

FY2023 NDAA: National Defense Stockpile

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Congress is considering provisions in the House and Senate-committee versions of the Fiscal Year 2023 National Defense Authorization Act (FY2023 NDAA) that would make changes to the National Defense Stockpile (NDS), a department of Defense (DOD)-administered reserve of critical materials. The House-passed (H.R. 7900) and Senate Armed Services Committee (SASC)-reported (S. 4543) FY2023 NDAA bills contain provisions which would expand NDS management authorities, introduce new planning and reporting requirements, and authorize the largest new appropriations for material acquisitions in more than 30 years. The Senate is considering the stockpile provisions of S. 4543 as part of S.Amdt. 5499, a complete substitute amendment to H.R. 7900. The Senate is also considering some stockpile-related amendments to S.Amdt. 5499.

Background

Title 50, Section 98a, of the U.S. Code establishes the NDS “to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources or a single point of failure for [critical materials] in times of national emergency.” In a similar manner to [other U.S. stockpile programs](#), the NDS acquires and retains materials for use by critical civilian and defense manufacturers when supplies are commercially unavailable. The stockpile also tracks the availability of rare materials used in the manufacture of products that include munitions, batteries, laser equipment, and satellite components. According to the *Strategic and Critical Materials 2021 Report on Stockpile Requirements*, the NDS inventory contains stocks of 55 materials valued at about \$888 million.

The President has authority over the NDS, but per [50 U.S.C. §98h-7](#), may designate another federal official to exercise management responsibilities. Currently, the Under Secretary of Defense for Acquisition and Sustainment (USD [A&S]) is the designated NDS Manager; additionally, the [Defense Logistics Agency \(DLA\) Strategic Materials division](#) exercises operational oversight. The NDS funds its annual operations and new acquisitions with the [National Defense Stockpile Transaction Fund](#), a revolving fund that receives money from multiple sources including appropriations and proceeds from the sale of surplus inventory. In FY2022, Congress appropriated [\\$125 million](#) for the NDS, the first new appropriation in three decades.

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Discussion

The NDS-related provisions of the House-passed and SASC-reported FY2023 NDAA bills reflect a growing sense among some Members of Congress and other policymakers that the U.S. must do more to ensure continued access to critical materials under adverse geopolitical conditions. Recent assessments undertaken by DLA Strategic Materials and the White House have identified a number of material shortfall risks. In its *2021 Report on Stockpile Requirements*, DLA Strategic Materials projected wartime shortfalls for 53 out of 283 monitored materials, and a 2021 ‘100-day supply chain review’ directed by the White House found that, regarding the NDS specifically, “less than 10 percent of postulated wartime material shortfalls are estimated to be mitigated.” In addition to supply chain vulnerabilities, a major driver of potential shortfalls is the small size of NDS inventory when measured by historical standards. From a reported \$9.6 billion in 1989, the value of stockpiled materials has declined to \$888.1 million in 2021.

NDS Transaction Fund Authorizations

Both bills would authorize the largest new appropriations for the NDS Transaction Fund in more than 30 years. The President’s budget for FY2023 requested \$253.5 million in appropriations for the stockpile. Section 4501 of the House bill would authorize \$253.5 million for the acquisition of eight specific materials, while Section 4501 of the Senate-committee bill would authorize \$1.0 billion for the acquisition of seven specific materials and any additional materials that the NDS Manager identifies as a requirement. Section 228 of the House bill would further increase the authorized NDS Transaction Fund appropriation by \$2.0 million, to be used for research and development relating to rare earth permanent magnet production (S.Amdt. 6360 to S.Amdt. 5499 would authorize an identical appropriation).

Management Authorities

Per 50 U.S.C. §98d, the NDS Manager must obtain specific congressional authorization prior to acquiring new materials for the stockpile. The NDS administrator has asserted that this can create significant delays between the identification of new material requirements and subsequent acquisition for new stockpile inventory. Both Section 1421 of H.R. 7900 and Section 1411 of S. 4543 would allow the NDS Manager to use appropriated funds to acquire materials determined to be in shortfall without specific congressional authorization; Section 1411 of the Senate-committee bill would also shorten the congressional notification period for inventory increases from 45 days to 30 days. S.Rept. 117-130 states that these modifications are intended to give the NDS Manager “greater flexibility and agility to acquire critical materials.”

New Material Priorities

The House bill contains provisions that would prioritize certain materials for study or acquisition. These include materials related to semiconductors, rare earth elements, and the manufacture of energy storage technologies. The Senate-committee bill as reported does not contain similar provisions, but S.Amdt. 6139 would state that U.S. policy is to eliminate NDS dependence on critical minerals supplied by non-allied countries by 2027 and direct DOD to undertake reporting and planning to realize this goal.

In addition to these legislative provisions, H.Rept. 117-397 directs DOD to provide a briefing to the House Armed Services Committee (HASC) on the stockpile status and requirements for antimony, as well as a report on the feasibility of stockpiling novel antibiotics.

Reporting Requirements

Both bills would establish new reporting requirements to assist Congress in assessing the state of the NDS. Section 1421 of H.R. 7900 would direct DOD to annually brief Congress on stockpile inventories and planned acquisitions, while Section 1412 of S. 4543 would direct DOD to annually brief on material shortfalls and acquisition or disposal plans. Section 859F of the House bill would also direct DOD to report on its strategic and critical materials requirements and identify measures to align NDS planning with broader Department of Defense objectives.

In addition to the provisions of H.R. 7900 and S. 4543, the accompanying HASC report (H.Rept. 117-397) directs the Government Accountability Office (GAO) to assess DOD management of the NDS by April 1, 2023.

Table I. Selected FY2023 NDAA National Defense Stockpile Provisions

House-passed (H.R. 7900)	SASC-reported (S. 4543)
<i>NDS Transaction Fund Authorizations</i>	
Sec. 4501 would authorize the appropriation of \$253.5 million for the NDS Transaction Fund.	Sec. 4501 would authorize the appropriation of \$1.0 billion for the NDS Transaction Fund.
Sec. 1414 would authorize the use of up to \$253.5 million of the funds appropriated for the NDS Transaction Fund for the acquisition of eight specific materials.	Sec. 1413 would authorize the use of up to \$1.0 billion of the funds appropriated for the NDS Transaction Fund for the acquisition of materials during fiscal years 2023 through 2032.
Sec. 228 would increase the authorized appropriation for the NDS Transaction Fund by \$2.0 million, to be used to strengthen the domestic industrial base for rare earth metals.	No similar provisions; however, S.Amdt. 6360 would increase the authorized appropriation for the NDS Transaction Fund by \$2.0 million, to be used to strengthen the domestic industrial base for rare earth metals.
<i>Management Authorities</i>	
Sec. 1421 would expand the NDS Manager's authority to acquire material without specific prior congressional authorization.	Sec. 1411 would expand the NDS Manager's authority to acquire material without specific prior congressional authorization, and shorten the required congressional notification period for stockpile increases.
<i>New Material Priorities</i>	
Sec. 1413 would direct DOD to assess wartime semiconductor needs and supply chain vulnerabilities, and recommend mitigations via an NDS pilot program within one year.	No similar provisions.
Sec. 1415 would mandate stockpiling rare earth permanent magnets for defense needs, and direct DOD to report on the feasibility of future stockpiling efforts within 90 days.	
Sec. 1416 would direct GAO to report on the feasibility of stockpiling materials required for battery and energy storage-related defense needs within 360 days.	

No similar provisions.

S.Amdt. 6139 would direct DOD to undertake assessment and planning in support of transitioning the NDS supply chain to exclusively U.S. and Allied-processed critical minerals by 2027.

Reporting Requirements

Sec. 1421 would direct the NDS Manager to annually brief the state of the stockpile and planned acquisitions.

Sec. 1412 would direct the NDS Manager to annually brief stockpile shortfalls and planned acquisition.

Sec. 859F would direct DOD to assess its strategic and critical material requirements, including proposed improvements to the NDS, by June 1, 2023.

No similar provisions.

Source: CRS analysis of legislation on Congress.gov.

Notes: In Sec. 1414 of the House bill, the eight materials are: (1) Neodymium oxide, praseodymium oxide, and neodymium iron boron magnet block, (2) Titanium, (3) Energetic materials, (4) Iso-molded graphite, (5) Grain-oriented electric steel, (6) Tire cord steel, (7) Cadmium zinc telluride, and (8) Scandium. Materials (1)-(7) are also enumerated in Sec. 1413 of the Senate-committee bill.

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