

PERMITTING MACHINE ROOM-LESS ELEVATORS IN
DEPARTMENT OF DEFENSE FACILITIES

Pub. L. 115-91, div. B, title XXVIII, § 2875, Dec. 12, 2017, 131 Stat. 1871, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall issue modifications to all relevant construction and facilities specifications to ensure that machine room-less elevators (MRLs) are not prohibited in buildings and facilities throughout the Department of Defense, including modifications to the Unified Facilities Guide Specifications (UFGS), the Naval Facilities Engineering Command Interim Technical Guidance, and the Army Corps of Engineers Engineering and Construction Bulletin.

“(b) CONFORMING TO BEST PRACTICES.—In addition to the modifications required under subsection (a), the Secretary may issue further modifications to conform generally with commercial best practices as reflected in the safety code for elevators and escalators as issued by the American Society of Mechanical Engineers.

“(c) DEADLINES.—The Secretary shall promulgate interim MRL standards not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], and shall issue final and formal MRL specifications not later than 1 year after the date of the enactment of this Act.

“(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the integration and utilization of MRLs, including information on quantity, location, problems, and successes.”

§ 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 and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement; 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.

(f)(1) In addition to any other applicable consultation requirement pursuant to law or Department of Defense policy, if a proposed military construction project is likely to significantly impact tribal lands, known sacred sites, or tribal treaty rights, the Secretary concerned shall initiate consultation with the tribal government of each impacted Indian tribe—

(A) to determine the nature and extent of such impact;

(B) to determine whether such impact can be avoided or mitigated in the design and implementation of the project; and

(C) if such impact cannot be avoided, to develop feasible measures consistent with applicable law to mitigate the impact and estimate the cost of the mitigation measures.

(2) As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a military construction project covered by paragraph (1), the Secretary concerned, to the extent possible at the time of such submission, shall include a description of the current status of the consultation conducted under such paragraph and specifically address each of the items specified in subparagraphs (A), (B), and (C) of such paragraph.

(3) The requirement under paragraph (1) does not affect the obligation of the Secretary concerned to comply with any other applicable consultation requirement pursuant to law or Department of Defense policy.

(4) In this subsection:

(A) The term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-

Determination and Education Assistance Act (25 U.S.C. 5304).

(B) The term “tribal government” means the recognized governing body of an Indian tribe.

(C) The term “sacred site” has the meaning given that term in Executive Order No. 13007, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020.

(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; Pub. L. 115–91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 115–232, div. B, title XXVIII, §2803, Aug. 13, 2018, 132 Stat. 2261; Pub. L. 116–92, div. A, title XVII, §1731(a)(53), div. B, title XXVIII, §2802, Dec. 20, 2019, 133 Stat. 1815, 1881.)

Editorial Notes

REFERENCES IN TEXT

Executive Order No. 13007, referred to in subsec. (f)(4)(C), is Ex. Ord. No. 13007, May 24, 1996, 61 F.R. 26771, which is set out as a note under section 1996 of Title 42, The Public Health and Welfare.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (f)(4)(C), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

AMENDMENTS

2019—Subsec. (e)(1). Pub. L. 116–92, §1731(a)(53), substituted “shall—” for “shall” and inserted subpar. (A) designation before “comply with the congressional notification requirement”.

Subsec. (f). Pub. L. 116–92, §2802, added subsec. (f).

2018—Subsec. (e)(1). Pub. L. 115–232 substituted “Secretary concerned shall” for “Secretary concerned shall—”, struck out subpar. (A) designation before “comply with the congressional notification requirement”, and inserted “and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement” after “road project will be carried out”.

2017—Subsec. (d). Pub. L. 115–91, §1081(d)(15), amended Pub. L. 114–328, §2811(c). See 2016 Amendment note below.

2016—Subsec. (d). Pub. L. 114–328, §2811(b), struck out subsec. (d) which related to requirements for military construction projects funded through payments-in-kind or in-kind contributions, inclusion of such projects in budget justification documents, and exceptions to those requirements.

Pub. L. 114–328, §2811(c), as amended by Pub. L. 115–91, §1081(d)(15), repealed Pub. L. 113–291, §2803(b). 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), as amended by Pub. L. 115–91, §1081(d)(15).

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(15) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

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.

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO REQUIRE INCLUSION OF PRIVATE NURSING AND LACTATION SPACE IN CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 117–81, div. B, title XXVIII, §2841, Dec. 27, 2021, 135 Stat. 2201, provided that:

“(a) AMENDMENT REQUIRED.—The Secretary of Defense shall amend UFC 1–4.2 (Nursing and Lactation Rooms) of the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that military construction planning and design for buildings likely to be regularly frequented by nursing mothers who are members of the uniformed services, civilian employees of the Department of Defense, contractor personnel, or visitors include a private nursing and lactation room or other private space suitable for that purpose.

“(b) DEADLINE.—The Secretary of Defense shall complete the amendment process required by subsection (a) and implement the amended UFC 1–4.2 not later than one year after the date of the enactment of this Act [Dec. 27, 2021].”

REVISIONS TO UNIFIED FACILITIES CRITERIA REGARDING USE OF VARIABLE REFRIGERANT FLOW SYSTEMS

Pub. L. 117–81, div. B, title XXVIII, §2842, Dec. 27, 2021, 135 Stat. 2201, provided that:

“(a) PUBLICATION AND COMMENT PERIOD REQUIREMENTS.—The Under Secretary of Defense for Acquisition and Sustainment shall publish any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems in the Federal Register and shall specify a comment period of at least 60 days.

“(b) NOTICE AND JUSTIFICATION REQUIREMENTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notice and justification for any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems not later than 30 days after the date of publication in the Federal Register.”

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE ENERGY EFFICIENT MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2843, Dec. 27, 2021, 135 Stat. 2202, provided that:

“(a) UNIFIED FACILITIES CRITERIA AMENDMENT REQUIRED.—To the extent practicable, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019.

“(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense shall complete the amendment process re-

quired by subsection (a) in a timely manner so that any Department of Defense Form 1391 submitted to Congress in connection with the budget submission for fiscal year 2024 and thereafter complies with the Unified Facilities Criteria, as amended pursuant to such subsection.

“(c) REPORTING REQUIREMENT.—Not later than February 1, 2024, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report—

“(1) describing the extent to which the Unified Facilities Criteria, as amended pursuant to subsection (a), incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019, as required by such subsection; and

“(2) in the case of any instance in which the Unified Facilities Criteria continues to deviate from such consensus-based codes and standards for energy efficiency and conservation, identifying the deviation and explaining the reasons for the deviation.”

ADDITIONAL DEPARTMENT OF DEFENSE ACTIVITIES TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117-81, div. B, title XXVIII, §2844, Dec. 27, 2021, 135 Stat. 2202, provided that:

“(a) CONSIDERATION OF INCLUDING ENERGY MICROGRID IN MILITARY CONSTRUCTION PROJECTS.—

“(1) AMENDMENT OF UNIFIED FACILITIES CRITERIA REQUIRED.—The Secretary of Defense shall amend the Unified Facilities Criteria/DoD Building Code (UFC 1-200-01) to require that planning and design for military construction projects inside the United States include consideration of the feasibility and cost-effectiveness of installing an energy microgrid as part of the project, including intentional islanding capability of at least seven consecutive days, for the purpose of—

“(A) promoting on-installation energy security and energy resilience; and

“(B) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code, as added and amended by section 2825 of the Military Construction Authorization Act for Fiscal Year 2021 (division B of Public Law 116-283).

“(2) DEADLINE.—The Secretary of Defense shall complete the amendment process required by paragraph (1) and implement the amendment not later than September 1, 2022.

“(b) CONTRACTS FOR EMERGENCY ACCESS TO EXISTING ON-INSTALLATION RENEWABLE ENERGY SOURCES.—In the case of a covered renewable energy generating source located on a military installation pursuant to a lease of non-excess defense property under section 2667 of title 10, United States Code, the Secretary of the military department concerned is encouraged to negotiate with the owner and operator of the renewable energy generating source to revise the lease contract to permit the military installation to access the renewable energy generating source during an emergency. The negotiations shall include consideration of the ease of modifying the renewable energy generating source to include an islanding capability, the necessity of additional infrastructure to tie the renewable energy generating source into the installation energy grid, and the cost of such modifications and infrastructure.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘covered renewable energy generating source’ means a renewable energy generating source that, on the date of the enactment of this Act [Dec. 27, 2021]—

“(A) is located on a military installation inside the United States; but

“(B) cannot be used as a direct source of resilient energy for the installation in the event of a power disruption.

“(2) The term ‘islanding capability’ refers to the ability to remove an energy system, such as a

microgrid, from the local utility grid and to operate the energy system, at least temporarily, as an integrated, stand-alone system, during an emergency involving the loss of external electric power supply.

“(3) The term ‘microgrid’ means an integrated energy system consisting of interconnected loads and energy resources with an islanding capability to permit functioning separate from the local utility grid.”

PILOT PROGRAM ON INCREASED USE OF SUSTAINABLE BUILDING MATERIALS IN MILITARY CONSTRUCTION

Pub. L. 117-81, div. B, title XXVIII, §2861, Dec. 27, 2021, 135 Stat. 2212, provided that:

“(a) PILOT PROGRAM REQUIRED.—Each Secretary of a military department shall conduct a pilot program to evaluate the effect that the use of sustainable building materials as the primary construction material in military construction may have on the environmental sustainability, infrastructure resilience, cost effectiveness, and construction timeliness of military construction.

“(b) PROJECT SELECTION AND LOCATIONS.—

“(1) MINIMUM NUMBER OF PROJECTS.—Each Secretary of a military department shall carry out at least one military construction project under the pilot program.

“(2) PROJECT LOCATIONS.—The pilot program shall be conducted at military installations in the continental United States—

“(A) that are identified as vulnerable to extreme weather events; and—

“(B) for which a military construction project is authorized but a request for proposal has not been released.

“(c) INCLUSION OF MILITARY UNACCOMPANIED HOUSING PROJECT.—The Secretaries of the military departments shall coordinate the selection of military construction projects to be carried out under the pilot program so that at least one of the military construction projects involves construction of military unaccompanied housing.

“(d) DURATION OF PROGRAM.—The authority of the Secretary of a military department to carry out a military construction project under the pilot program shall expire on September 30, 2024. Any construction commenced under the pilot program before the expiration date may continue to completion.

“(e) REPORTING REQUIREMENT.—

“(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], and every 180 days thereafter through December 31, 2024, the Secretaries of the military departments shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report on the progress of the pilot program.

“(2) REPORT ELEMENTS.—The report shall include the following:

“(A) A description of the status of the military construction projects selected to be conducted under the pilot program.

“(B) An explanation of the reasons why those military construction projects were selected.

“(C) An analysis of the following:

“(i) The projected or actual carbon footprint over the full life cycle of the various sustainable building materials evaluated in the pilot program.

“(ii) The life cycle costs of the various sustainable building materials evaluated in the pilot program.

“(iii) The resilience to extreme weather events of the various sustainable building materials evaluated in the pilot program.

“(iv) Any impact on construction timeliness of using the various sustainable building materials evaluated in the pilot program.

“(v) The cost effectiveness of the military construction projects conducted under the pilot program using sustainable building materials as

compared to other materials historically used in military construction.

“(D) Any updated guidance the Under Secretary of Defense for Acquisition and Sustainment has released in relation to the procurement policy for future military construction projects based on comparable benefits realized from use of sustainable building materials, including guidance on prioritizing sustainable materials in establishing evaluation criteria for military construction project contracts when technically feasible.

“(f) SUSTAINABLE BUILDING MATERIALS DEFINED.—In this section, the term ‘sustainable building material’ means any building material the use of which will reduce carbon emissions over the life cycle of the building. The term includes mass timber, concrete, and other carbon-reducing materials.”

PILOT PROGRAM TO AUTHORIZE ADDITIONAL MILITARY CONSTRUCTION PROJECTS FOR CHILD DEVELOPMENT CENTERS AT MILITARY INSTALLATIONS

Pub. L. 116-283, div. B, title XXVIII, §2865, Jan. 1, 2021, 134 Stat. 4360, provided that:

“(a) AUTHORIZATION OF ADDITIONAL PROJECTS.—Each Secretary of a military department shall conduct a pilot program under which the Secretary may carry out military construction projects for child development centers at military installations, as specified in the funding table in section 4601 of a National Defense Authorization Act for a fiscal year covered by the pilot program. The military construction projects authorized under the pilot program are in addition to other military construction projects authorized by this Act or other National Defense Authorization Acts for fiscal years covered by the pilot program.

“(b) REPORTING REQUIREMENT AS CONDITION OF AUTHORIZATION.—

“(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of a National Defense Authorization Act for a fiscal year covered by the pilot program, the Secretary of the military department concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the location, title, and cost, together with a Department of Defense Form 1391, for each military construction project the Secretary proposes to carry out under the pilot program pursuant to that National Defense Authorization Act.

“(2) TIMING OF AVAILABILITY OF FUNDS.—No funds may be obligated or expended for a military construction project under the pilot program—

“(A) unless the project is included in a report submitted under paragraph (1); and

“(B) until the expiration of the 30-day period beginning on the date on which the Secretary concerned submits the report under paragraph (1) in which the project is included.

“(c) EXPIRATION OF AUTHORIZATION.—Section 2002 of a National Defense Authorization Act for a fiscal year covered by the pilot program shall apply with respect to the authorization of a military construction project carried out under the pilot program pursuant to that National Defense Authorization Act in the same manner as such section applies to the authorization of military construction projects contained in titles XXI through XXIII of that National Defense Authorization Act.

“(d) COVERED FISCAL YEARS.—The pilot program shall be carried out for each of fiscal years 2021 through 2025, as provided in the National Defense Authorization Act for that fiscal year.”

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE MILITARY INSTALLATION RESILIENCE, ENERGY RESILIENCE, ENERGY AND CLIMATE RESILIENCY, AND CYBER RESILIENCE

Pub. L. 116-92, div. B, title XXVIII, §2804, Dec. 20, 2019, 133 Stat. 1882, provided that:

“(a) AMENDMENT REQUIRED.—

“(1) IN GENERAL.—Not later than September 1, 2020, the Secretary of Defense shall amend the Unified Facility Criteria relating to military construction planning and design, to ensure that building practices and standards of the Department of Defense promote military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

“(2) CONSIDERATIONS AND CONSULTATION.—In preparing amendments pursuant to paragraph (1), the Secretary of Defense—

“(A) shall take into account historical data, current conditions, and sea level rise projections; and

“(B) may consult with the heads of other Federal departments and agencies with expertise regarding military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

“(b) CONDITIONAL AVAILABILITY OF FUNDS.—Not more than 25 percent of the funds authorized to be appropriated for fiscal year 2020 for Department of Defense planning and design accounts relating to military construction projects may be obligated until the date on which the Secretary of Defense submits to the Committees on Armed Services of the House of Representatives and the Senate a certification that the Secretary—

“(1) has initiated the amendment process required by subsection (a)(1); and

“(2) intends to complete such process by September 1, 2020.

“(c) UPDATE OF UNIFIED FACILITIES CRITERIA TO INCLUDE CHANGING ENVIRONMENTAL CONDITION PROJECTIONS.—[Amended section 2805(c) of Pub. L. 115-232, set out as a note under section 2864 of this title.]

“(d) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

“(1) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2020 shall comply with the Unified Facility Criteria, as amended pursuant to this section.

“(2) CERTIFICATION.—Not later than March 1, 2021, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion and full incorporation into military construction planning and design—

“(A) amendments made pursuant to subsection (a); and

“(B) amendments made pursuant to section 2805(c) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115-232; 132 Stat. 2262; 10 U.S.C. 2864 note), as amended by subsection (c).

“(e) ANNUAL REVIEW.—Beginning with fiscal year 2022, and annually thereafter, the Secretary of Defense shall conduct a review comparing the Unified Facility Criteria and industry best practices, for the purpose of ensuring that military construction building practices and standards of the Department of Defense relating to military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience remain up-to-date.

“(f) DEFINITIONS.—In this section:

“(1) The terms ‘energy resilience’ and ‘military installation resilience’ have the meanings given those terms in section 101(e) of title 10, United States Code.

“(2) The term ‘energy and climate resiliency’ has the meaning given that term in section 2864 of title 10, United States Code.”

MODIFICATION TO DEPARTMENT OF DEFENSE FORM 1391 REGARDING CONSIDERATION OF POTENTIAL LONG-TERM ADVERSE ENVIRONMENTAL EFFECTS

Pub. L. 116-92, div. B, title XXVIII, §2805, Dec. 20, 2019, 133 Stat. 1884, provided that:

“(a) MODIFICATION.—

“(1) CERTIFICATION REQUIREMENT.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval, the inclusion of a

certification by the Secretary of Defense or the Secretary of the military department concerned that the proposed military construction project takes into consideration—

“(A) the potential adverse consequences of long-term changes in environmental conditions, such as increasingly frequent extreme weather events, that could affect the military installation resilience of the installation for which the military construction project is proposed; and

“(B) building requirements in effect for the locality in which the military construction project is proposed and industry best practices that are developed to withstand extreme weather events and other consequences of changes in environmental conditions.

“(2) ELEMENTS OF CERTIFICATION.—As part of the certification required by paragraph (1) for a proposed military construction project, the Secretary concerned shall identify the potential changes in environmental conditions, such as increasingly frequent extreme weather events, considered and addressed under subparagraphs (A) and (B) of paragraph (1).

“(b) RELATION TO RECENT MODIFICATION REQUIREMENT.—The modification of Department of Defense Form 1391 required by subsection (a) is in addition to, and expands upon, the modification of Department of Defense Form 1391 with respect to flood risk disclosure for military construction required by section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note).

“(c) MILITARY INSTALLATION RESILIENCE DEFINED.—In this section, the term ‘military installation resilience’ has the meaning given that term in section 101(e)(8) of title 10, United States Code.”

PILOT PROGRAM TO EXTEND SERVICE LIFE OF ROADS AND RUNWAYS UNDER THE JURISDICTION OF THE SECRETARY OF DEFENSE

Pub. L. 116–92, div. B, title XXVIII, § 2865, Dec. 20, 2019, 133 Stat. 1901, provided that:

“(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Transportation, may carry out a pilot program to design, build, and test technologies, techniques, and materials in order to extend the service life of roads and runways under the jurisdiction of the Secretary of Defense.

“(b) SCOPE.—The pilot program under subsection (a) shall include the following:

“(1) The design, testing, and assembly of technologies and systems suitable for pavement applications.

“(2) Research, development, and testing of pavement materials for use in different geographic areas in the United States.

“(3) The design and procurement of platforms and equipment to test the performance, cost, feasibility, and effectiveness of the technologies, systems, and materials described in paragraphs (1) and (2).

“(c) AWARD OF CONTRACTS OR GRANTS.—

“(1) IN GENERAL.—The Secretary of Defense may carry out the pilot program under subsection (a) through the award of contracts or grants for the designing, building, or testing of technologies, techniques, and materials under the pilot program.

“(2) MERIT-BASED SELECTION.—Any award of a contract or grant under the pilot program under subsection (a) shall be made using merit-based selection procedures.

“(d) REPORT.—

“(1) IN GENERAL.—Not later than two years after the commencement of the pilot program under subsection (a), 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 on the pilot program.

“(2) CONTENTS.—The report under paragraph (1) with respect to the pilot program shall include the following:

“(A) An assessment of the effectiveness of activities under the pilot program in improving the service life of roads and runways under the jurisdiction of the Secretary.

“(B) An analysis of the potential lifetime cost savings and reduction in energy demands associated with the extended service life of such roads and runways.

“(e) TERMINATION OF AUTHORITY.—The pilot program under subsection (a) shall terminate on September 30, 2024.”

UPDATES AND MODIFICATIONS TO DEPARTMENT OF DEFENSE FORM 1391, UNIFIED FACILITIES CRITERIA, AND MILITARY INSTALLATION MASTER PLANS

Pub. L. 117–81, div. B, title XXVIII, § 2805(d), Dec. 27, 2021, 135 Stat. 2189, provided that:

“(1) AMENDMENT REQUIRED.—Not later than September 1, 2022, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the minimum flood mitigation requirements of section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note), as amended by this section.

“(2) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

“(A) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2022, shall comply with the Unified Facilities Criteria, as amended pursuant to paragraph (1).

“(B) CERTIFICATION.—Not later than March 1, 2023, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion of the amendment process required by paragraph (1) and the full incorporation of the amendments into military construction planning and design.”

Pub. L. 115–232, div. B, title XXVIII, § 2805(a), (b), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116–92, div. B, title XXVIII, § 2806, Dec. 20, 2019, 133 Stat. 1884; Pub. L. 117–81, div. B, title XXVIII, § 2805(a)–(c), Dec. 27, 2021, 135 Stat. 2189, provided that:

“(a) FLOOD RISK DISCLOSURE FOR MILITARY CONSTRUCTION.—

“(1) IN GENERAL.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval—

“(A) disclosure whether a proposed project will be sited within or partially within a 100-year floodplain or a 500-year floodplain if outside a 100-year floodplain, according to the most recent available Federal Emergency Management Agency flood hazard data, or will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project; and

“(B) if the proposed project will be sited within or partially within a floodplain described in subparagraph (A) or will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the specific risk mitigation plan.

“(2) DELINEATION OF FLOODPLAIN.—To the extent that Federal Emergency Management Agency flood hazard data are not available for a proposed major or minor military construction site, the Secretary concerned shall establish a process for delineating the 100-year floodplain using risk analysis that is consistent with the standards used to inform Federal flood risk assessments.

“(3) REPORTING REQUIREMENTS.—For proposed projects that are to be sited within or partially within a 100-year floodplain or are to be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall submit to the congressional defense com-

mittees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report with the following:

“(A) An assessment of flood vulnerability for the proposed project using hydrologic, hydraulic, and hydrodynamic data, methods, and analysis that integrate current and projected changes in flooding based on climate science over the anticipated service life of the facility and future forecasted land use changes.

“(B) Any information concerning alternative construction sites that were considered, and an explanation of why those sites do not satisfy mission requirements.

“(C) A description of planned flood mitigation measures.

“(D) A description of how the proposed project has taken into account projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

“(4) MINIMUM FLOOD MITIGATION REQUIREMENTS.—When mitigating the flood risk of a major or minor military construction project within or partially within the 100-year floodplain or that will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall require any mitigation plan to assume—

“(A) an additional 2 feet above the base flood elevation for non-mission critical facilities, as determined by the Secretary;

“(B) an additional 3 feet above the base flood elevation for mission-critical facilities, as determined by the Secretary; and

“(C) any additional flooding that will result from projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

“(b) DISCLOSURE REQUIREMENTS FOR DEPARTMENT OF DEFENSE FORM 1391.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend Department of Defense Form 1391 to require, for each requested military construction project—

“(1) disclosure whether the project was included in the prior year’s future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code; and

“(2) inclusion of an energy study or life cycle analysis.”

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 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 five-day period beginning on the date the notification is received by such committees 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; Pub. L. 115-91, div. B, title XXVIII, §2801(a)(1), Dec. 12, 2017, 131 Stat. 1840.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91 struck out “in writing” after “submit a report” and “or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided” after “such committees” and substituted “five-day period” for “seven-day period”.

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