

“(ii) the waiver is necessary for the protection of life and safety;

“(iii) no agent or equipment solutions are available that meet the military specific issued pursuant to subsection (a);

“(iv) the military specification issued pursuant to subsection (a) is still valid and does not require revision; and

“(v) includes details of the measures in place to minimize the release of and exposure to fluorinated compounds in fluorinated aqueous film-forming foam; and

“(C) provides for public notice of the waiver.

“(2) LIMITATION.—The following limitations apply to a waiver issued under this subsection:

“(A) Such a waiver shall apply for a period that does not exceed one year.

“(B) The Secretary may extend such a waiver once for an additional period that does not exceed one year, if the requirements under paragraph (1) are met as of the date of the extension of the waiver.

“(C) The authority to grant a waiver under this subsection may not be delegated below the level of the Secretary of Defense.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘perfluoroalkyl substances’ means aliphatic substances for which all of the H atoms attached to C atoms in the nonfluorinated substance from which they are notionally derived have been replaced by F atoms, except those H atoms whose substitution would modify the nature of any functional groups present.

“(2) The term ‘polyfluoroalkyl substances’ means aliphatic substances for which all H atoms attached to at least one (but not all) C atoms have been replaced by F atoms, in such a manner that they contain the perfluoroalkyl moiety C_nF_{2n+1} (for example, $C_8F_{17}CH_2CH_2OH$).

“SEC. 323. PROHIBITION OF UNCONTROLLED RELEASE OF FLUORINATED AQUEOUS FILM-FORMING FOAM AT MILITARY INSTALLATIONS.

“(a) PROHIBITION.—Except as provided by subsection (b), the Secretary of Defense shall prohibit the uncontrolled release of fluorinated aqueous film-forming foam (hereinafter in this section referred to as ‘AFFF’) at military installations.

“(b) EXCEPTIONS.—Notwithstanding subsection (a), fluorinated AFFF may be released at military installations as follows:

“(1) AFFF may be released for purposes of an emergency response.

“(2) A non-emergency release of AFFF may be made for the purposes of testing of equipment or training of personnel, if complete containment, capture, and proper disposal mechanisms are in place to ensure no AFFF is released into the environment.

“SEC. 324. PROHIBITION ON USE OF FLUORINATED AQUEOUS FILM FORMING FOAM FOR TRAINING EXERCISES.

“The Secretary of Defense shall prohibit the use of fluorinated aqueous film forming foam for training exercises at military installations.”

§ 2661. Miscellaneous administrative provisions relating to real property

(a) AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—Appropriations for operation and maintenance of the active forces shall be available for the following:

(1) The repair of facilities.

(2) The installation of equipment in public and private plants.

(b) LEASING AND ROAD MAINTENANCE AUTHORITY.—The Secretary of Defense and the Sec-

retary of each military department may provide for the following:

(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with—

(A) the conduct of field exercises and maneuvers; and

(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.

(c) PROHIBITION ON NAMING DEPARTMENT OF DEFENSE REAL PROPERTY AFTER MEMBER OF CONGRESS.—(1) Real property under the jurisdiction of the Secretary of Defense or the Secretary of a military department may not be named after, or otherwise officially identified by the name of, any individual who is a Member of Congress at the time the property is so named or identified.

(2) In this subsection:

(A) The term “Member of Congress” includes a Delegate or Resident Commissioner to the Congress.

(B) The term “real property” includes structures, buildings, or other infrastructure of a military installation, roadways and defense access roads, and any other area on the grounds of a military installation.

(d) TREATMENT OF PENTAGON RESERVATION.—In this chapter, the terms “Secretary concerned” and “Secretary of a military department” include the Secretary of Defense with respect to the Pentagon Reservation.

(Added Pub. L. 100-370, §1(l)(3), July 19, 1988, 102 Stat. 849; amended Pub. L. 108-375, div. B, title XXVIII, §2821(a)(1), (e)(1), Oct. 28, 2004, 118 Stat. 2129, 2130; Pub. L. 109-163, div. B, title XXVIII, §2821(d), (e), Jan. 6, 2006, 119 Stat. 3512; Pub. L. 112-81, div. B, title XXVIII, §2863(a), Dec. 31, 2011, 125 Stat. 1701.)

HISTORICAL AND REVISION NOTES

Subsection (a) of this section and sections 2241(a) and 2253(b) of this title are based on Pub. L. 98-212, title VII, §735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98-525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

Subsection (b) is based on Pub. L. 99-190, §101(b) [title VIII, §8005(d), (f)], Dec. 19, 1985, 99 Stat. 1185, 1202.

PRIOR PROVISIONS

A prior section 2661, act Aug. 10, 1956, ch. 1041, 70A Stat. 147, related to planning and construction of public works projects by military departments, prior to repeal by Pub. L. 97-214, §7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112-81 added subsec. (c).

2006—Subsec. (c). Pub. L. 109-163, §2821(d), redesignated subsec. (c) as section 2664(b) of this title.

Subsec. (d). Pub. L. 109-163, §2821(e), added subsec. (d). 2004—Subsecs. (a), (b). Pub. L. 108-375, §2821(e)(1), inserted headings.

Subsec. (c). Pub. L. 108-375, §2821(a)(1), added subsec. (c).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. B, title XXVIII, § 2863(b), Dec. 31, 2011, 125 Stat. 1702, provided that: “The prohibition in subsection (c) of section 2661 of title 10, United States Code, as added by subsection (a), shall apply only with respect to real property of the Department of Defense named after the date of the enactment of this Act [Dec. 31, 2011].”

DEPARTMENT OF DEFENSE POLICY ON LEAD-BASED PAINT TESTING ON MILITARY INSTALLATIONS

Pub. L. 116-92, div. B, title XXX, § 3054, Dec. 20, 2019, 133 Stat. 1943, provided that:

“(a) ACCESS AND TESTING POLICY.—Not later than February 1, 2020, the Secretary of Defense shall establish a policy under which the Secretary of the military department concerned may permit a qualified individual to access a military installation for the purpose of conducting testing for the presence of lead-based paint on the installation.

“(b) TRANSMISSION OF RESULTS.—

“(1) INSTALLATIONS INSIDE THE UNITED STATES.—In the case of military installations located inside the United States, the results of any testing for lead-based paint on a military installation shall be transmitted the following:

“(A) The civil engineer of the installation.

“(B) The housing management office of the installation.

“(C) The public health organization on the installation.

“(D) The major subordinate command of the Armed Force with jurisdiction over the installation.

“(E) If required by law, any relevant Federal, State, and local agencies.

“(2) INSTALLATIONS OUTSIDE THE UNITED STATES.—In the case of military installations located outside the United States, the results of any testing for lead-based paint on a military installation shall be transmitted to the civil engineer or commander of the installation who shall transmit those results to the major subordinate command of the Armed Force with jurisdiction over the installation.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘United States’ has the meaning given that term in section 101(a)(1) of title 10, United States Code.

“(2) The term ‘qualified individual’ means an individual who is certified by the Environmental Protection Agency or by a State as—

“(A) a lead-based paint inspector; or

“(B) a lead-based paint risk assessor.”

PRIORITIZATION OF ENVIRONMENTAL IMPACTS FOR FACILITIES SUSTAINMENT, RESTORATION, AND MODERNIZATION DEMOLITION

Pub. L. 115-232, div. A, title III, § 359, Aug. 13, 2018, 132 Stat. 1733, provided that: “The Secretary of Defense shall establish prioritization metrics for facilities deemed eligible for demolition within the Facilities Sustainment, Restoration, and Modernization (FSRM) process. Those metrics shall include full spectrum readiness and environmental impacts, including the removal of contamination.”

INCREASED PERCENTAGE OF SUSTAINMENT FUNDS AUTHORIZED FOR REALIGNMENT TO RESTORATION AND MODERNIZATION AT EACH INSTALLATION

Pub. L. 115-91, div. A, title III, § 322, Dec. 12, 2017, 131 Stat. 1353, provided that:

“(a) IN GENERAL.—The Secretary of Defense may authorize an installation commander to realign up to 7.5 percent of an installation’s sustainment funds to restoration and modernization.

“(b) SUNSET.—The authority under subsection (a) shall expire at the close of September 30, 2022.

“(c) DEFINITIONS.—The terms ‘sustainment’, ‘restoration’, and ‘modernization’ have the meanings given the

terms in the Department of Defense Financial Management Regulation.”

DISCLOSURE OF BENEFICIAL OWNERSHIP BY FOREIGN PERSONS OF HIGH SECURITY SPACE LEASED BY THE DEPARTMENT OF DEFENSE

Pub. L. 115-91, div. B, title XXVIII, § 2876, Dec. 12, 2017, 131 Stat. 1871, as amended by Pub. L. 115-232, div. A, title X, § 1081(c)(7), Aug. 13, 2018, 132 Stat. 1985, provided that:

“(a) IDENTIFICATION OF BENEFICIAL OWNERSHIP.—Before entering into a lease agreement with a covered entity for accommodation of a military department or Defense Agency in a building (or other improvement) that will be used for high-security leased space, the Department of Defense shall require the covered entity to—

“(1) identify each beneficial owner of the covered entity by—

“(A) name;

“(B) current residential or business street address; and

“(C) in the case of a United States person, a unique identifying number from a nonexpired passport issued by the United States or a nonexpired drivers license issued by a State; and

“(2) disclose to the Department of Defense any beneficial owner of the covered entity that is a foreign person.

“(b) REQUIRED DISCLOSURE.—

“(1) INITIAL DISCLOSURE.—The Secretary of Defense shall require a covered entity to provide the information required under subsection (a), when first submitting a proposal in response to a solicitation for offers issued by the Department.

“(2) UPDATES.—The Secretary of Defense shall require a covered entity to update a submission of information required under subsection (a) not later than 60 days after the date of any change in—

“(A) the list of beneficial owners of the covered entity; or

“(B) the information required to be provided relating to each such beneficial owner.

“(c) PRECAUTIONS.—If a covered entity discloses a foreign person as a beneficial owner of a building (or other improvement) from which the Department of Defense is leasing high-security leased space, the Department of Defense shall notify the tenant of the space to take appropriate security precautions.

“(d) DEFINITIONS.—IN THIS SECTION:

“(1) BENEFICIAL OWNER.—

“(A) IN GENERAL.—The term ‘beneficial owner’—

“(i) means, with respect to a covered entity, each natural person who, directly or indirectly—

“(I) exercises control over the covered entity through ownership interests, voting rights, agreements, or otherwise; or

“(II) has an interest in or receives substantial economic benefits from the assets of the covered entity; and

“(ii) does not include, with respect to a covered entity—

“(I) a minor child;

“(II) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;

“(III) a person acting solely as an employee of the covered entity and whose control over or economic benefits from the covered entity derives solely from the employment status of the person;

“(IV) a person whose only interest in the covered entity is through a right of inheritance, unless the person otherwise meets the definition of ‘beneficial owner’ under this paragraph; and

“(V) a creditor of the covered entity, unless the creditor otherwise meets the requirements of ‘beneficial owner’ described above.

“(B) ANTI-ABUSE RULE.—The exceptions under subparagraph (A)(ii) shall not apply if used for the

purpose of evading, circumventing, or abusing the requirements of this section.

“(2) COVERED ENTITY.—The term ‘covered entity’ means a person, copartnership, corporation, or other public or private entity.

“(3) FOREIGN PERSON.—The term ‘foreign person’ means an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States.

“(4) HIGH-SECURITY LEASED SPACE.—The term ‘high-security leased space’ means a space leased by the Department of Defense that has a security level of III, IV, or V, as determined in accordance with the Interagency Security Committee Risk Management Process.

“(5) UNITED STATES PERSON.—The term ‘United States person’ means a natural person who is a citizen of the United States or who owes permanent allegiance to the United States.”

[Pub. L. 115-232, div. A, title X, § 1081(c), Aug. 13, 2018, 132 Stat. 1985, provided that the amendment made by section 1081(c)(7) to section 2876 of Pub. L. 115-91, set out above, is effective as of Dec. 12, 2017, and as if included in Pub. L. 115-91 as enacted.]

PILOT PROGRAM TO PROVIDE ADDITIONAL TOOLS FOR EFFICIENT OPERATION OF MILITARY INSTALLATIONS

Pub. L. 107-107, div. B, title XXVIII, § 2813, Dec. 28, 2001, 115 Stat. 1308, authorized the Secretary of Defense, until Dec. 31, 2005, to carry out a pilot program, known as the “Pilot Efficient Facilities Initiative”, for purposes of determining the potential for increasing the efficiency and effectiveness of the operation of military installations.

STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER

Pub. L. 103-337, div. A, title III, § 329, Oct. 5, 1994, 108 Stat. 2715, directed Secretary of the Army to submit to Congress not later than May 1, 1996, a study and report on feasibility and advisability of establishing a center for land management activities and land management training activities of Department of Defense.

[§ 2661a. Repealed. Pub. L. 97-295, § 1(31)(A), Oct. 12, 1982, 96 Stat. 1296]

Section, added Pub. L. 97-258, § 2(b)(6)(B), Sept. 13, 1982, 96 Stat. 1054, authorized appropriations for advance design of military public works not otherwise authorized and for construction management of foreign government funded projects used primarily by United States armed forces, and required preliminary reports to Congress on military public works whose projected advance costs exceeded a specified level.

The repeal of this section by Pub. L. 97-295 reflected the effect of section 7(2) and (8) of the Military Construction Codification Act (Pub. L. 97-214, July 12, 1982, 96 Stat. 173), which repealed the source statutes of this section (subsec. (a) was based on acts Sept. 28, 1951, ch. 434, § 504, 65 Stat. 364; July 15, 1955, ch. 368, § 512, 69 Stat. 352; Dec. 23, 1981, Pub. L. 97-99, § 902, 95 Stat. 1381 (31 U.S.C. 723); and subsec. (b) was based on acts Sept. 12, 1966, Pub. L. 89-568, § 612, 80 Stat. 756; Dec. 27, 1974, Pub. L. 93-552, § 607, 88 Stat. 1763 (31 U.S.C. 723a)) subsequent to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97-258, section 2(b)(6)(B) of which enacted this section.

§ 2662. Real property transactions: reports to congressional committees

(a) GENERAL NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary of a military department or, with respect to a Defense Agency, the Secretary of Defense may not enter into any of the following listed transactions by or for the use of that department until the Secretary concerned submits a report, subject to paragraph

(3), to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives:

(A) An acquisition of fee title to any real property, if the estimated price is more than \$750,000.

(B) A lease of any real property to the United States, if the estimated annual rental is more than \$750,000.

(C) A lease, license, or easement of real property owned by the United States (other than a lease or license entered into under section 2667(g) of this title), if the estimated annual fair market rental value of the property is more than \$750,000.

(D) A transfer of real property owned by the United States to another Federal agency or another military department or to a State, if the estimated value is more than \$750,000.

(E) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than \$750,000.

(F) Any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

(G) Any transaction or contract action that results in, or includes, the acquisition or use by, or the lease or license to, the United States of real property, if the estimated annual rental or cost for the use of the real property is more than \$750,000.

(H) Any transaction or contract action for the provision and operation of energy production facilities on real property under the jurisdiction of the Secretary of a military department, as authorized by section 2922a(a)(2) of this title, if the term of the transaction or contract exceeds 20 years.

(2) If a transaction covered by subparagraph (A) or (B) of paragraph (1) is part of a project, the report shall include a summary of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made, as well as the certification described in paragraph (5). The report required by this subsection concerning any report of excess real property described in subparagraph (E) of paragraph (1) shall contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such property for other real property authorized to be acquired for military purposes and has determined that the property proposed to be declared excess is not suitable for such purpose.

(3) The authority of the Secretary concerned to enter into a transaction described in paragraph (1) commences only after the end of the 14-day period beginning on the first day of the first month beginning on or after the date on which the report containing the facts concerning such transaction, and all other such proposed transactions for that month, is provided in an electronic medium pursuant to section 480 of this title.

(4) The report for a month under this subsection may not be submitted later than the first day of that month.