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# Defense Production Act Title III Overview



Office of the Assistant Secretary of Defense for Industrial Base Policy

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# Defense Production Act Overview (50 U.S.C. 4501 *et seq.*)



- The *Defense Production Act* (DPA) authorizes the President to ensure the availability of domestic industry for 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

DPA Authorities		
Title I	Title III	Title VII
Priorities & Allocations	Expansion of Productive Capacity and Supply	General Provisions
<ul style="list-style-type: none"><li>• Prioritize Federal contracts over all other orders</li><li>• Control distribution of scarce materials within the civilian economy</li><li>• Allocate scarce materials against Federal or private contracts</li><li>• Prevent hoarding of scarce materials</li></ul>	<ul style="list-style-type: none"><li>• <b>Incentives to develop, maintain, modernize, and expand production capacity or critical technologies:</b><ul style="list-style-type: none"><li>○ Loans / loan guarantees</li><li>○ <b>Purchases</b> or purchase commitments</li><li>○ <b>Grants</b> and Subsidies</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Mandatory survey authority of any U.S.-registered business entity</li><li>• Anti-trust immunity for industry, to develop and implement national emergency preparedness plans</li><li>• Committee on Foreign Investment in the United States (CFIUS)</li><li>• Civilian Executive Reserve, called into Federal service during a national emergency</li></ul>

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# Title III Authorities and Scope

## DPA Title III Authorities

Loan Guarantees (50 U.S.C. §4531) // (§301)	Loans (50 U.S.C. §4532) // (§302)	Purchase Commitments (50 U.S.C. §4533) // (§303)	Purchases (50 U.S.C. §4533) // (§303)
<ul style="list-style-type: none"><li>• May be extended when credit is not available to the loan applicant under reasonable terms and conditions sufficient to finance the activity</li><li>• 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</li></ul>	<ul style="list-style-type: none"><li>• May be extended when private financing is beyond the risk of the commercial market</li><li>• Projected earnings following the loan is sufficient to cover repayment plan</li></ul>	<ul style="list-style-type: none"><li>• Create a guaranteed demand to reduce risks for industry to make their own investments</li></ul>	<ul style="list-style-type: none"><li>• Provide direct subsidies to companies to assist in establishing production capabilities, including:<ul style="list-style-type: none"><li>• Purchase and installation of production equipment in privately owned or Government owned facilities</li><li>• Engineering support to improve quality and yield of production facilities</li><li>• Sample quantities for process validation and customer qualification testing</li></ul></li></ul>

## Priority Areas

Sustain Critical Production	Commercialize Research and Development Efforts	Scale Emerging Technologies
“To create, maintain, protect, expand, or restore domestic industrial base capabilities essential for National Defense”	“From Government sponsored research and development to commercial applications,” and “from commercial research and development to National Defense”	“For the increased use of emerging technologies in security program applications and the rapid transition of emerging technologies”



# 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
  - 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 shortfall
  - Varying in breadth or scope depending upon the shortfall/challenge they are addressing
- **PDs are not:**
  - An appropriation or funding mechanism for an effort
  - A mandate to address a specific shortfall or pursue a specific course of action
- **Under peacetime conditions, the DPA statute imposes constraints to expedient action in aggregate:**
  - All investments require a PD,
  - Congressional notification and a 30-day waiting period before action can be taken under a new PD,
  - All actions >\$50M require congressional authorization, and
  - All actions >\$50M require congressional notification



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# History and Status of Presidential Determinations



- 103 total active PDs dating to 1987
- 18 PDs signed since FY 2019

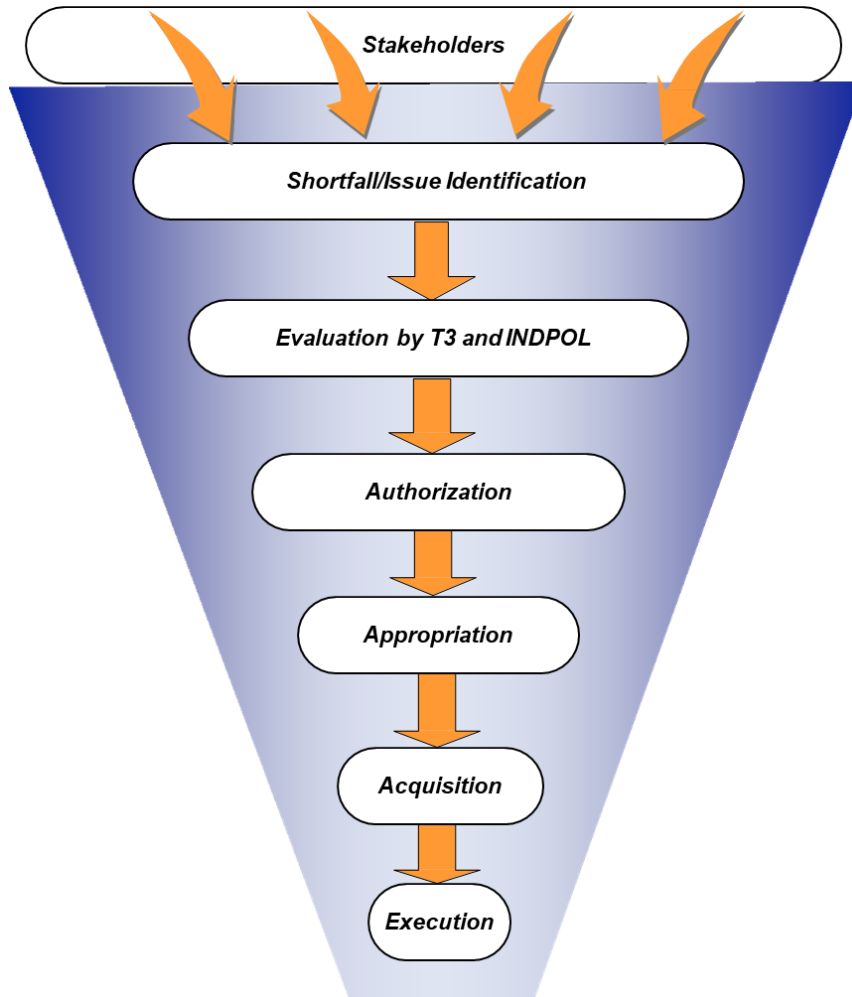
Presidential Determination	Signature Date	Authorization Value
Alane Fuel Production	5 October 2018	\$50M
Circular Lithium-Sea Water Batteries Production	5 October 2018	\$50M
Energetic Materials Production for DoD Munitions	16 January 2019	\$50M
Precursors Production for DoD Munitions	16 January 2019	\$50M
Inert Materials Production for DoD Munitions	16 January 2019	\$50M
Advanced Manufacturing Techniques for DoD Munitions	16 January 2019	\$50M
Sonobuoys Production	12 March 2019	\$50M
Small Unmanned Aerial Systems	12 June 2019	\$50M
Rare Earth Permanent Magnet Production (2x PDs)	22 July 2019	\$100M
Rare Earth Separation and Processing Capability (2x PDs)	22 July 2019	\$100M
Rare Earth Metal and Alloy Processing Capability	22 July 2019	\$50M
Domestic Capacity Expansion for F135 Integrally Bladed Rotors	22 July 2019	\$50M
High/Ultra High Temperature Composites for Hypersonics	24 June 2020	\$50M
Rad-Hard and Strat Rad-Hard Microelectronics	21 December 2021	N/A
Shipbuilding	21 December 2021	N/A
Critical Materials for Battery Production	31 March 2022	N/A

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# Requirements Evaluation



- Issue Identification
  - Industry – Open Funding Opportunity Announcement
    - [https://www.businessdefense.gov/D\\_PA-Title-III/Opportunities/](https://www.businessdefense.gov/D_PA-Title-III/Opportunities/)
  - DoD or other Government Agency – New “Intake” form
    - Will be added to website
    - [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 or increased Presidential Determination
  - Allocate/request/transfer funding
- Acquisition
  - Develop DoD requirements
  - Select T3 investment requirements
  - Develop statement of objectives



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# Defense Production Act Title III

- **IS:**
  - Efficient and effective way to modernize, expand, or transform the industrial base
  - 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 cause of and solution to all of life's problems
  - Appropriate for service specific challenges
    - Single platform/service
    - A Solution for Service-specific challenges

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# Questions?



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