

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-648, §1, Nov. 10, 1988, 102 Stat. 3813, provided that: "This Act [amending section 869-2 of this title and enacting provisions set out as notes under section 869-2 of this title] may be cited as the 'Recreation and Public Purposes Amendment Act of 1988'."

SHORT TITLE

Act June 14, 1926, ch. 578, 44 Stat. 741, which enacted sections 869 to 869-4 of this title, is popularly known as the "Recreation and Public Purposes Act".

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 869-1. Sale or lease to State or nonprofit organization; reservation of mineral deposits; termination of lease for nonuse

The Secretary of the Interior may after due consideration as to the power value of the land, whether or not withdrawn therefor, (a) sell such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, and conveyances of such land for historic-monument purposes or recreational purposes under this section shall be made without monetary consideration, while conveyances for any other purpose under this section shall be made at a price to be fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used, (b) lease such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, at a reasonable annual rental, except that leases of such lands for recreational purposes shall be made without monetary consideration, for a period up to twenty-five years, and, at the discretion of the Secretary, with a privilege of renewal for a like period, (c) sell such land to a nonprofit corporation or nonprofit association, for the purpose for which the land has been classified, at a price to be fixed by the Secretary of the Interior through appraisal, after taking into consideration the purpose for which the lands are to be used, or (d) lease such land to a nonprofit corporation or nonprofit association at a reasonable annual rental, for a period up to twenty years, and, at the discretion of the Secretary, with a privilege of renewal for a like period. Each patent or lease so issued shall contain a reservation to the United States of all mineral deposits in the lands conveyed or leased and of the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary. Each lease shall contain a provision for its termination upon a finding by the Secretary that the land has not been used by the lessee for the purpose specified in the lease for such period, not over five years, as may be specified in the lease, or that such land or any part thereof is being devoted to another use.

(June 14, 1926, ch. 578, §2, as added June 4, 1954, ch. 263, 68 Stat. 174; amended Pub. L. 89-457, §1, June 20, 1966, 80 Stat. 210; Pub. L. 94-579, title II, §212(c), (d), Oct. 21, 1976, 90 Stat. 2760.)

PRIOR PROVISIONS

Provisions similar to those in this section were formerly contained in section 869 of this title. See 1954 Amendment note set out under that section. Those prior provisions did not require, as in this section, the Secretary of the Interior to take into account the possible power value of the lands, whether withdrawn therefor, or not, before authorizing any disposal of them under section 869 of this title; did not provide, as in this section, for the sale or lease of those lands to Federal instrumentalities, to Territories and to political subdivisions other than States, counties, and municipalities, and to nonprofit corporations and associations; and did not provide, as in this section, that conveyances of that land for historic-monument purposes should be made without monetary consideration. See section 869 of this title.

AMENDMENTS

1976—Pub. L. 94-579 in cl. (a) inserted reference to recreational purposes and in cl. (b) inserted reference to leases for recreational purposes.

1966—Pub. L. 89-457 authorized an increase in the period of a lease under cl. (b) from twenty to twenty-five years.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

PERIOD OF LEASES

Pub. L. 89-457, §2, June 20, 1966, 80 Stat. 210, provided that: "Upon application by a lessee holding a lease under the Recreation and Public Purposes Act [sections 869 to 869-4 of this title] the Secretary of the Interior may enter into a new lease for a term not to exceed twenty-five years from the date of the new lease."

§ 869-2. Conditions of transfer by grantee; solid waste disposal

(a) Conditions of transfer by grantee

Title to lands conveyed by the Government under sections 869 to 869-4 of this title may not be transferred by the grantee or its successor except, with the consent of the Secretary of the Interior, to a transferee which would be a qualified grantee under section 869-1(a) or 869-1(c) of this title and subject to the acreage limitation contained in section 869(b) of this title. A grantee or its successor may not change the use specified in the conveyance to another or additional use except, with the consent of the Secretary, to a use for which such grantee or its successor could obtain a conveyance under sections 869 to 869-4 of this title. If at any time after the lands are conveyed by the Government, the grantee or its successor attempts to transfer title to or control over these lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary, title to the lands shall revert to the United States.

(b) New disposal sites

(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land

under sections 869 to 869-4 of this title for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and Federal agencies with responsibility for enforcement of State and Federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and Federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

(6) A conveyance under this subsection shall be subject to the following conditions:

(A) Except as otherwise provided in subparagraphs (B) and (D) of this paragraph, the document of conveyance shall provide that the lands conveyed under this subsection shall revert to the United States, unless substantially all of the lands have been used, on or before the date five years after the date of conveyance, for the purpose or purposes specified in the application, or for other use or uses authorized under subsection (a) with the consent of the Secretary.

(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused por-

tion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. Subject to appropriations, all amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 869-1 of this title, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance.

(7) For purposes of this section the term "hazardous substance" has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

(c) Existing disposal sites

(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to November 10, 1988, conveyed land under sections 869 to 869-4 of this title, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to November 10, 1988, leased lands pursuant to sections 869 to 869-4 of this title, the Secretary may convey in fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of sections 869 to 869-4 of this title, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section.

(June 14, 1926, ch. 578, §3, as added June 4, 1954, ch. 263, 68 Stat. 175; amended Pub. L. 86-292, §2,

Sept. 21, 1959, 73 Stat. 571; Pub. L. 100-648, § 2, Nov. 10, 1988, 102 Stat. 3813.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act, referred to in subsec. (b)(7), probably means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

PRIOR PROVISIONS

Prior provisions on the subject of reverter were formerly contained in section 869 of this title. See 1954 Amendment note set out under that section. Those prior provisions permanently restricted the lands conveyed to a single use, and did not provide, as in this section, for transfer by the original grantee or its successor.

AMENDMENTS

1988—Pub. L. 100-648 designated existing provision as subsec. (a) and added subssecs. (b) and (c).

1959—Pub. L. 86-292 struck out sentence which provided that this section should cease to be in effect as to any lands patented under sections 869 to 869-4 of this title twenty-five years after the issuance of patent for such lands.

SAVINGS PROVISIONS

Pub. L. 100-648, § 3, Nov. 10, 1988, 102 Stat. 3815, provided that: "Nothing in this Act [amending section 869-2 of this title and enacting provisions set out as notes under sections 869 and 869-2 of this title] or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation[,] and Liability Act [of 1980] (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended."

CONGRESSIONAL REVIEW OF CONVEYANCE OF LAND OR RENUNCIATION OF REVERSIONARY INTERESTS

Pub. L. 100-648, § 4, Nov. 10, 1988, 102 Stat. 3815, provided that:

"(a) The Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act [amending section 869-2 of this title and enacting provisions set out as notes under sections 869 and 869-2 of this title] until he has published in the Federal Register regulations implementing this Act and until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after these regulations have been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. [Implementing regulations were published in the Federal Register July 23, 1992, 57 F.R. 32730.]

"(b) During the first three years after enactment of this Act [Nov. 10, 1988] the Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after notice of intention to do so has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives."

§ 869-3. Authority for transfers; applicability of section 869-2 to prior patents; termination of restrictions

The Secretary may authorize transfers of title or changes in use in accordance with the provi-

sions of section 869-2 of this title with respect to any patent heretofore issued under any Act upon application by a patentee qualified to obtain a conveyance under section 869-1(a) or 869-1(c) of this title. If the Secretary, pursuant to such an application, authorizes such transfer or use, all reverter provisions and other limitations on transfer or use, under sections 869 to 869-4 of this title or any other Act affecting the lands involved, shall cease to be in effect twenty-five years after the Secretary authorizes the transfer or use for a changed or additional purpose under the provisions of this section.

(June 14, 1926, ch. 578, § 4, as added June 4, 1954, ch. 263, 68 Stat. 175.)

§ 869-4. Disposition of moneys received from or on account of revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands

All moneys received from or on account of any revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands under sections 869 to 869-4 of this title shall be deposited respectively in the Oregon and California land-grant fund and the Coos Bay Wagon Road grant fund, and shall be applied in the manner prescribed respectively by title II of the Act of August 28, 1937 (50 Stat. 875), as amended (43 U.S.C. 1181f),¹ and by subchapter II of chapter 44 of this title.

(June 14, 1926, ch. 578, § 6, as added Pub. L. 86-66, § 3, June 23, 1959, 73 Stat. 111.)

REFERENCES IN TEXT

Act of August 28, 1937, referred to in text, is act Aug. 28, 1937, ch. 876, 50 Stat. 874. Title II of the Act enacted section 2605 of this title (formerly classified to section 1181f of this title), repealed section 1174 of this title, and enacted provisions set out as a note under section 2601 of this title. For complete classification of this Act to the Code, see Tables.

§ 869a. Repealed. Pub. L. 86-66, § 1, June 23, 1959, 73 Stat. 110

Section, act Apr. 13, 1928, ch. 370, §§ 1, 2, 45 Stat. 429, extended provisions of section 869 of this title to former Oregon and California Railroad grant lands revested in the United States and to former Coos Bay Wagon Road grant lands reconveyed to the United States.

§ 870. Grants of land in aid of common or public schools; extension to those mineral in character; effect of leases

Subject to the provisions of subsections (a), (b), and (c) of this section, the several grants to the States of numbered sections in place for the support or in aid of common or public schools be, and they are, extended to embrace numbered school sections mineral in character, unless land has been granted to and/or selected by and certified or approved, to any such State or States as indemnity or in lieu of any land so granted by numbered sections.

(a) The grant of numbered mineral sections under this section shall be of the same effect as prior grants for the numbered nonmineral sections, and titles to such numbered mineral sec-

¹ See References in Text note below.