The Defense Production Act (DPA) authorizes the President to ensure the availability of U.S. and Canadian industry for U.S. defense, essential civilian, and homeland security requirements.

The House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs have jurisdiction over DPA.

<table>
<thead>
<tr>
<th>DPA Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title I</strong></td>
</tr>
<tr>
<td>Priorities and Allocations</td>
</tr>
</tbody>
</table>

- Prioritize Federal contracts over all other orders
- Control distribution of scarce materials within the civilian economy
- Allocate scarce materials against Federal or private contracts
- Prevent hoarding of scarce materials

- Incentives to develop, maintain, modernize, and expand production capacity or critical technologies:
  - Loans/ loan guarantees
  - Purchases/ purchase commitments
  - Grants and subsidies

- Mandatory survey authority of any U.S.-registered business entity
- Anti-trust immunity for industry, to develop and implement national emergency preparedness plans
- Committee on Foreign Investment in the U.S. (CFIUS)
- Civilian Executive Reserve, called into Federal service during a national emergency
# Title III Authorities and Priority Areas

## Authorities

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>• May be extended when credit is not available to the loan applicant under reasonable terms and conditions sufficient to finance the activity&lt;br&gt;• Prospective earning power of the loan applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed</td>
<td>• May be extended when private financing is beyond the risk of the commercial market&lt;br&gt;• Projected earnings following the loan are sufficient to cover repayment costs</td>
<td>• Create a guaranteed demand to reduce risks for industry to make their own investments</td>
<td>• Provide direct subsidies to companies to assist in establishing production capabilities including:&lt;br&gt;− Purchase and installation of production equipment in privately owned or Government owned facilities&lt;br&gt;− Engineering support to improve quality and yield of production facilities&lt;br&gt;− Sample quantities for process validation and customer qualification testing</td>
</tr>
</tbody>
</table>

## Priority Areas

<table>
<thead>
<tr>
<th>Sustain Critical Production</th>
<th>Commercialize Research and Development Efforts</th>
<th>Scale Emerging Technologies</th>
</tr>
</thead>
<tbody>
<tr>
<td>“To create, maintain, protect, expand, or restore domestic industrial capabilities essential for National Defense”</td>
<td>“From Government sponsored research and development to commercial applications” and “from commercial research and development to National Defense”</td>
<td>“For the increased use of emerging technologies in security program applications and the rapid transition of emerging technologies”</td>
</tr>
</tbody>
</table>
DPA Title III Statutory Criteria

- The execution of Section 303 (50 U.S.C. § 4533) authorities requires the President, on a non-delegable basis, to identify a domestic industrial base shortfall as meeting three specific criteria:
  - The industrial resource, material, or critical technology item is essential to national defense;
  - Without Presidential action under [50 U.S.C. § 4533], United States industry cannot reasonably be expected to provide the capability for the needed industrial resource, material, or critical technology item in a timely manner; and
  - Purchases, purchase commitments, or other action pursuant to [50 U.S.C. § 4533] are the most cost effective, expedient, and practical alternative method for meeting the need.

- Presidential Determinations (PDs) are:
  - Non-expiring and able to be leveraged for different projects addressing the same shortfalls
  - Varying in breadth and scope depending upon the shortfall/challenge addressed

- PDs are not:
  - An appropriation or funding mechanism
  - A mandate to address a specific shortfall or pursue a specific course of action
DPA Title III Statutory Criteria Cont.

• Under peacetime conditions, the DPA statute imposes constraints on the exercise of Section 303 authorities:
  — All investments require a PD
  — All actions >$50M require Congressional notification and a 30-day waiting period before action can be taken
  — All actions >$50M require Congressional authorization

• The law currently allows for the **waiver of statutory criteria** in two specific instances:
  — During a period of **national emergency** declared by the Congress or the President
  — Upon a determination by the President, on a nondelegable basis, that action is **necessary to avert an industrial resource or critical technology item shortfall** that would severely impair national defense capability. (50 U.S.C. § 4533).
## History of Presidential Determinations and Waivers

<table>
<thead>
<tr>
<th>Presidential Determination/Waiver</th>
<th>Signature Date</th>
<th>Authorization Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energetic Materials Production for DoD Munitions</td>
<td>16 January 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Precursors Production for DoD Munitions</td>
<td>16 January 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Inert Materials Production for DoD Munitions</td>
<td>16 January 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Advanced Manufacturing Techniques for DoD Munitions</td>
<td>16 January 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Sonobuoys Production</td>
<td>12 March 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Small Unmanned Aerial Systems</td>
<td>12 June 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Rare Earth Permanent Magnets Production (2x PDs)</td>
<td>22 July 2019</td>
<td>$100M</td>
</tr>
<tr>
<td>Rare Earth Separation and Processing Capability (2x PDs)</td>
<td>22 July 2019</td>
<td>$100M</td>
</tr>
<tr>
<td>Rare Earth Metal and Alloy Processing Capability</td>
<td>22 July 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>Domestic Capacity Expansion for F135 Integrally Bladed Rotors</td>
<td>22 July 2019</td>
<td>$50M</td>
</tr>
<tr>
<td>COVID-19 Response (Waiver)</td>
<td>27 March 2020</td>
<td>No Limit</td>
</tr>
<tr>
<td>High/Ultra High Temperature Composite for Hypersonics</td>
<td>24 June 2020</td>
<td>$50M</td>
</tr>
<tr>
<td>Submarine Industrial Base Production Capacity Essential to the VCS Program (3x PDs)</td>
<td>21 December 2021</td>
<td>No Limit</td>
</tr>
<tr>
<td>Radiation-Hardened and Strategic Radiation-Hardened Microelectronics</td>
<td>21 December 2021</td>
<td>No Limit</td>
</tr>
<tr>
<td>Critical Materials in Large-Capacity Batteries</td>
<td>31 March 2022</td>
<td>No Limit</td>
</tr>
<tr>
<td>Material Critical to Support the Defense Against Adversarial Aggression (Waiver)</td>
<td>3 October 2022</td>
<td>No Limit</td>
</tr>
<tr>
<td>Supply Chain Resilience (Waiver)</td>
<td>27 February 2023</td>
<td>No Limit</td>
</tr>
<tr>
<td>Printed Circuit Boards and Advanced Packaging</td>
<td>27 March 2023</td>
<td>No Limit</td>
</tr>
</tbody>
</table>

Distribution Statement A: Approved for public release. Distribution is unlimited.
• **Issue Identification**
  – Industry- Open Funding Opportunity Announcement
    o [https://sam.gov/opp/f373370cfe504a0c9ac0ad41dccee52e/view](https://sam.gov/opp/f373370cfe504a0c9ac0ad41dccee52e/view)
  – Industry Mailbox –
    o [osd.pentagon.ousd-a-s.mbx.dpa-title-iii-industry-inquiries@mail.mil](mailto:osd.pentagon.ousd-a-s.mbx.dpa-title-iii-industry-inquiries@mail.mil)

• **Authorization and Appropriation**
  – Development of new/increase spending limit on Presidential Determinations

• **Acquisition**
  – Develop DoD requirements
  – Select T3 investment requirements
  – Develop statement of objectives
Why is everyone talking about DPA?

• While the DPA was enacted in 1950, the past few years have seen an increased interest in the authorities from the Executive and Legislative Branches, Government agencies, and the public.

• In March 2020, Congress appropriated $1B to the DPA Purchases account via the CARES Act “to prevent, prepare for, and respond to coronavirus”.
  — Greatly reduced acquisition timelines resulting in the obligation of $800M in ~10 months

• In FY2022, the DPA was appropriated $600 million by the Additional Ukraine Supplemental Appropriations Act to mitigate industrial base constraints for faster missile production and expanded domestic capacity for strategic and critical minerals.
  — A further $146 million was added into the DPA Fund for increased production of solid rocket motors

• Also in FY2022, the Inflation Reduction Act appropriated $500 million for enhanced use of the DPA.
  — The funds were split equally between Department of Energy and the DoD
  — The $250 million provided to the DoD will be applied to expanding capabilities for domestic mining, mineral processing, and related industrial sectors for large-capacity batteries.

• The Executive and Legislative branches are increasingly viewing DPA authorities as valuable tools to be leveraged against urgent, critical issues.
Executive Order (E.O.) 14017 required a whole-of-government effort to assess risk, identify impacts, and propose recommendations in support of a healthy manufacturing and defense industrial base—a critical aspect of economic and national security.

- Leverage assets:
  - Bipartisan support
  - Interagency knowledge
  - Established program

- Mitigate Pricing Threats
Title III Support to E.O. 14017

- **A whole-of-government effort** to assess risk, identify impacts, and propose recommendations in support of a healthy manufacturing and defense industrial base – a critical aspect of economic and national security

- **Select Kinetic Capabilities**
  - **Chemicals**
    - On-shore or secure US source for DoD critical chemicals for propulsion and lethality
  - **Hypersonic Industrial Base**
    - Improve and expand the industrial base to support the building, testing, and deployment of strategic and quick strike weapons

- **Energy Storage and Batteries/Strategic and Critical Materials**
  - **Rare Earth Elements**
    - Re-establishing domestic mine-to-magnet production for EV’s and weapon systems

- **Microelectronics (ME)**
  - **Electronics**
    - Maintain and increase the U.S. share of global semiconductor production to strengthen and secure DIB
  - **Space**
    - Develop and sustain domestic capabilities for radiation-hardened manufacturing and testing

- **Castings and Forgings**
  - **Thin Wall Castings**
    - Expansion of sole source supplier for aerospace grade magnesium and aluminum products for rotorcraft

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DPA Title III Funds & Execution

- DPA Title III appropriations are **non-expiring procurement funds** and are valid until expended.
- **Congress must be notified** of planned expenditures.
- **Congress must write into law authorization** to spend more than $50 million in aggregate action on a single shortfall.
- Title III requests Government stakeholders provide funding towards projects.
- All transfers to the DPA Fund must be done through Above Threshold Reprogramming (ATR) or through the POM Process.

**Title III Program**
- Determines to Proceed with Effort

**Stakeholders**
- Send Funds to DPA Funds through ATRs or POM Process After Signing MOA

**DPA Funds**
- Consist of Stakeholder contributions and Congressional Appropriations

**DPA Title III MIPRs Funds**
- To AFRL Title III Executive Agent Program Office (EAPO)

**AFRL EAPO**
- Obligates Funds and Executes Contract

**ATRs**
- ATRS move funding from one appropriation to another appropriations and must be approved by Congress (HAC-D, SAC-D, HASC, SASC)
- Additional guidance on ATRs may be found in the Financial Management Regulation (FMR) Volume 3, Chapter 6

**POM**
- Stakeholder organization includes the reprogramming to DPA Fund in its POM submission
- Funding realignment occurs during the President's Budget Build in Decision Document System (DDS)
- Realigned funds are reflected in DPA Title III's Budget Submission to Congress
Defense Production Act Title III

• **IS:**
  — Efficient and effective way to improve the industrial base
    o Modernize, expand, transform
  — **One method** for creating and sustaining market demand
  — Final stop (sometimes) on the way to production
  — **Cross-cutting investment vehicle** to solve root causes, not symptoms
  — Able to **engage** tactically with industry and strategically with policy and legislation
  — Planned over a five year period to address challenges and shortfalls in priority order

• **IS NOT:**
  — Title I
  — A magic bullet
  — The **solution to all industrial base problems**
  — Appropriate for **service specific** challenges
    o Single platform/service
    o A solution for service specific challenges

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