

fire rifles held within the inventories of the United States Navy and the United States Marine Corps and stored at Defense Distribution Depot, Anniston, Alabama, or Naval Surface Warfare Center, Crane, Indiana, as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018.

(2) The items specified for transfer under paragraph (1)—

(A) shall be used as awards for competitors in marksmanship competitions held by the United States Marine Corps or the United States Navy and may not be resold; and

(B) shall be rendered inoperable prior to award and transfer to marksmanship competitors.

(Pub. L. 105-225, Aug. 12, 1998, 112 Stat. 1339; Pub. L. 114-92, div. A, title X, § 1087(a)(1), Nov. 25, 2015, 129 Stat. 1012; Pub. L. 115-91, div. A, title III, § 349, Dec. 12, 2017, 131 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40728(a)	36:5505(a).	Feb. 10, 1996, Pub. L. 104-106, title XVI, §§ 1615, 1616(b), (c), 110 Stat. 518, 519; Sept. 23, 1996, Pub. L. 104-201, title X, § 1073(c)(1), (2), 110 Stat. 2657.
40728(b)	36:5505(b).	
40728(c)	36:5505(d).	
40728(d)	36:5506(b).	
40728(e)	36:5505(c).	
40728(f)	36:5506(c).	
40728(g)	36:5505(e).	

In subsection (a), the words “director of civilian marksmanship (as that position existed under section 4307 of title 10 on February 9, 1996)” are substituted for “Director of the Civilian Marksmanship Program” to avoid confusion with the office of the Director of Civilian Marksmanship created on February 10, 1996, by section 1611(d) of The National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106, 110 Stat. 516).

In subsection (b), the words “firearms or ammunition” are substituted for “such items” for clarity. In clause (2), the words “to purchasers” are omitted as unnecessary.

In subsection (c)(1), the words “eligible recipient” are substituted for “recipient eligible . . . to receive the item” to eliminate unnecessary words.

In subsection (c)(2), the word “purchaser” is substituted for “purchaser of the item” to eliminate unnecessary words.

In subsection (d), the words “(as that program existed under section 4308(e) of title 10 before February 10, 1996)” are added for clarity. The words “issued, loaned, or sold by the corporation” are substituted for “issued, loaned, or sold by” for clarity.

In subsection (e), the words “transfer . . . to” are substituted for “make available to” for consistency in the revised section and in consideration of the words “transfer of . . . parts to” in 36:5505(e).

REFERENCES IN TEXT

Sections 4307 and 4308 of title 10, referred to in subsections (a) and (d), were repealed by Pub. L. 104-106, div. A, title XVI, § 1624(a)(1), Feb. 10, 1996, 110 Stat. 522.

The date of the enactment of this subsection, referred to in subsec. (h)(1), is the date of enactment of Pub. L. 114-92, which was approved Nov. 25, 2015.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (i), is the date of enactment of Pub. L. 115-91, which was approved Dec. 12, 2017.

AMENDMENTS

2017—Subsec. (i). Pub. L. 115-91 added subsec. (i).

2015—Subsec. (h). Pub. L. 114-92 added subsec. (h).

TRANSFERS OF SURPLUS FIREARMS TO CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY: PILOT PROGRAM AND LIMITATION

Pub. L. 114-92, div. A, title X, § 1087(b), (c), Nov. 25, 2015, 129 Stat. 1013, 1014, which related to a one-year pilot program under which the Secretary could transfer to the Corporation for the Promotion of Rifle Practice and Firearms Safety certain firearms, was repealed by Pub. L. 115-91, div. A, title X, § 1091(c), Dec. 12, 2017, 131 Stat. 1608.

§ 40728A. Recovery of excess firearms, ammunition, and parts granted to foreign countries and transfer to corporation

(a) AUTHORITY TO RECOVER.—The Secretary of the Army may recover from any country to which surplus firearms, ammunition, repair parts, or other supplies described in section 40732(a) of this title are furnished on a grant basis under the conditions imposed by section 505 of the Foreign Assistance Act of 1961 (22 U.S.C. 2314) any such surplus firearms, ammunition, repair parts, or supplies that become excess to the needs of such country.

(b) COST OF RECOVERY.—(1) Except as provided in paragraph (2), the cost of recovery of any surplus firearms, ammunition, repair parts, or supplies under subsection (a) shall be treated as incremental direct costs incurred in providing logistical support to the corporation for which reimbursement shall be required as provided in section 40727(a) of this title.

(2) The Secretary may require the corporation to pay costs of recovery described in paragraph (1) in advance of incurring such costs. Amounts so paid shall not be subject to the provisions of section 3302 of title 31, but shall be administered in accordance with the last sentence of section 40727(a) of this title.

(c) AVAILABILITY FOR TRANSFER TO CORPORATION.—Any surplus firearms, ammunition, repair parts, or supplies recovered under subsection (a) shall be available for transfer to the corporation in accordance with section 40728 of this title under such additional terms and conditions as the Secretary shall prescribe for purposes of this section.

(Added Pub. L. 109-364, div. A, title III, § 354(a), Oct. 17, 2006, 120 Stat. 2162; amended Pub. L. 114-92, div. A, title X, § 1087(a)(2)(A), Nov. 25, 2015, 129 Stat. 1013.)

AMENDMENTS

2015—Pub. L. 114-92, § 1087(a)(2)(A)(i), substituted “surplus firearms” for “rifles” wherever appearing.

Subsec. (a). Pub. L. 114-92, § 1087(a)(2)(A)(ii), substituted “section 40732(a)” for “section 40731(a)”.

§ 40728B. Recovery of excess rifles, ammunition, and parts granted to foreign countries and transfer to certain persons

(a) AUTHORITY TO RECOVER.—(1) Subject to paragraph (2) and subsection (b), the Secretary of the Army may acquire from any person any rifle, ammunition, repair parts, or other supplies described in section 40731(a) of this title which were—

(A) provided to any country on a grant basis under the conditions imposed by section 505 of

the Foreign Assistance Act of 1961 (22 U.S.C. 2314) that became excess to the needs of such country; and

(B) lawfully acquired by such person.

(2) The Secretary of the Army may not acquire anything under paragraph (1) except for transfer to a person in the United States under subsection (c).

(3) The Secretary of the Army may accept rifles, ammunition, repair parts, or other supplies under paragraph (1) notwithstanding section 1342 of title 31.

(b) COST OF RECOVERY.—The Secretary of the Army may not acquire anything under subsection (a) if the United States would incur any cost for such acquisition.

(c) AVAILABILITY FOR TRANSFER.—Any rifles, ammunition, repair parts, or supplies acquired under subsection (a) shall be available for transfer in the United States to the person from whom acquired if such person—

(1) is licensed as a manufacturer, importer, or dealer pursuant to section 923(a) of title 18; and

(2) uses an ammunition depot of the Army that is an eligible facility for receipt of any rifles, ammunition, repair parts, or supplies under this paragraph.

(d) MARKET VALUE.—The Secretary of the Army may only transfer an item under subsection (c) if the Secretary receives fair market value for the item.

(e) CONTRACTS.—Notwithstanding subsection (k) of section 2304 of title 10, the Secretary may enter into such contracts or cooperative agreements on a sole source basis pursuant to paragraphs (4) and (5) of subsection (c) of such section to carry out this section.

(f) AECA.—Transfers authorized under this section may only be made in accordance with applicable provisions of the Arms Export Control Act (22 U.S.C. 2778).

(g) RIFLE DEFINED.—In this section, the term “rifle” has the meaning given such term in section 921 of title 18.

(Added Pub. L. 114–328, div. A, title X, §1096(a), Dec. 23, 2016, 130 Stat. 2440.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (f), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

REPORT ON ACQUISITION AND TRANSFER

Pub. L. 114–328, div. A, title X, §1096(d), Dec. 23, 2016, 130 Stat. 2441, provided that:

“(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of the Army shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on the acquisition and transfer of excess rifles, ammunition, repair parts, and other supplies described in section 40731(a) of title 36, United States Code, that were provided to a country on a grant basis under the conditions imposed by sec-

tion 505 of the Foreign Assistance Act of 1961 [22 U.S.C. 2314]. The report shall include each of the following:

“(A) A list of excess rifles, ammunition, repair parts, and other supplies known to the United States Army as eligible for transfer under section 40731(a) of title 36, United States Code.

“(B) An assessment of whether and how the Secretary of the Army intends to use the authorities under section 40728B of title 36, United States Code, as added by this section.

“(C) Any other issue that the Secretary of the Army considers appropriate.

“(2) PROHIBITION ON TRANSFERS PENDING SUBMITTAL OF REPORT.—No rifle, ammunition, repair part, or supplies acquired under section 40728B(a) of title 36, United States Code, may be transferred until the date that is 90 days after the date of the submittal of the report required under paragraph (1).”

§ 40729. Reservation of firearms, ammunition, and parts

(a) RESERVATION.—The Secretary of the Army shall reserve for the corporation—

(1) firearms described in subsections (a) and (h) of section 40728 of this title;

(2) ammunition for firearms described in subsections (a) and (h) of section 40728 of this title;

(3) M–16 rifles held by the Department of the Army on February 10, 1996, and used to support the small-arms firing school; and

(4) parts from, and other supplies for, surplus caliber .30 and caliber .22 rimfire rifles and caliber .45 M1911/M1911A1 surplus pistols.

(b) EXCEPTION.—This section does not supersede the authority provided in section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note).

(Pub. L. 105–225, Aug. 12, 1998, 112 Stat. 1339; Pub. L. 114–92, div. A, title X, §1087(a)(2)(B), Nov. 25, 2015, 129 Stat. 1013.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40729(a)	36:5506(a).	Feb. 10, 1996, Pub. L. 104–106, title XVI, §1616(a), (d), 110 Stat. 519.
40729(b)	36:5506(d).	

In subsection (a)(4), the words “other supplies” are substituted for “accessories and accouterments” for consistency in the revised title.

REFERENCES IN TEXT

Section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to in subsec. (b), is section 1208 of Pub. L. 101–189, div. A, title XII, Nov. 29, 1989, 103 Stat. 1566, which was set out as a note under section 372 of Title 10, Armed Forces, and was repealed and restated in section 2576a of Title 10 by Pub. L. 104–201, div. A, title X, §1033(a)(1), (b)(1), Sept. 23, 1996, 110 Stat. 2639, 2640. Section 372 of Title 10 was renumbered section 272 by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–92, §1087(a)(2)(B)(i), substituted “subsections (a) and (h) of section 40728” for “section 40728(a)”.

Subsec. (a)(2). Pub. L. 114–92, §1087(a)(2)(B)(ii), substituted “subsections (a) and (h) of section 40728” for “40728(a)”.