [of 1950 as amended].

SEC. 607. The following are superseded or revoked:

- [SEC. 607.] (b) The following are superseded or revoked:
- (1) Executive Order No. 10161 of September 9, 1950 (15 FR 6105).
 - (2) Executive Order No. 10169 of October 11, 1950 (15 FR 6901).

- (3) Executive Order No. 10193 of December 16, 1950 (15 FR 9031).
- (4) Executive Order No. 10200 of January 3, 1951 (16 FR 61).
- (5) Executive Order No. 10223 of March 10, 1951 (16 FR 2247).
- (6) Executive Order No. 10281 of August 28, 1951 (16 FR 8789).
- (7) Executive Order No. 10324 of February 6, 1952 (17 FR 1171).
- (8) Executive Order No. 10359 of June 9, 1952 (17 FR 5269).
- (9) Executive Order No. 10373 of July 14, 1952 (17 FR 6425).
- (10) Executive Order No. 10377 of July 25, 1952 (17 FR 6891).
- (11) Executive Order No. 10390 of August 30, 1952 (17 FR 7995).
- (12) Executive Order No. 10433 of February 4, 1953 (18 FR 761).
- (13) Executive Order No. 10467 of June 30, 1953 (18 FR 3777).

- (3) Executive Order No. 10193 of December 16, 1950 (15 FR 9031).
- (4) Executive Order No. 10200 of January 3, 1951 (16 FR 61).
- (5) Executive Order No. 10223 of March 10, 1951 (16 FR 2247).
- (6) Executive Order No. 10281 of August 28, 1951 (16 FR 8789).
- (7) Executive Order No. 10324 of February 6, 1952 (17 FR 1171).
- (8) Executive Order No. 10359 of June 9, 1952 (17 FR 5269).
- (9) Executive Order No. 10373 of July 14, 1952 (17 FR 6425).
- (10) Executive Order No. 10377 of July 25, 1952 (17 FR 6891).
- (11) Executive Order No. 10390 of August 30, 1952 (17 FR 7995).
- (12) Executive Order No. 10433 of February 4, 1953 (18 FR 761).
- (13) Executive Order No. 10467 of June 30, 1953 (18 FR 3777).
- (14) Section 4, Executive Order No. 11790 of June 25, 1974 (39 F.R. 23185).
- (15) Sections 7 and 8, Executive Order No. 11912 of April 13, 1976 (41 F.R. 15825).
- (16) Section 5(a), Executive Order No. 12038 of February 3, 1978 (43 F.R. 4957).
- (17) Section 5-202, Executive Order No. 12148 of July 24, 1979 (44 F.R. 42329).

Executive Order sections affected by these revisions to EO 10480.

SEC. 608. To the extent that any provision of any prior

Executive Order (including Executive Order No. 10461 of June 17, 1953 (18 FR 3513)) is inconsistent with the provisions of this order, the latter shall control and such prior provision is

[SEC. 608.] (c) To the extent that any provision of any prior Executive Order [(including Executive Order No. 10461 of June 17, 1953 (18 FR 3513))] is inconsistent with the provisions of this Order, the latter shall control and such prior provision is amended accordingly. [The following

amended accordingly. The following designated orders, modified as required to conform them to the provisions of this order, shall remain in effect.

Executive Order No. 10182 of November 21, 1950 (15 FR 8013), as amended by

Executive Order No. 10205 of January 16, 1951 (16 FR 419).

Executive Order No. 10219 of February 28, 1951 (16 FR 1983).

Executive Order No. 10224 of March 15, 1951 (16 FR 2543).

designated orders, modified as required to conform them to the provisions of this order, shall remain in effect.]

[Executive Order No. 10182 of November 21, 1950 (15 FR 8013), as amended by]

[Executive Order No. 10205 of January 16, 1951 (16 FR 419).]

[Executive Order No. 10219 of February 28, 1951 (16 FR 1983).]

[Executive Order No. 10224 of March 15, 1951 (16 FR 2543).]

SEC. 609. Effective October 1, 1977, the Secretary of Energy

shall exercise all authority and discharge all responsibility herein delegated to or conferred upon (a) the Atomic Energy Commission, and (b) with respect to petroleum, gas, solid fuels and electric power, upon the Secretary of the Interior.

(Sec. 609 added by EO 12038 of Feb. 3, 1978, 43 FR 4957, 3 CFR, 1978 Comp., p. 136)

[SEC. 609. Effective October 1, 1977, the Secretary of

Energy shall exercise all authority and discharge all responsibility herein delegated to or conferred upon (a) the Atomic Energy Commission, and (b) with respect to petroleum, gas, solid fuels and electric power, upon the Secretary of the Interior.]

[[Sec. 609 added by EO 12038 of Feb. 3, 1978, 43 FR 4957, 3 CFR, 1978 Comp., p. 136]]

SEC. [610] 306. *Updating*

SEC. 610 Whenever the Director, Federal Emergency Management Agency, believes that the functions of an Executive agency have modified pursuant to law in such manner as to require the amendment of any Executive order which relates to the assignment of emergency preparedness functions or the administration of mobilization programs, he shall promptly submit any proposals for the amendment of such Executive orders to the Director of the Office of Management and Budget in accordance with the provisions of Executive Order No. 11030, as amended.

[Whenever the Director, Federal Emergency Management Agency, believes that the functions of an Executive agency have modified pursuant to law in such manner as to require the amendment of any Executive order which relates to the assignment of emergency preparedness functions or the administration of mobilization programs, he shall promptly submit any proposals for the amendment of such Executive orders to the Director of the Office of Management and Budget in accordance with the provisions of Executive Order

Improves language

No. 11030, as amended.] Whenever the functions of any department or agency of the Government have been modified in such manner as to require the amendment of this Order.

the Director of the Federal Emergency Management Agency shall promptly submit a proposal for amendment to the Director of the Office of Management and Budget in accordance with the provisions of Executive Order 11030, as amended.

(Sec. 610 added by EO 12038 of Feb. 3, 1978, 43 FR 4957, 3 CFR, 1978 Comp., p. 136; amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp. p. 412)

(Sec. 610 added by EO 12038 of Feb. 3, 1978, 43 FR 4957, 3 CFR, 1978 Comp., p. 136; amended by EO 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp. p. 412)

SEC. 307. *Redelegation*

Without being relieved of responsibility, therefore, each department and agency head assigned functions by this Order may redelegate such functions to subordinate officers within each department or agency.

Copy made for
Office of Chief of Staff
Nothing 3/4

NCS-EP-O (LTC Nixdorff)

April 3, 1989

FACT SHEET FOR LTG MYERS

THRU: Deputy Manager, NCS

SUBJECT: Presidential Authority during Mobilization

1. Presidential authorities are not linked to the different stages of mobilization. In accordance with the National Emergencies Act of 1976, to use any of his pre-planned authorities during a mobilization the President must declare a national emergency and specify in a proclamation, declaration or executive order the specific authorities that he plans to use. Any such proclamation, declaration, or executive order must eventually be transmitted to Congress. These presidential authorities are implemented as Presidential Emergency Action Documents (PEADs). DCA legal counsel has a complete copy of these documents. PEAD 22 is the authority that deals with telecommunications and Section 706 of the Communications Act of 1934. The only authorities available to the President not requiring a national emergency declaration and that impact mobilization are those that are derived from the Defense Production Act of 1950 and those that he has as the Commander-in-Chief.

2. The use of Federal armed forces to protect interstate and foreign telecommunications during war is authorized by Subsection 706(b). During a period of mobilization, however, the Posse Comitatus Act, which prohibits the use of the armed forces to execute or enforce laws, limits this authority. There are exceptions which might apply in the case of the JTRB tabletop scenario, and might be implemented with or without a request from the governor of the state. These are the same exceptions used to send Federal troops to desegregate schools in the South. A presidential proclamation would be necessary and the lawyers would have to determine legality.

3. There is no overall mobilization plan for the Federal Government which defines a mobilization management structure. This deficiency was noted in the Joint Industry-Government Telecommunications Industry Mobilization (TIM) Group report published in September 1988, and the TIM Report recommended that "the National Security Council should, as part of its national security emergency preparedness and response planning effort, ensure the timely definition, documentation, and implementation of an overall Federal Government structure and plan for mobilization management." This recommendation was later forwarded by the NSTAC to the President.

4. DoD has published its Master Mobilization Plan dated May 1988, but there is no such document for the civil departments and agencies. A Graduated Mobilization Response System concept has been developed to help solve this deficiency. The concept views mobilization as a period of increasing activity and not something turned on at M-Day. It calls for interagency coordination to integrate ambiguous and specific warnings with mobilization actions that mitigate the impact of, improve responsiveness to, or assist in the recovery from a crisis or national emergency.

