

“(B) NOTIFICATION.—If the Secretary of Defense determines that a projection other than a projection described in subparagraph (A)(ii) is more appropriate for use in amending the Unified Facilities Criteria, the Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such determination, which shall include the rationale underlying such determination and a description of such other projection.”

[Section 1731(b)(4) of Pub. L. 116-92, which directed amendment of section 2805(c) of Pub. L. 115-232, set out above, by substituting “Unified Facilities Criteria” for “United Facilities Criteria”, was not executed in light of the amendment by section 2804(c)(2) of Pub. L. 116-92, which substituted “Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02” for “United Facilities Criteria (UFC) 2-100-01 and UFC 2-100-02”.]

§ 2865. Work in Process Curve charts and outlay tables for military construction projects

Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include for any military construction project over \$90,000,000, as an addendum to be included within the same document as the 1391s for the Military Construction Program budget documentation, a Project Spending Plan that includes—

- (1) a Work in Process Curve chart to identify funding, obligations, and outlay figures; and
- (2) a monthly outlay table for funding, obligations, and outlay figures.

(Added Pub. L. 115-232, div. B, title XXVIII, § 2806(a)(1), Aug. 13, 2018, 132 Stat. 2264.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2865, added Pub. L. 101-510, div. B, title XXVIII, § 2851(a), Nov. 5, 1990, 104 Stat. 1803; amended Pub. L. 102-484, div. B, title XXVIII, § 2801, Oct. 23, 1992, 106 Stat. 2604; Pub. L. 103-160, div. B, title XXVIII, § 2804, Nov. 30, 1993, 107 Stat. 1885; Pub. L. 103-337, div. A, title X, § 1070(a)(14), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title XV, § 1502(a)(27), div. B, title XXVIII, § 2819, Feb. 10, 1996, 110 Stat. 506, 555; Pub. L. 105-85, div. A, title III, § 371(d)(2), div. B, title XXVIII, § 2804(a), Nov. 18, 1997, 111 Stat. 1706, 1990; Pub. L. 107-314, div. B, title XXVIII, § 2805, Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108-136, div. A, title X, § 1031(a)(47), div. B, title XXVIII, § 2812(a), Nov. 24, 2003, 117 Stat. 1602, 1725, related to energy savings at military installations, prior to repeal by Pub. L. 109-364, div. B, title XXVIII, § 2851(a)(2), Oct. 17, 2006, 120 Stat. 2494.

Statutory Notes and Related Subsidiaries

DEPARTMENT OF DEFENSE GUIDANCE

Pub. L. 115-232, div. B, title XXVIII, § 2806(b), Aug. 13, 2018, 132 Stat. 2264, provided that: “The Secretary of Defense shall, in coordination with the Under Secretary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14-R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with section 2865 of title 10, United States Code, as added by this section.”

§ 2866. Water conservation at military installations

(a) WATER CONSERVATION ACTIVITIES.—(1) The Secretary of Defense shall permit and encourage

each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by a utility for the management of water demand or for water conservation.

(2) The Secretary of Defense may authorize a military installation to accept a financial incentive (including an agreement to reduce the amount of a future water bill), goods, or services generally available from a utility, for the purpose of adopting technologies and practices that—

(A) relate to the management of water demand or to water conservation; and

(B) as determined by the Secretary, are cost effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into an agreement with a utility to design and implement a cost-effective program that provides incentives for the management of water demand and for water conservation and that addresses the requirements and circumstances of the installation. Activities under the program may include the provision of water management services, the alteration of a facility, and the installation and maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received from utilities for management of water demand or water conservation under subsection (a)(2) shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(2) Water cost savings realized under subsection (a)(3) shall be used as follows:

(A) One-half of the amount shall be used for water conservation activities at such buildings, facilities, or installations of the Department of Defense as may be designated (in accordance with regulations prescribed by the Secretary of Defense) by the head of the de-

partment, agency, or instrumentality that realized the water cost savings.

(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

- (i) improvements to existing military family housing units;
- (ii) any unspecified minor construction project that will enhance the quality of life of personnel; or
- (iii) any morale, welfare, or recreation facility or service.

(C) WATER CONSERVATION CONSTRUCTION PROJECTS.—(1) The Secretary of Defense may carry out a military construction project for water conservation, not previously authorized, using funds appropriated or otherwise made available to the Secretary for water conservation.

(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify the appropriate committees of Congress of that decision. Such project may be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 103–160, div. B, title XXVIII, §2803(a), Nov. 30, 1993, 107 Stat. 1884; amended Pub. L. 104–106, div. A, title XV, §1502(a)(27), Feb. 10, 1996, 110 Stat. 506; Pub. L. 105–85, div. B, title XXVIII, §2804(b), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108–136, div. A, title X, §1031(a)(48), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 109–364, div. B, title XXVIII, §2851(d), Oct. 17, 2006, 120 Stat. 2495; Pub. L. 113–291, div. A, title X, §1071(f)(25), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1051(a)(24), div. B, title XXVIII, §2801(c)(5), Dec. 12, 2017, 131 Stat. 1562, 1844.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b)(3). Pub. L. 115–91, §1051(a)(24), struck out par. (3) which read as follows: “The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this subsection in that fiscal year.”

Subsec. (c)(2). Pub. L. 115–91, §2801(c)(5), substituted “14-day period” for “21-day period” and struck out “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided” after “received by such committees”.

2014—Subsec. (a)(4)(A). Pub. L. 113–291 substituted “repaid” for “repayed”.

2006—Subsec. (b). Pub. L. 109–364 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) Financial incentives received under subsection (a)(2) shall be used as provided in section 2865(b)(3) of this title.

“(2) Water cost savings realized under subsection (a)(3) shall be used as provided in section 2865(b)(2) of this title.”

2003—Subsec. (c)(2). Pub. L. 108–136 inserted before period at end “or, if earlier, the end of the 14-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”.

1997—Subsec. (b). Pub. L. 105–85 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) USE OF WATER COST SAVINGS.—Water cost savings realized under this section shall be used as provided in section 2865(b)(2) of this title.”

1996—Subsec. (c)(2). Pub. L. 104–106 substituted “appropriate committees of Congress” for “Committees on Armed Services and Appropriations of the Senate and House of Representatives”.

Statutory Notes and Related Subsidiaries

IMPROVING WATER MANAGEMENT AND SECURITY ON MILITARY INSTALLATIONS.

Pub. L. 116–283, div. B, title XXVIII, §2827, Jan. 1, 2021, 134 Stat. 4336, provided that:

“(a) RISK-BASED APPROACH TO INSTALLATION WATER MANAGEMENT AND SECURITY.—

“(1) GENERAL REQUIREMENT.—The Secretary concerned shall adopt a risk-based approach to water management and security for each military installation under the jurisdiction of the Secretary.

“(2) IMPLEMENTATION PRIORITIES.—The Secretary concerned shall begin implementation of paragraph (1) by prioritizing those military installations under the jurisdiction of the Secretary that the Secretary determines—

“(A) are experiencing the greatest risks to sustainable water management and security; and

“(B) face the most severe existing or potential adverse impacts to mission assurance as a result of such risks.

“(3) DETERMINATION METHOD.—Determinations under paragraph (2) shall be made on the basis of the water management and security assessments made by the Secretary concerned under subsection (b).

“(b) WATER MANAGEMENT AND SECURITY ASSESSMENTS.—

“(1) ASSESSMENT METHODOLOGY.—The Secretaries concerned, acting jointly, shall develop a methodology to assess risks to sustainable water management and security and mission assurance.

“(2) ELEMENTS.—Required elements of the assessment methodology shall include the following:

“(A) An evaluation of the water sources and supply connections for a military installation, including water flow rate and extent of competition for the water sources.

“(B) An evaluation of the age, condition, and jurisdictional control of water infrastructure serving the military installation.

“(C) An evaluation of the military installation’s water-security risks related to drought-prone climates, impacts of defense water usage on regional water demands, water quality, and legal issues, such as water rights disputes.

“(D) An evaluation of the resiliency of the military installation’s water supply and the overall health of the aquifer basin of which the water supply is a part, including the robustness of the resource, redundancy, and ability to recover from disruption.

“(E) An evaluation of existing water metering and consumption at the military installation, considered at a minimum—

“(i) by type of installation activity, such as training, maintenance, medical, housing, and grounds maintenance and landscaping; and

“(ii) by fluctuations in consumption, including peak consumption by quarter.

“(c) EVALUATION OF INSTALLATIONS FOR POTENTIAL NET ZERO WATER USAGE.—

“(1) EVALUATION REQUIRED.—The Secretary concerned shall conduct an evaluation of each military installation under the jurisdiction of the Secretary to determine the potential for the military installation, or at a minimum certain installation activities, to achieve net zero water usage.

“(2) ELEMENTS.—Required elements of each evaluation shall include the following:

“(A) An evaluation of alternative water sources to offset use of freshwater, including water recycling and harvested rainwater for use as non-potable water.

“(B) An evaluation of the feasibility of implementing Department of Energy guidelines for net zero water usage, when practicable, to minimize water consumption and wastewater discharge in buildings scheduled for renovation.

“(C) An evaluation of the practicality of implementing net zero water usage technology into new construction in water-constrained areas, as determined by water management and security assessments conducted under subsection (b).

“(d) IMPROVED LANDSCAPING MANAGEMENT PRACTICES.—

“(1) LANDSCAPING MANAGEMENT.—The Secretary concerned shall implement, to the maximum extent practicable, at each military installation under the jurisdiction of the Secretary landscaping management practices to increase water resilience and ensure greater quantities of water availability for operational, training, and maintenance requirements.

“(2) ARID OR SEMI-ARID CLIMATES.—For military installations located in arid or semi-arid climates, landscaping management practices shall include the use of xeriscaping.

“(3) NON-ARID CLIMATES.—For military installations located in non-arid climates, landscaping management practices shall include the use of plants common to the region in which the installation is located and native grasses and plants.

“(4) POLLINATOR CONSERVATION REFERENCE GUIDE.—The Secretary concerned shall follow the recommendations of the Department of Defense Pollinator Conservation Reference Guide (September 2018) to the maximum extent practicable in order to reduce operation and maintenance costs related to landscaping management, while improving area management. Consistent with such guide, in the preparation of a military installation landscaping plan, the Secretary concerned should consider the following:

“(A) Adding native flowering plants to sunny open areas and removing overhanging tree limbs above open patches within forested areas or dense shrub.

“(B) Removing or controlling invasive plants to improve pollinator habitat.

“(C) Preserving known and potential pollinator nesting and overwintering sites.

“(D) Eliminating or minimizing pesticide use in pollinator habitat areas.

“(E) Mowing in late fall or winter after plants have bloomed and set seed, adjusting timing to avoid vulnerable life stages of special status pollinators.

“(F) Mowing mid-day when adult pollinators can avoid mowing equipment.

“(e) IMPLEMENTATION REPORT.—

“(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in coordination with the other Secretaries concerned, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress made in implementing this section.

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

“(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.