

1987—Subsec. (c). Pub. L. 100-26 inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (1), (2), and (4) and substituted lowercase letter.

Subsec. (c)(3). Pub. L. 100-180, §1231(15), substituted “Defense Agencies” for “defense agencies”.

Subsec. (d). Pub. L. 100-180, §2306(b), substituted “(other than sections 2828(g) and 2830)” for “(other than section 2830)”.

Pub. L. 100-180, §632(b)(1), inserted “(other than section 2830)” after “This chapter”.

EFFECTIVE DATE

Pub. L. 97-214, §12, July 12, 1982, 96 Stat. 176, provided: “(a) Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1982 Amendment note below] shall take effect on October 1, 1982, and shall apply to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date.

“(b) The amendment made by section 4 [amending section 138(f)(1) [now 114(b)] of this title] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1983.”

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-214, §1, July 12, 1982, 96 Stat. 153, provided that: “This Act [see Tables for classification] may be cited as the ‘Military Construction Codification Act.’”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2802. Military construction projects

(a) The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects, land acquisitions, and defense access road projects (as described under section 210 of title 23) as are authorized by law.

(b) Authority provided by law to carry out a military construction project includes authority for—

- (1) surveys and site preparation;
- (2) acquisition, conversion, rehabilitation, and installation of facilities;
- (3) acquisition and installation of equipment and appurtenances integral to the project;
- (4) acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and
- (5) planning, supervision, administration, and overhead incident to the project.

(c) In determining the scope of a proposed military construction project, the Secretary concerned shall submit to the President such recommendations as the Secretary considers to be appropriate regarding the incorporation and inclusion of life-cycle cost-effective practices as an element in the project documents submitted to Congress in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which a contract is proposed to be awarded for the project.

[(d) Repealed. Pub. L. 114-328, div. B, title XXVIII, §2811(b), Dec. 23, 2016, 130 Stat. 2716.]

(e)(1) If a construction project, land acquisition, or defense access road project described in paragraph (2) will be carried out pursuant to a provision of law other than a Military Construction Authorization Act, the Secretary concerned shall—

(A) comply with the congressional notification requirement contained in the provision of law under which the construction project, land acquisition, or defense access road project will be carried out; or

(B) in the absence of such a congressional notification requirement, submit to the congressional defense committees, in an electronic medium pursuant to section 480 of this title, a report describing the construction project, land acquisition, or defense access road project at least 15 days before commencing the construction project, land acquisition, or defense access road project.

(2) Except as provided in paragraph (3), a construction project, land acquisition, or defense access road project subject to the notification requirement imposed by paragraph (1) is a construction project, land acquisition, or defense access road project that—

(A) is not specifically authorized in a Military Construction Authorization Act;

(B) will be carried out by a military department, Defense Agency, or Department of Defense Field Activity; and

(C) will be located on a military installation.

(3) This subsection does not apply to a construction project, land acquisition, or defense access road project described in paragraph (2) whose cost is less than or equal to the threshold amount specified in section 2805(b) of this title.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 110-181, div. B, title XXVIII, §2802(a), Jan. 28, 2008, 122 Stat. 539; Pub. L. 110-417, div. B, title XXVIII, §2801(b), Oct. 14, 2008, 122 Stat. 4719; Pub. L. 113-66, div. B, title XXVIII, §2807(c), Dec. 26, 2013, 127 Stat. 1012; Pub. L. 113-291, div. B, title XXVIII, §§2801, 2803(b), Dec. 19, 2014, 128 Stat. 3695, 3697; Pub. L. 114-328, div. B, title XXVIII, §2811(b), (c), Dec. 23, 2016, 130 Stat. 2716.)

AMENDMENTS

2016—Subsec. (d). Pub. L. 114-328, §2811(b), which directed striking out subsec. (d), was executed by striking out subsec. (d) as it read after the repeal of Pub. L. 113-291, §2803(b), and restoration of the text prior to those amendments, to reflect the probable intent of Congress. As restored, subsec. (d) related to requirements for military construction projects funded through payment-in-kind contributions, inclusion of such projects in budget justification documents, and exceptions to those requirements.

Pub. L. 114-328, §2811(c), repealed Pub. L. 113-291, §2803(b), and provided that the provisions of law amended by such section 2803(b) are restored as if such section had not been enacted into law. See 2014 Amendment note below.

2014—Subsec. (d). Pub. L. 113-291, §2803(b), which substituted “payments-in-kind or in-kind contributions” for “payment-in-kind contributions” in par. (1), added par. (3) and struck out former par. (3) which described certain military construction projects to which subsec. (d) did not apply, and substituted “paragraph (3), by reference to section 2687a(f)(4)(D) of this title,” for “paragraph (3)(C)” in par. (4), was repealed by Pub. L. 114-328, §2811(c).

Subsec. (e). Pub. L. 113-291, § 2801, added subsec. (e).
 2013—Subsec. (d). Pub. L. 113-66 added subsec. (d).
 2008—Subsec. (a). Pub. L. 110-181 inserted “, land acquisitions, and defense access road projects (as described under section 210 of title 23)” after “military construction projects”.

Subsec. (c). Pub. L. 110-417 added subsec. (c).

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

REQUIREMENTS RELATED TO PROVIDING WORLD CLASS MILITARY MEDICAL CENTERS

Pub. L. 111-383, div. B, title XXVIII, § 2852, Jan. 7, 2011, 124 Stat. 4475, provided that:

“(a) UNIFIED CONSTRUCTION STANDARD FOR MILITARY CONSTRUCTION AND REPAIRS TO MILITARY MEDICAL CENTERS.—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall establish a unified construction standard for military construction and repairs for military medical centers that provides a single standard of care. This standard shall also include—

“(1) size standards for operating rooms and patient recovery rooms; and

“(2) such other construction standards that the Secretary considers necessary to support military medical centers.

“(b) INDEPENDENT REVIEW PANEL.—

“(1) ESTABLISHMENT; PURPOSE.—The Secretary of Defense shall establish an independent advisory panel for the purpose of—

“(A) reviewing the unified construction standards established pursuant to subsection (a) to determine the standards consistency with industry practices and benchmarks for world class medical construction;

“(B) reviewing ongoing construction programs within the Department of Defense to ensure medical construction standards are uniformly applied across applicable military medical centers;

“(C) assessing the approach of the Department of Defense approach to planning and programming facility improvements with specific emphasis on—

“(i) facility selection criteria and proportional assessment system; and

“(ii) facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the military departments;

“(D) assessing whether the Comprehensive Master Plan for the National Capital Region Medical, dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the plan result in world class military medical centers in the National Capital Region; and

“(E) making recommendations regarding any adjustments of the master plan referred to in subparagraph (D) that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

“(2) MEMBERS.—

“(A) APPOINTMENTS BY SECRETARY.—The panel shall be composed of such members as determined by the Secretary of Defense, except that the Secretary shall include as members—

“(i) medical facility design experts;

“(ii) military healthcare professionals;

“(iii) representatives of premier health care centers in the United States; and

“(iv) former retired senior military officers with joint operational and budgetary experience.

“(B) CONGRESSIONAL APPOINTMENTS.—The chairmen and ranking members of the Committees on

the Armed Services of the Senate and House of Representatives may each designate one member of the panel.

“(C) TERM.—Members of the panel may serve on the panel until the termination date specified in paragraph (7).

“(D) COMPENSATION.—While performing duties on behalf of the panel, a member and any adviser referred to in paragraph (4) shall be reimbursed under Government travel regulations for necessary travel expenses.

“(3) MEETINGS.—The panel shall meet not less than quarterly. The panel or its members may make other visits to military treatment centers and military headquarters in connection with the duties of the panel.

“(4) STAFF AND ADVISORS.—The Secretary of Defense shall provide necessary administrative staff support to the panel. The panel may call in advisers for consultation.

“(5) REPORTS.—

“(A) INITIAL REPORT.—Not later than 120 days after the first meeting of the panel, the panel shall submit to the Secretary of Defense a written report containing—

“(i) an assessment of the adequacy of the plan of the Department of Defense to address the items specified in subparagraphs (A) through (E) of paragraph (1) relating to the purposes of the panel; and

“(ii) the recommendations of the panel to improve the plan.

“(B) ADDITIONAL REPORTS.—Not later than February 1, 2011, and each February 1 thereafter until termination of the panel, the panel shall submit to the Secretary of Defense a report on the findings and recommendations of the panel to address any deficiencies identified by the panel.

“(6) ASSESSMENT OF RECOMMENDATIONS.—Not later than 30 days after the date of the submission of each report under paragraph (5), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report including—

“(A) a copy of the panel’s assessment;

“(B) an assessment by the Secretary of the findings and recommendations of the panel; and

“(C) the plans of the Secretary for addressing such findings and recommendations.

“(7) TERMINATION.—The panel shall terminate on September 30, 2015.

“(c) DEFINITIONS.—In this section:

“(1) NATIONAL CAPITAL REGION.—The term ‘National Capital Region’ has the meaning given the term in section 2674(f) of title 10, United States Code.

“(2) WORLD CLASS MILITARY MEDICAL CENTER.—The term ‘world class military medical center’ has the meaning given the term ‘world class military medical facility’ by the National Capital Region Base Realignment and Closure Health Systems Advisory Subcommittee of the Defense Health Board in appendix B of the report titled ‘Achieving World Class—An Independent Review of the Design Plans for the Walter Reed National Military Medical Center and the Fort Belvoir Community Hospital’ and published in May 2009, as required by section 2721 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4716).”

DAMAGE TO AVIATION FACILITIES CAUSED BY ALKALI SILICA REACTIVITY

Pub. L. 106-398, § 1 [[div. A], title III, § 389], Oct. 30, 2000, 114 Stat. 1654, 1654A-89, provided that:

“(a) ASSESSMENT OF DAMAGE AND PREVENTION AND MITIGATION TECHNOLOGY.—The Secretary of Defense shall require the Secretaries of the military departments to assess—

“(1) the damage caused to aviation facilities of the Armed Forces by alkali silica reactivity; and

“(2) the availability of technologies capable of preventing, treating, or mitigating alkali silica reactivity in hardened concrete structures and pavements.

“(b) EVALUATION OF TECHNOLOGIES.—(1) Taking into consideration the assessment under subsection (a), the Secretary of each military department may conduct a demonstration project at a location selected by the Secretary concerned to test and evaluate the effectiveness of technologies intended to prevent, treat, or mitigate alkali silica reactivity in hardened concrete structures and pavements.

“(2) The Secretary of Defense shall ensure that the locations selected for the demonstration projects represent the diverse operating environments of the Armed Forces.

“(c) NEW CONSTRUCTION.—The Secretary of Defense shall develop specific guidelines for appropriate testing and use of lithium salts to prevent alkali silica reactivity in new construction of the Department of Defense.

“(d) COMPLETION OF ASSESSMENT AND DEMONSTRATION.—The assessment conducted under subsection (a) and the demonstration projects, if any, conducted under subsection (b) shall be completed not later than September 30, 2006.

“(e) DELEGATION OF AUTHORITY.—The authority to conduct the assessment under subsection (a) may be delegated only to the Chief of Engineers of the Army, the Commander of the Naval Facilities Engineering Command, and the Civil Engineer of the Air Force.

“(f) LIMITATION ON EXPENDITURES.—The Secretary of Defense and the Secretaries of the military departments may not expend more than a total of \$5,000,000 to conduct both the assessment under subsection (a) and all of the demonstration projects under subsection (b).”

REPORTS RELATING TO MILITARY CONSTRUCTION FOR FACILITIES SUPPORTING NEW WEAPON SYSTEMS

Pub. L. 102-190, div. B, title XXVIII, §2868, Dec. 5, 1991, 105 Stat. 1562, as amended by Pub. L. 108-136, div. A, title X, §1031(c)(2), Nov. 24, 2003, 117 Stat. 1604, which required the Secretary of Defense to submit to Congress a report relating to the permanent basing of a new weapon system not later than 30 days after selecting a site or sites for such permanent basing, was repealed by Pub. L. 112-81, div. A, title X, §1062(m), Dec. 31, 2011, 125 Stat. 1586.

§ 2803. Emergency construction

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the seven-day period beginning on the date the notification is received by such committees or, if earlier, the end of the seven-day period beginning on the date on which

a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(c)(1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is \$50,000,000.

(2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 102-190, div. B, title XXVIII, §§2803, 2870(2), Dec. 5, 1991, 105 Stat. 1537, 1562; Pub. L. 102-484, div. A, title X, §1053(9), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 108-136, div. A, title X, §1031(a)(34), div. B, title XXVIII, §2802, Nov. 24, 2003, 117 Stat. 1600, 1719; Pub. L. 109-364, div. B, title XXVIII, §2801, Oct. 17, 2006, 120 Stat. 2466; Pub. L. 112-81, div. A, title X, §1064(9), Dec. 31, 2011, 125 Stat. 1587.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81 substituted “after the end of the seven-day period” for “after the end of the 21-day period”.

2006—Subsec. (c)(1). Pub. L. 109-364 substituted “\$50,000,000” for “\$45,000,000”.

2003—Subsec. (b). Pub. L. 108-136, §1031(a)(34), inserted before period at end “or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

Subsec. (c)(1). Pub. L. 108-136, §2802, substituted “\$45,000,000” for “\$30,000,000”.

1992—Subsec. (b). Pub. L. 102-484 made technical amendment to directory language of Pub. L. 102-190, §2870(2). See 1991 Amendment note below.

1991—Subsec. (a). Pub. L. 102-190, §2803, substituted “or to the protection of health, safety, or the quality of the environment, and” for “, and” in cl. (1) and inserted “or the protection of health, safety, or environmental quality, as the case may be” before period at end of cl. (2).

Subsec. (b). Pub. L. 102-190, §2870(2), as amended by Pub. L. 102-484, struck out “, or after each such committee has approved the project, if the committee approves the project before the end of that period” after “by such committees”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title X, §1053, Oct. 23, 1992, 106 Stat. 2501, provided that the amendment made by that section is effective Dec. 5, 1991.

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2804. Contingency construction

(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of