

“(A) The methodology developed under subsection (b) to conduct water management and security assessments.

“(B) A list of the military installations that have been assessed using such methodology and a description of the findings.

“(C) A list of planned assessments for the one-year period beginning on the date of the submission of the report.

“(D) An evaluation of the progress made on implementation of xeriscaping and other regionally appropriate landscaping practices at military installations.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘net zero water usage’, with respect to a military installation or installation activity, means a situation in which the combination of limitations on the consumption of water resources and the return of water to an original water source by the installation or activity is sufficient to prevent any reduction in the water resources of the area in both quantity and quality over a reasonable period of time.

“(2) The terms ‘Secretary concerned’ and ‘Secretary’ mean the Secretary of a military department and the Secretary of Defense with respect to the Pentagon Reservation.

“(3) The term ‘xeriscaping’ means landscape design that emphasizes low water use and drought-tolerant plants that require little or no supplemental irrigation.”

#### ESTABLISHMENT OF TARGETS FOR WATER USE

Pub. L. 116-92, div. A, title III, §319(c), Dec. 20, 2019, 133 Stat. 1306, provided that: “The Secretary of Defense shall, where life-cycle cost-effective, improve water use efficiency and management by the Department of Defense, including storm water management, by—

“(1) installing water meters and collecting and using water balance data of buildings and facilities to improve water conservation and management;

“(2) reducing industrial, landscaping, and agricultural water consumption in gallons by two percent annually through fiscal year 2030 relative to a baseline of such consumption by the Department in fiscal year 2010; and

“(3) installing appropriate sustainable infrastructure features on installations of the Department to help with storm water and wastewater management.”

### § 2867. Energy monitoring and utility control system specification for military construction and military family housing activities

(a) ADOPTION OF DEPARTMENT-WIDE, OPEN PROTOCOL, ENERGY MONITORING AND UTILITY CONTROL SYSTEM SPECIFICATION.—(1) The Secretary of Defense shall adopt an open protocol energy monitoring and utility control system specification for use throughout the Department of Defense in connection with a military construction project, military family housing activity, or other activity under this chapter for the purpose of monitoring and controlling, with respect to the project or activity, the items specified in paragraph (2) with the goal of establishing installation-wide energy monitoring and utility control systems.

(2) The energy monitoring and utility control system specification required by paragraph (1) shall cover the following:

(A) Utilities and energy usage, including electricity, gas, steam, and water usage.

(B) Indoor environments, including temperature and humidity levels.

(C) Heating, ventilation, and cooling components.

(D) Central plant equipment.

(E) Renewable energy generation systems.

(F) Lighting systems.

(G) Power distribution networks.

(b) EXCLUSION.—(1) The energy monitoring and utility control system specification required by subsection (a) is not required to apply to projects carried out under the authority provided in subchapter IV of chapter 169 of this title.

(2) The Secretary concerned may waive the application of the energy monitoring and utility control system specification required by subsection (a) with respect to a specific military construction project, military family housing activity, or other activity under this chapter if the Secretary determines that the application of the specification to the project or activity is not life cycle cost-effective. The Secretary concerned shall notify the congressional defense committees of any waiver granted under this paragraph.

(Added Pub. L. 111-84, div. B, title XXVIII, §2841(a)(1), Oct. 28, 2009, 123 Stat. 2679.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2867 was renumbered section 2916 of this title.

#### Statutory Notes and Related Subsidiaries

##### SUSPENSION OF RESIDENT ENERGY CONSERVATION PROGRAM AND RELATED PROGRAMS FOR PRIVATIZED MILITARY HOUSING

Pub. L. 116-92, div. B, title XXX, §3063, Dec. 20, 2019, 133 Stat. 1947, as amended by Pub. L. 116-283, div. B, title XXVIII, §2811(j), Jan. 1, 2021, 134 Stat. 4326, provided that:

“(a) SUSPENSION REQUIRED.—The Secretary of Defense shall suspend the initiative of the Department of Defense known as the Resident Energy Conservation Program and instruct the Secretary of each military department to suspend any program carried out by such Secretary that measures the energy usage for individual units of privatized military housing on installations of the Department of Defense.

“(b) TERM OF SUSPENSION.—Subject to subsection (c), the suspension required by subsection (a) shall remain in effect for an installation of the Department of Defense until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that 100 percent of the privatized military housing covered by a program suspended under subsection (a) on the installation is individually metered to each respective unit of privatized military housing and the meter accurately measures the energy usage of the unit.

“(c) TERMINATION.—If the Secretary of Defense is unable to make the certification required by subsection (b) for an installation of the Department of Defense before the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], each program suspended pursuant to subsection (a) at that installation shall terminate at the end of such period.”

[For definition of “privatized military housing” as used in section 3063 of Pub. L. 116-92, set out above, see section 3001(a) of Pub. L. 116-92, set out as a note under section 2821 of this title.]

##### DEADLINE FOR ADOPTION

Pub. L. 111-84, div. B, title XXVIII, §2841(a)(3), Oct. 28, 2009, 123 Stat. 2680, provided that: “The Secretary of

Defense shall adopt the open protocol energy monitoring and utility control system specification required by section 2867 of title 10, United States Code, as added by paragraph (1), not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009].”

**§ 2868. Utility services: furnishing for certain buildings**

Appropriations for the Department of Defense may be used for utility services for buildings constructed at private cost, as authorized by law.

(Added Pub. L. 100-370, §1(j)(1), July 19, 1988, 102 Stat. 848, §2490; renumbered §2868, Pub. L. 105-85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; amended Pub. L. 108-375, div. A, title VI, §651(e)(2), Oct. 28, 2004, 118 Stat. 1972.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99-190, §101(b) [title VIII, §8006(b)], Dec. 19, 1985, 99 Stat. 1185.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for “welfare and recreation” or “welfare and recreational” purposes. (Section 735 of Public Law 98-212 and section 8006(b) of Public Law 99-190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term “morale” in both of these two instances to conform to the usual “MWR” usage for morale, welfare, and recreation activities.

**Editorial Notes**

AMENDMENTS

2004—Pub. L. 108-375 substituted “for buildings constructed at private cost, as authorized by law.” for “for—

“(1) buildings constructed at private cost, as authorized by law; and

“(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.”

1997—Pub. L. 105-85 renumbered section 2490 of this title as this section.

**§ 2869. Exchange of property at military installations**

(a) EXCHANGE AUTHORIZED.—(1) The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the person in and to a parcel of real property, including any improvements thereon under the person’s control, or to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations.

(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned—

(A) that is located on a military installation that is closed or realigned under a base closure law; or

(B) that is located on a military installation not covered by subparagraph (A) and for which the Secretary concerned makes a determination that the conveyance under paragraph (1) is advantageous to the United States.

(3)(A) The Secretary of Defense shall establish a pilot program under which the Secretary concerned, during the term of the pilot program, may use the authority provided by paragraph (1) to also convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to provide—

(i) installation-support services (as defined in section 2679(f) of this title); or

(ii) a new facility or improvements to an existing facility.

(B) The acquisition of a facility or improvements to an existing facility using the authority provided by subparagraph (A) shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(C) The expanded conveyance authority provided by subparagraph (A) applies only during the eight-year period beginning on the date on which the Secretary of Defense issues guidance regarding the use by the Secretaries concerned of such authority.

(b) CONDITIONS ON CONVEYANCE AUTHORITY.—(1) The fair market value of the real property, installation-support services, or facility or improvements to an existing facility obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the real property conveyed by the Secretary concerned exceeds the fair market value of the real property, installation-support services, or facility or improvements received by the Secretary, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.

(2) In the case of a conveyance of real property to a political subdivision of a State, the value of the real property to be conveyed by the Secretary concerned under subsection (a) may exceed the fair market value of the land to be obtained, as determined under paragraph (1), by an amount not to exceed the reduction in value of the land which is attributable to voluntary zoning actions taken by such political subdivision to limit encroachment on a military installation, but only if the notice required by subsection (d)(2) contains—

(A) a certification by the Secretary concerned that the military value to the United States of the land to be acquired justifies a payment in excess of the fair market value; and

(B) a description of the military value to be obtained.

(3) The Secretary concerned may agree to accept a facility or improvements to an existing facility under subsection (a)(3) only if the Secretary concerned determines that the facility or improvements—

(A) are completed and usable, fully functional, and ready for occupancy;

(B) satisfy all operational requirements; and

(C) meet all Federal, State, and local requirements applicable to the facility relating to health, safety, and the environment.