

cess to military installations in accompaniment of a dependent child;

“(3) take into account measures required to ensure the security of military installations, including purpose and eligibility for access and renewal periodicity; and

“(4) take into account such other factors as the Secretary of Defense or the Secretary of Homeland Security considers appropriate.

“(d) DEADLINE.—The procedures required by subsection (a) shall be established by the date that is not later than one year after the date of the enactment of this Act [Aug. 13, 2018].

“(e) DEFINITIONS.—In this section:

“(1) The term ‘eligible surviving spouse’ means an individual who is a surviving spouse of a covered member of the Armed Forces, without regard to whether the individual remarries after the death of the covered member of the Armed Forces.

“(2) The term ‘covered member of the Armed Forces’ means a member of the Armed Forces who dies while serving—

“(A) on active duty; or

“(B) on such reserve duty as the Secretary of Defense and the Secretary of Homeland Security may jointly specify for purposes of this section.”

Pub. L. 114-328, div. A, title III, §346, Dec. 23, 2016, 130 Stat. 2085, as amended by Pub. L. 115-91, div. B, title XXVIII, §2819, Dec. 12, 2017, 131 Stat. 1853, provided that:

“(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall establish policies under which covered drivers may be authorized to access military installations.

“(b) ELEMENTS.—The policies established under subsection (a)—

“(1) shall include the terms and conditions under which a covered driver may be authorized to access a military installation;

“(2) may require a transportation company or transportation network company and a covered driver to enter into a written agreement with the Department of Defense as a precondition for obtaining authorization to access a military installation;

“(3) shall be consistent across military installations, to the extent practicable;

“(4) shall be designed to promote the expeditious entry of covered drivers onto military installations for purposes of providing commercial transportation services;

“(5) shall place appropriate restrictions on entry into sensitive areas of military installations;

“(6) shall be designed, to the extent practicable, to give covered drivers access to barracks areas, housing areas, temporary lodging facilities, hospitals, and community support facilities;

“(7) shall require transportation companies and transportation network companies—

“(A) to track, in real-time, the location of the entry and exit of covered drivers onto and off of military installations; and

“(B) to provide, on demand, the information described in subparagraph (A) to appropriate personnel and agencies of the Department; and

“(8) shall take into account force protection requirements and ensure the protection and safety of members of the Armed Forces, civilian employees of the Department of Defense, and the families of such members and employees.

“(c) CONFIDENTIALITY OF INFORMATION.—The Secretary shall ensure that any information provided to the Department by a transportation company or transportation network company under subsection (b)(7)—

“(1) is treated as confidential and proprietary information of the company that is exempt from public disclosure pursuant to section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’); and

“(2) except as provided in subsection (b)(7), is not disclosed to any person or entity without the express

written consent of the company unless disclosure of such information is required by a court order.

“(d) DEFINITIONS.—In this section:

“(1) TRANSPORTATION COMPANY.—The term ‘transportation company’ means a corporation, partnership, sole proprietorship, or other entity outside of the Department of Defense that provides a commercial transportation service to a rider.

“(2) TRANSPORTATION NETWORK COMPANY.—The term ‘transportation network company’—

“(A) means a corporation, partnership, sole proprietorship, or other entity, that uses a digital network to connect riders to covered drivers in order for the driver to transport the rider using a vehicle owned, leased, or otherwise authorized for use by the driver to a point chosen by the rider; and

“(B) does not include a shared-expense carpool or vanpool arrangement that is not intended to generate profit for the driver.

“(3) COVERED DRIVER.—The term ‘covered driver’—

“(A) means an individual—

“(i) who is an employee of a transportation company or transportation network company or who is affiliated with a transportation company or transportation network company; and

“(ii) who provides a commercial transportation service to a rider; and

“(B) includes a vehicle operated by such individual for the purpose of providing such service.”

[Pub. L. 115-91, div. B, title XXVIII, §2819(4)(C), Dec. 12, 2017, 131 Stat. 1853, which directed the insertion of “or transportation network company” after “transportation company” in section 346(d)(3)(A)(i) of Pub. L. 114-328, set out above, was not executed in light of the amendment made by section 2819(2) of Pub. L. 115-91, which directed the same insertion wherever appearing in subsec. (d).]

Pub. L. 114-328, div. A, title X, §1050, Dec. 23, 2016, 130 Stat. 2396, as amended by Pub. L. 116-92, div. B, title XXVIII, §2822, Dec. 20, 2019, 133 Stat. 1889, provided that:

“(a) ACCESS TO INSTALLATIONS FOR CREDENTIALED TRANSPORTATION WORKERS.—The Secretary of Defense, to the extent practicable, shall ensure that the Transportation Worker Identification Credential is accepted as a valid credential for unescorted access to Department of Defense installations by transportation workers.

“(b) CREDENTIALED TRANSPORTATION WORKERS WITH SECRET CLEARANCE.—TWIC-carrying transportation workers who also have a current Secret Level Clearance issued by the Department of Defense shall be considered exempt from further vetting when seeking unescorted access at Department of Defense facilities. Access security personnel shall verify such person’s security clearance in a timely manner and provide them with unescorted access to complete their freight service.”

§ 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 Secretary 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.

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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].”

EXPENDITURES ON LEASED FACILITIES AND REAL PROPERTY OF THE DEPARTMENT OF DEFENSE

Pub. L. 118-159, div. B, title XXVIII, §2850, Dec. 23, 2024, 138 Stat. 2269, provided that:

“(a) IN GENERAL.—Not later than five years after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall reduce expenditures on facilities leased by the Department of Defense by 25 percent.

“(b) REAL PROPERTY MANAGEMENT.—The Secretary of Defense shall—

“(1) publish guidance with respect to—

“(A) standards for maximum office space design for new construction, including space reconfigurations; and

“(B) desired average occupancy standards for existing Department of Defense facilities;

“(2) validate utilization rates for existing office space owned or leased by the Department prior to approving significant land acquisitions for the Department; and

“(3) use building utilization rates to validate new construction requirements, including efforts of the Department with respect to reconfiguration.

“(c) ANNUAL BRIEFING.—Not later than March 31, 2025, and annually thereafter until 2027, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on—

“(1) the capacity of real property owned or leased by the Department of Defense;

“(2) the average utilization rates for such real property;

“(3) the size and cost of facilities leased by the Department; and

“(4) the plan of the Secretary to satisfy the requirement under subsection (a).”

PROHIBITION ON DISPLAY OF UNAPPROVED FLAGS

Pub. L. 118-31, div. A, title X, §1052, Dec. 22, 2023, 137 Stat. 395, provided that:

“(a) PROHIBITION.—No flag other than an approved flag shall be displayed in any work place, common access area, or public area of the Department of Defense.

“(b) EXCLUSIONS.—The prohibition under subsection (a) shall not apply to—

“(1) the public display or depiction of a flag other than an approved flag in a museum exhibit, State-issued license plate, grave site, memorial marker, monument, educational display, historical display, or work of art, if the nature of the display or depiction cannot reasonably be viewed as endorsement of the flag by the Department of Defense; or

“(2) a building or area that primarily serves as a place of residence, including a barracks, dormitory, bachelor quarters, government-operated housing, or public-private venture housing area.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of a military commander to enforce good order and discipline on a military installation.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘approved flag’ means any of the following:

“(A) The American flag.

“(B) The flag of a State or of the District of Columbia.

“(C) A military service flag.

“(D) A flag or general officer flag.

“(E) A Presidentially-appointed, Senate-confirmed civilian flag.

“(F) A Senior Executive Service or military department-specific flag.

“(G) The National League of Families POW/MIA flag.

“(H) The flag of another country that is an ally or partner of the United States or for official protocol purposes.

“(I) The flag of an organization of which the United States is a member.

“(J) A ceremonial, command, unit, or branch flag or guidon.

“(K) The flag of an athletic team, club, cadet-led organization, academic department, unit subdivision, or other entity approved to operate at a Service Academy (as such term is defined in section 347 of title 10, United States Code) or in conjunction with a Reserve Officer Training Corps activity.

“(L) A flag or banner displayed by a retail tenant or non-government entity operating in a building owned or controlled by the Department of Defense, for the purposes of advertising business products and services, if authorized by contract.

“(M) A religious flag or banner, including a holiday flag, if otherwise authorized.

“(N) A flag approved at the discretion of the military chain of command or senior civilian leadership, as appropriate.

“(2) The term ‘work place, common access area, or public area of the Department of Defense’ includes the following:

“(A) An office building, facility, naval vessel, aircraft, governmental vehicle, hangar, garage, ready room, storage room, tool and equipment room, or workshop.

“(B) A sensitive compartmented information facility of other secure facility.

“(C) A schoolhouse or training facility.

“(D) The area in plain view of such a building that is not residential in nature, including the areas outside of buildings of the Department of Defense.”

TRIBAL LIAISONS AT MILITARY INSTALLATIONS

Pub. L. 118-31, div. A, title X, § 1084, Dec. 22, 2023, 137 Stat. 418, provided that:

“(a) TRIBAL LIAISONS AT MILITARY INSTALLATIONS.—The Secretary of Defense shall ensure that each military installation under the jurisdiction of a military department that has an Indian Tribe, Native Hawaiian organization, or Tribal interest in the area surrounding the installation has a Tribal liaison located at the installation.

“(b) TRIBAL INTEREST.—For purposes of subsection (a), an area surrounding a military installation shall be considered to be an area in which there is a Tribal interest if an Indian Tribe or Native Hawaiian organization is historically or culturally affiliated with the land or water managed or directly affected by the military installation.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘Indian Tribe’ has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

“(2) The term ‘Native Hawaiian organization’ has the meaning given that term in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517).”

NATIONAL STANDARDS FOR FEDERAL FIRE PROTECTION AT MILITARY INSTALLATIONS

Pub. L. 117-263, div. A, title III, § 388, Dec. 23, 2022, 136 Stat. 2546, provided that:

“(a) STANDARDS REQUIRED.—Beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall ensure that—

“(1) members of the Armed Forces and employees of Defense Agencies who provide fire protection services to military installations comply with the national consensus standards developed by the National Fire Protection Association;

“(2) the minimum staffing requirement for any fire-fighting vehicle responding to a structural building emergency at a military installation is not less than four firefighters per vehicle; and

“(3) the minimum staffing requirement for any fire-fighting vehicle responding to an aircraft or airfield incident at a military installation is not less than three firefighters per vehicle.

“(b) REPORTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, each Secretary of a military department shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report that—

“(1) details each instance in which the standards of that military department deviate from the national consensus standards specified in subsection (a)(1), and at what military installation;

“(2) includes, for each military installation under the jurisdiction of that Secretary, a detailed description of response times for emergency services and firefighting vehicle staffing levels; and

“(3) includes an assessment of the feasibility of requiring compliance with the national consensus standards specified in subsection (a)(1) in accordance with such subsection at each military installation under the jurisdiction of that Secretary (without exception), the cost of requiring such compliance, and the estimated timeline for that Secretary to implement such requirement.

“(c) DEFINITIONS.—In this section:

“(1) The terms ‘Armed Forces’ and ‘Defense Agency’ have the meanings given such terms in section 101 of title 10, United States Code.

“(2) The term ‘firefighter’ has the meaning given that term in section 707(b) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92; 10 U.S.C. 1074m note).

“(3) The term ‘military installation’ has the meaning given that term in section 2801 of title 10, United States Code.”

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 the Secretary of Defense could authorize an installation commander to realign up to 7.5 percent of an installation’s sustainment funds to restoration and modernization, and such authority would expire at the close of Sept. 30, 2022.

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