

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

Section 343(h) of Pub. L. 105-85 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 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.

(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.)

AMENDMENTS

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

EFFECTIVE DATE

Section 332(b) of Pub. L. 104-201 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 disposal processes and authorities under subtitle I of title 40.

(b) ELIGIBLE ENTITIES.—The conveyance of surplus real property under this section may be made to any of the following:

(1) A State or political subdivision of a State.

(2) A nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

(c) REVERSIONARY INTEREST AND OTHER DEED REQUIREMENTS.—(1) The deed of conveyance of any surplus real property conveyed under this section shall require the property to be used and maintained for the conservation of natural resources in perpetuity. If the Secretary concerned determines at any time that the property is not being used or maintained for such purpose, then, at the option of the Secretary, all or any portion of the property shall revert to the United States.

(2) The deed of conveyance may permit the recipient of the property—

(A) to convey the property to another eligible entity, subject to the approval of the Secretary concerned and subject to the same covenants and terms and conditions as provided in the deed from the United States; and

(B) to conduct incidental revenue-producing activities on the property that are compatible with the use of the property for conservation purposes.

(3) The deed of conveyance may contain such additional terms, reservations, restrictions, and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.

(d) RELEASE OF COVENANTS.—With the concurrence of the Secretary of Interior, the Secretary concerned may grant a release from a covenant included in the deed of conveyance of real property conveyed under this section, subject to the condition that the recipient of the property pay the fair market value, as determined by the Secretary concerned, of the property at the time of the release of the covenant. The Secretary concerned may reduce the amount required to be paid under this subsection to account for the value of the natural resource conservation benefit that has accrued to the United States during the period the covenant was in effect, if the benefit was not taken into account in determining the original consideration for the conveyance.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary concerned may not approve of the reconveyance of real property under subsection (c) or grant the release of a covenant under subsection (d) until the Secretary notifies the appropriate committees of Congress of the proposed reconveyance or release and a period of 21 days elapses from the date the notification is received by the committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(f) LIMITATIONS.—The conveyance of real property under this section shall not be used as a condition of allowing any defense activity under any Federal, State, or local permitting or review process. The Secretary concerned may make the conveyance, with the restrictions specified in subsection (c), to establish a mitigation bank, but only if the establishment of the mitigation bank does not occur in order to sat-