

product processing facilities of the defense commissary system; and

(B) to cover environmental evaluation and construction costs related to activities described in paragraph (1), including costs for surveys, administration, overhead, planning, and design.

(2) In paragraph (1), the term “physical infrastructure” includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(c) **ADVANCE OBLIGATION.**—The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b) or (d), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b) or (d).

(d) **COOPERATION WITH NONAPPROPRIATED FUND INSTRUMENTALITIES.**—(1) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

(2) In paragraph (1), the term “construction”, with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

(e) **OTHER SOURCES OF FUNDS FOR CONSTRUCTION AND IMPROVEMENTS.**—Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in subsections (b), (c), and (d):

- (1) Sale of recyclable materials.
- (2) Sale of excess and surplus property.
- (3) License fees.
- (4) Royalties.
- (5) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.

(Added Pub. L. 93-552, title VI, §611, Dec. 27, 1974, 88 Stat. 1765; amended Pub. L. 95-82, title VI, §614, Aug. 1, 1977, 91 Stat. 380; Pub. L. 97-321, title VIII, §804, Oct. 15, 1982, 96 Stat. 1572; Pub. L. 103-337, div. B, title XXVIII, §2851, Oct. 5, 1994, 108 Stat. 3072; Pub. L. 105-85, div. A, title III, §374, Nov. 18, 1997, 111 Stat. 1707; Pub. L. 106-398, §1 [[div. A], title III, §333(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-60.)

#### AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(1)], substituted “Secretary of Defense” for “Secretary of a military department, under regulations established by him and approved by the Secretary of Defense.”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title III, §333(a)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations and for related environmental evaluation and construction costs, including surveys, administration, overhead, planning, and design.”

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(2)], substituted “Secretary of Defense, with the approval of” for “Secretary of a military department, with the approval of the Secretary of Defense and” and “Secretary determines” for “Secretary of the military department determines”.

Subsec. (d)(1). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(3)], substituted “Secretary of Defense” for “Secretary of a military department”.

1997—Subsecs. (a) to (d). Pub. L. 105-85, §374(b), inserted subsec. headings.

Subsec. (e). Pub. L. 105-85, §374(a), added subsec. (e).

1994—Subsec. (c). Pub. L. 103-337, §2851(b), inserted “or (d)” after “subsection (b)” in two places.

Subsec. (d). Pub. L. 103-337, §2851(a), added subsec. (d).

1982—Subsec. (c). Pub. L. 97-321 added subsec. (c).

1977—Subsec. (b). Pub. L. 95-82 struck out “within the United States” after “defense installations”.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title III, §333(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-60, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2001.”

#### § 2686. Utilities and services: sale; expansion and extension of systems and facilities

(a) Under such regulations and for such periods and at such prices as he may prescribe, the Secretary concerned or his designee may sell or contract to sell to purchasers within or in the immediate vicinity of an activity of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of national defense or in the public interest:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural, manufactured, or mixed gas.
- (7) Ice.
- (8) Mechanical refrigeration.
- (9) Telephone service.

(b) Proceeds of sales under subsection (a) shall be credited to the appropriation currently available for the supply of that utility or service.

(c) To meet local needs the Secretary concerned may make minor expansions and extensions of any distributing system or facility within an activity through which a utility or service is furnished under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 141, §2481; Pub. L. 86-156, Aug. 14, 1959, 73 Stat. 338; renumbered §2686, Pub. L. 105-85, div. A, title III, §371(b)(1), Nov. 18, 1997, 111 Stat. 1705.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2481(a) .....	5:626s. 5:626s-1 (less words between semicolon and colon). 10:1269. 10:1269a (less words between semicolon and colon). 34:553a. 34:553b (less words between semicolon and colon).	July 30, 1947, ch. 394, 61 Stat. 675; Aug. 8, 1949, ch. 403, § 5, 63 Stat. 576.
2481(b) .....	5:626s-1 (words between semicolon and colon). 10:1269a (words between semicolon and colon). 34:553b (words between semicolon and colon).	
2481(c) .....	5:626s-2. 10:1269b. 34:553c.	

In subsection (a), the words “within his establishment”, “of time”, and the opening clauses of 5:626s-1, 10:1269a, and 34:553b, are omitted as surplusage. The words “not available from another local source” are substituted for the words “not otherwise available from local private or public sources”.

In subsection (b), the words “of sales under subsection (a)” are substituted for the words “received for any such utilities and related services sold pursuant to the authority of said sections”. The words “or appropriations” are omitted as surplusage.

## PRIOR PROVISIONS

A prior section 2686, added Pub. L. 95-82, title V, § 504(a)(1), Aug. 1, 1977, 91 Stat. 371; amended Pub. L. 95-356, title V, § 503(a), Sept. 8, 1978, 92 Stat. 579; Pub. L. 96-125, title V, § 502(a), Nov. 26, 1979, 93 Stat. 940; Pub. L. 96-418, title V, § 504(a), Oct. 10, 1980, 94 Stat. 1765, related to military family housing leases, prior to repeal by Pub. L. 97-214, §§ 7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective 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. See section 2828(a), (b) of this title.

## AMENDMENTS

1997—Pub. L. 105-85 renumbered section 2481 of this title as this section.

1959—Subsec. (a). Pub. L. 86-156, § 1(1), substituted “concerned” for “of a military department” and inserted “or Coast Guard,” after “Marine Corps,”.

Subsec. (c). Pub. L. 86-156, § 1(2), struck out “of the military department” after “Secretary”.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 2687. Base closures and realignments

(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation at which at least 300 civilian personnel are authorized to be employed;

(2) any realignment with respect to any military installation referred to in paragraph (1) involving a reduction by more than 1,000, or by more than 50 percent, in the number of ci-

vilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b) of the Secretary’s plan to close or realign such installation; or

(3) any construction, conversion, or rehabilitation at any military facility other than a military installation referred to in clause (1) or (2) which will or may be required as a result of the relocation of civilian personnel to such facility by reason of any closure or realignment to which clause (1) or (2) applies,

unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation referred to in such subsection may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, as part of an annual request for authorization of appropriations to such Committees, of the proposed closing or realignment and submits with the notification—

(A) an evaluation of the fiscal, local economic, budgetary, environmental, strategic, and operational consequences of such closure or realignment; and

(B) the criteria used to consider and recommend military installations for such closure or realignment, which shall include at a minimum consideration of—

(i) the ability of the infrastructure (including transportation infrastructure) of both the existing and receiving communities to support forces, missions, and personnel as a result of such closure or realignment; and

(ii) the costs associated with community transportation infrastructure improvements as part of the evaluation of cost savings or return on investment of such closure or realignment; and

(2) a period of 30 legislative days or 60 calendar days, whichever is longer, expires following the day on which the notice and evaluation referred to in clause (1) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

(c) No action described in subsection (a) with respect to the closure of, or realignment with respect to, any military installation referred to in such subsection may be taken within five years after the date on which a decision is made to reduce the civilian personnel thresholds below the levels prescribed in such subsection.

(d) This section shall not apply to the closure of a military installation, or a realignment with respect to a military installation, if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency.

(e)(1) After the expiration of the period of time provided for in subsection (b)(2) with respect to