

Congress that the reference to a system for the collection or treatment of wastewater in the definition of ‘utility system’ in section 2688 of title 10, United States Code, which authorizes the Department of Defense to convey utility systems, includes stormwater systems and components.”

[§ 2689. Renumbered § 2917]

[§ 2690. Renumbered § 2918]

§ 2691. Restoration of land used by permit or damaged by mishap; reimbursement of state costs of fighting wildland fires

(a) RESTORATION OF OTHER AGENCY LAND USED BY PERMIT.—The Secretary of the military department concerned may remove improvements and take any other action necessary in the judgment of the Secretary to restore land used by that military department by permit from another military department or Federal agency if the restoration is required by the permit making that land available to the military department. The Secretary concerned may carry out this section using funds available for operations and maintenance or for military construction.

(b) SCREENING FOR USE OF IMPROVED LAND.—Unless otherwise prohibited by law or the terms of the permit, before restoration of any land under subsection (a) is begun, the Secretary concerned shall determine, under the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, whether another military department or Federal agency has a use for the land in its existing, improved state. During the period required to make such a determination, the Secretary may provide for maintenance and repair of improvements on the land to the standards established for excess property by the Administrator of General Services.

(c) RESTORATION OF DEPARTMENT OF DEFENSE LAND USED BY OTHER AGENCY.—(1) As a condition of any permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal or restoration work.

(d) WILDLAND FIRES ON STATE LAND.—The Secretary of Defense may, in any lease, permit, license, or other grant of access for use of lands owned by a State, agree to reimburse the State for the reasonable costs of the State in suppressing wildland fires caused by the activities of the Department of Defense under such lease, permit, license, or other grant of access.

(e) RESTORATION OF LAND DAMAGED BY MISHAP.—(1) When land under the administrative jurisdiction of a Federal agency that is not a part of the Department of Defense is damaged as the result of a mishap involving a vessel, aircraft, or

vehicle of the Department of Defense, the Secretary of Defense may, with the consent of the Federal agency, restore the land.

(2) When land under the administrative jurisdiction of the Department of Defense or a military department is damaged as the result of a mishap involving a vessel, aircraft, or vehicle of a Federal agency that is not a part of the Department of Defense, the head of the Federal agency under whose control the vessel, aircraft, or vehicle was operating may, with the consent of the Department of Defense, restore the land.

(3) The authority under paragraphs (1) and (2) includes activities and expenditures necessary to complete restoration to meet the regulations of the Federal department or agency with administrative jurisdiction over the affected land, which may be different than the regulations of the Department of Defense.

(Added Pub. L. 98–407, title VIII, §804(a), Aug. 28, 1984, 98 Stat. 1519; amended Pub. L. 99–145, title XIII, §1303(a)(17), Nov. 8, 1985, 99 Stat. 739; Pub. L. 105–261, div. B, title XXVIII, §2812(a), (b)(1), Oct. 17, 1998, 112 Stat. 2205; Pub. L. 107–217, §3(b)(15), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111–350, §5(b)(46), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. B, title XXVIII, §2814(a), (b), Dec. 12, 2017, 131 Stat. 1849, 1850; Pub. L. 115–232, div. A, title III, §353, title X, §1081(a)(27), Aug. 13, 2018, 132 Stat. 1731, 1985.)

AMENDMENTS

2018—Pub. L. 115–232, §1081(a)(27), substituted “state” for “State” in section catchline.

Subsec. (e)(3). Pub. L. 115–232, §353, added par. (3).

2017—Pub. L. 115–91, §2814(b)(1), substituted “damaged by mishap; reimbursement of State costs of fighting wildland fires” for “lease” in section catchline.

Subsec. (a). Pub. L. 115–91, §2814(a)(1), (b)(2), inserted heading and struck out “or lease” after “permit” in two places.

Subsec. (b). Pub. L. 115–91, §2814(a)(2), (b)(3), inserted heading and struck out “or lease” after “permit”.

Subsec. (c). Pub. L. 115–91, §2814(b)(4), inserted heading.

Subsec. (c)(1). Pub. L. 115–91, §2814(a)(3), struck out “lease,” before “permit.”

Subsecs. (d), (e). Pub. L. 115–91, §2814(a)(4), added subsecs. (d) and (e).

2011—Subsec. (b). Pub. L. 111–350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2002—Subsec. (b). Pub. L. 107–217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)”.

1998—Pub. L. 105–261, §2812(b)(1), struck out “from other agencies” after “lease” in section catchline.

Subsec. (c). Pub. L. 105–261, §2812(a), added subsec. (c).

1985—Pub. L. 99–145 substituted “used by” for “used of” in section catchline.

§ 2692. Storage, treatment, and disposal of non-defense toxic and hazardous materials

(a)(1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage, treatment, or disposal of any material that is a toxic or hazardous material and that is not owned either by the Department of Defense or by a member of the

armed forces (or a dependent of the member) assigned to or provided military housing on the installation.

(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of that Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature.

(b) Subsection (a) does not apply to the following:

(1) The storage, treatment, or disposal of materials that will be or have been used in connection with an activity of the Department of Defense or in connection with a service to be performed on an installation of the Department for the benefit of the Department.

(2) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services.

(3) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal, State, or local agency concerned.

(4) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities.

(5) The disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements.

(6) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy.

(7) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable Department of Defense regulations.

(8) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

(9) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of the Department of Defense, including the use of such a facility for testing material or training personnel.

(10) The treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of that military department and the Secretary enters into a contract or agreement with the prospective user that—

(A) is consistent with the best interest of national defense and environmental security; and

(B) provides for the prospective user's continued financial and environmental responsibility and liability with regard to the material.

(11) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the use of a space launch facility located on an installation of the Department of Defense or on other land controlled by the United States.

(c) The Secretary of Defense may grant exceptions to subsection (a) when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the exception is essential and if the storage or disposal authorized does not compete with private enterprise.

(d)(1) The Secretary may assess a charge for any storage or disposal provided under this section. Any such charge shall be on a reimbursable cost basis.

(2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary.

(Added Pub. L. 98-407, title VIII, § 805(a), Aug. 28, 1984, 98 Stat. 1520; amended Pub. L. 102-484, div. B, title XXVIII, § 2852, Oct. 23, 1992, 106 Stat. 2625; Pub. L. 103-337, div. A, title III, § 325, Oct. 5, 1994, 108 Stat. 2711; Pub. L. 105-85, div. A, title III, § 343(a)-(g)(2), Nov. 18, 1997, 111 Stat. 1686, 1687; Pub. L. 106-65, div. A, title X, § 1066(a)(25), Oct. 5, 1999, 113 Stat. 772; Pub. L. 109-364, div. A, title X, § 1071(a)(21), Oct. 17, 2006, 120 Stat. 2399.)

AMENDMENTS

2006—Subsec. (b)(9). Pub. L. 109-364 substituted “testing material” for “testing materiel”.

1999—Subsec. (b). Pub. L. 106-65 substituted “apply to the following:” for “apply to—” in introductory provisions, “The” for “the” at the beginning of each of pars. (1) to (11), a period for the semicolon at the end of each of pars. (1) to (9), and a period for “; and” at the end of par. (10).

1997—Pub. L. 105-85, § 343(g)(2), substituted “Storage, treatment, and” for “Storage and” in section catchline.

Subsec. (a)(1). Pub. L. 105-85, § 343(g)(1), substituted “storage, treatment, or disposal” for “storage or disposal”.

Pub. L. 105-85, § 343(a), substituted “either by the Department of Defense or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the installation” for “by the Department of Defense”.

Subsec. (b)(1), (2). Pub. L. 105–85, §343(b), added par. (1) and redesignated former par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 105–85, §343(b)(1), (c), redesignated par. (2) as (3) and substituted “Federal, State, or local law enforcement” for “Federal law enforcement” and “Federal, State, or local agency” for “Federal agency”. Former par. (3) redesignated (4).

Subsec. (b)(4) to (8). Pub. L. 105–85, §343(b)(1), redesignated pars. (3) to (7) as (4) to (8), respectively. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 105–85, §343(b)(1), (d), redesignated par. (8) as (9) and substituted “in connection with the authorized and compatible use of a” for “by a private person in connection with the authorized and compatible use by that person of an industrial-type” and “, including the use of such a facility for testing materiel or training personnel;” for “; and”. Former par. (9) redesignated (10).

Subsec. (b)(10). Pub. L. 105–85, §343(b)(1), (e), redesignated par. (9) as (10) and substituted “in connection with the authorized and compatible use of a” for “by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type”, “or agreement with the prospective user” for “with that person”, “for the prospective user’s” for “for that person’s”, and “; and” for period at end.

Subsec. (b)(11). Pub. L. 105–85, §343(f), added par. (11). 1994—Subsec. (b)(9). Pub. L. 103–337 added par. (9). 1992—Subsec. (b)(8). Pub. L. 102–484 added par. (8).

SAVINGS PROVISION

Pub. L. 105–85, div. A, title III, §343(h), Nov. 18, 1997, 111 Stat. 1688, provided that: “Nothing in the amendments made by this section [amending this section] is intended to modify environmental laws or laws relating to the siting of facilities.”

[§2693. Repealed. Pub. L. 109–364, div. B, title XXVIII, §2825(c)(2), Oct. 17, 2006, 120 Stat. 2477]

Section, added Pub. L. 101–647, title XVIII, §1802(a), Nov. 29, 1990, 104 Stat. 4849; amended Pub. L. 107–107, div. A, title X, §1048(a)(26)(A), (B)(i), Dec. 28, 2001, 115 Stat. 1224, 1225; Pub. L. 109–364, div. B, title XXVIII, §2825(b), Oct. 17, 2006, 120 Stat. 2476, related to conveyance of real property or facility for utilization under the correctional options program. See section 2696(f) of this title.

A prior section 2693 was renumbered section 2465 of this title.

§ 2694. Conservation and cultural activities

(a) ESTABLISHMENT.—The Secretary of Defense may establish and carry out a program to conduct and manage in a coordinated manner the conservation and cultural activities described in subsection (b).

(b) ACTIVITIES.—(1) A conservation or cultural activity eligible for the program that the Secretary establishes under subsection (a) is any activity—

(A) that has regional or Department of Defense-wide significance and that involves more than one military department;

(B) that is necessary to meet legal requirements or to support military operations;

(C) that can be more effectively managed at the Department of Defense level; and

(D) for which no executive agency has been designated responsible by the Secretary.

(2) Such activities include the following:

(A) The development of ecosystem-wide land management plans.

(B) The conduct of wildlife studies to ensure the safety and sustainability of military operations.

(C) The identification and return of Native American human remains and cultural items in the possession or control of the Department of Defense, or discovered on land under the jurisdiction of the Department, to the appropriate Native American tribes.

(D) The control of invasive species that may hinder military activities or degrade military training ranges.

(E) The establishment of a regional curation system for artifacts found on military installations.

(F) The implementation of ecosystem-wide land management plans—

(i) for a single ecosystem that encompasses at least two non-contiguous military installations, if those military installations are not all under the administrative jurisdiction of the same Secretary of a military department; and

(ii) providing synergistic benefits unavailable if the installations acted separately.

(c) COOPERATIVE AGREEMENTS.—The Secretary may negotiate and enter into cooperative agreements with public and private agencies, organizations, institutions, individuals, or other entities to carry out the program established under subsection (a).

(d) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed or interpreted as preempting any otherwise applicable Federal, State, or local law or regulation relating to the management of natural and cultural resources on military installations.

(Added Pub. L. 104–201, div. A, title III, §332(a)(1), Sept. 23, 1996, 110 Stat. 2484; amended Pub. L. 105–85, div. A, title X, §1073(a)(59), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 112–81, div. B, title XXVIII, §2814, Dec. 31, 2011, 125 Stat. 1688.)

AMENDMENTS

2011—Subsec. (b)(2)(B). Pub. L. 112–81, §2814(1), inserted “and sustainability” after “safety”.

Subsec. (b)(2)(F). Pub. L. 112–81, §2814(2), added subpar. (F).

1997—Subsec. (b)(1)(D). Pub. L. 105–85 substituted “executive agency” for “executive agency”.

EFFECTIVE DATE

Pub. L. 104–201, div. A, title III, §332(b), Sept. 23, 1996, 110 Stat. 2485, provided that: “Section 2694 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996.”

§ 2694a. Conveyance of surplus real property for natural resource conservation

(a) AUTHORITY TO CONVEY.—The Secretary of a military department may convey to an eligible entity described in subsection (b) any surplus real property that—

(1) is under the administrative control of the Secretary;

(2) is suitable and desirable for conservation purposes;

(3) has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

(4) is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property