

“(iii) The average age of distribution system piping and wiring.

“(iv) The rate of system recapitalization, represented as an annual percentage replacement rate of all critical infrastructure system assets.

“(v) For the one-year period preceding the date of submission of the report, the percentage of key system operational components (including fire hydrants, valves, and backflow preventors) inspected and determined through testing to be fully operational.

“(vi) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all unplanned system outages.

“(vii) For the one-year period preceding the date of submission of the report, the absolute duration, and a normalized measure for comparative purposes, of all unplanned system outages.

“(viii) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all critical infrastructure system main breaks and leaks.

“(B) A standardized risk assessment for each military installation, identifying the current and projected level of risk related to the following:

“(i) The ability to maintain compliance with applicable current and proposed State regulations and standards and applicable regulations and policies of the Department of Defense and the military departments related to each critical infrastructure system described in paragraph (1), and the ability to operate critical infrastructure systems in accordance with accepted industry standards.

“(ii) The ability to maintain a consistent and compliant supply of water for current and projected future installation needs based on current and projected source water availability and quality, including an assessment of source water contamination risks for each critical infrastructure system described in paragraph (1).

“(iii) The ability of each critical infrastructure system described in paragraph (1) to withstand severe weather events, including drought, flooding, and temperature fluctuations.

“(iv) The ability for utility industrial controls systems for each critical infrastructure system described in paragraph (1) to maintain compliance with applicable current and proposed cybersecurity standards and regulations.

“(3) FORM.—A report under this subsection shall be submitted in an unclassified form but may contain a classified annex.

“(C) CRITICAL INFRASTRUCTURE SYSTEM DEFINED.—In this section, the term ‘critical infrastructure system’ includes a transportation infrastructure system and a utilities infrastructure system.”

#### PILOT PROGRAM TO SUPPORT COMBATANT COMMAND MILITARY CONSTRUCTION PRIORITIES

Pub. L. 116-283, div. B, title XXVIII, §2863, Jan. 1, 2021, 134 Stat. 4358, provided that:

“(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to evaluate the usefulness of reserving a portion of the military construction funds of the military departments to help the combatant commands satisfy their military construction priorities in a timely manner.

“(b) LOCATION.—The Secretary of Defense shall conduct the pilot program for the benefit of the United States Indo-Pacific Command in the area of responsibility of the United States Indo-Pacific Command.

“(c) REQUIRED INVESTMENT.—For each fiscal year during which the pilot program is conducted, the Secretary of Defense shall reserve to carry out military construction projects under the pilot program an amount equal to 10 percent of the total amount authorized to be appropriated for military construction

projects by titles XXI, XXII, and XXIII of the Military Construction Authorization Act for that fiscal year.

“(d) COMMENCEMENT AND DURATION.—

“(1) COMMENCEMENT.—The Secretary of Defense shall commence the pilot program no later than October 1, 2023. The Secretary may commence the pilot program as early as October 1, 2022, if the Secretary determines that compliance with the reservation of funds requirement under subsection (c) is practicable beginning with fiscal year 2023.

“(2) DURATION.—The pilot program shall be in effect for the fiscal year in which the Secretary commences the pilot program, as described in paragraph (1), and the subsequent two fiscal years. Any construction commenced under the pilot program before the expiration date may continue to completion.

“(e) PROGRESS REPORT.—Not later than February 15 of the final fiscal year of the pilot program, 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 evaluating the success of the pilot program in improving the timeliness of the United States Indo-Pacific Command in achieving its military construction priorities. The Secretary shall include in the report—

“(1) an evaluation of the likely positive and negative impacts were the pilot program extended or made permanent and, if extended or made permanent, the likely positive and negative impacts of expansion to cover all or additional combatant commands; and

“(2) the recommendations of the Secretary regarding whether the pilot program should be extended or made permanent and expanded.”

#### 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.

##### PILOT PROGRAM TO OPTIMIZE AND CONSOLIDATE DEPARTMENT OF DEFENSE FACILITIES TO IMPROVE HEALTH AND RESILIENCY IN DEFENSE COMMUNITIES

Pub. L. 118-159, div. B, title XXVIII, § 2848, Dec. 23, 2024, 138 Stat. 2266, provided that:

“(a) ESTABLISHMENT.—Using funds available for minor military construction, the Secretary of Defense may conduct a pilot program to—

“(1) conduct a study to assess the feasibility [sic] and effectiveness of the implementation of a more comprehensive initiative to optimize the total square footage of facilities maintained by the Department of Defense; and

“(2) subject to the requirements of subsection (b) carry out military construction projects, not otherwise authorized by law, to—

“(A) optimize and consolidate facilities, including leased facilities, to ensure the scale and scope of the infrastructure footprint of such facilities aligns with the operational needs of the Department; and

“(B) create more resilient and healthy communities located on military installations.

“(b) MILITARY CONSTRUCTION PROJECTS AUTHORIZED.—

“(1) REQUIREMENTS.—The Secretary may carry out a military construction project under such pilot program if—

“(A) the facilities subject to such a military construction project are occupied as of the date of the commencement of such military construction project;

“(B) except as provided in paragraph (2), such facilities are demolished pursuant to such military construction project;

“(C) in the case of a facility subject to such a military construction project that is leased by the Department, the Secretary terminates the lease for such facility, except as provided in paragraph (2); and

“(D) the military construction project will result in new facilities that have at least 20 percent less square footage (or equivalent unit of measure) than the facilities subject to such military construction project;

“(E) the Secretary conducts an economic analysis of the military construction project that accounts for anticipated cost requirements for the design, construction, sustainment, restoration, modernization, operation, and demolition of new and existing facilities subject to such military construction project; and

“(F) the results of such economic analysis support a positive net present value over a 20-year period.

“(2) EXCEPTION.—The requirements of subparagraphs (B) and (C) of paragraph (1) shall not apply to a facility that is subject to a military construction project under the pilot program if the Secretary determines that such facility will be an integral part of new facilities constructed pursuant to such military construction project.

“(3) PROJECT COST.—A military construction project carried out under such pilot program may not exceed a total cost of \$25,000,000.

“(4) LIMITATION.—Not more than five military construction projects may be carried out under the pilot program.

“(c) CONGRESSIONAL NOTIFICATION.—

“(1) IN GENERAL.—Not later than 14 days before awarding a contract for a military construction project under such pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of such military construction project.

“(2) ELEMENTS.—Such notice shall include, with respect to the military construction project covered by such notice—

“(A) the justification and current cost estimate;

“(B) the expected savings-to-investment ratio;

“(C) simple payback estimates;

“(D) the measurement and verification cost estimate; and

“(E) a description of how the project would improve the functions of the supported military department and the efficient management of real property of the Department of Defense.

“(d) REPORT.—

“(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section [Dec. 23, 2024], the Secretary shall submit to the congressional defense committees a report on completed military construction projects carried out pursuant to the pilot program.

“(2) ELEMENTS.—Such report shall include, for each military construction project covered by the report, the following:

“(A) The title and location of the military construction project, a brief description of the scope of work, the original project cost estimate, and the completed total project cost.

“(B) The original expected savings-to-investment ratio, simple payback estimates included in the notice required under subsection (c), annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

“(C) The actual savings-to-investment ratio, and simple payback estimates, annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

“(D) A brief description of the measurement and verification plan and planned funding source, to include the net change in the square footage (or other unit of measure) reduction accomplished by the military construction project.

“(E) How the military construction project improved the functions of and the efficient management of real property by the supported military department or entity using the applicable facility.

“(F) Such other information as the Secretary considers appropriate.

“(e) SUNSET.—

“(1) TERMINATION DATE.—Except as provided in paragraph (2), the authority of the Secretary to carry out a military construction project under the pilot program shall terminate on the date that is three years after the date of the enactment of this section.

“(2) EXCEPTION.—If the Secretary submits a congressional notification under subsection (d) before the date that is three years after the date of the enactment of this section, the covered project that is the subject of such notification may be carried out to completion.

“(f) DEFINITIONS.—In this section, the terms ‘facility’ and ‘military construction project’ have the meanings given such terms, respectively, in section 2801 of title 10, United States Code.”

GUIDANCE REGARDING MAINTENANCE OF AGGREGATE SQUARE FOOTAGE OF FACILITIES OF DEPARTMENT OF DEFENSE

Pub. L. 118-159, div. B, title XXVIII, §2849, Dec. 23, 2024, 138 Stat. 2268, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue guidance regarding the maintenance of the aggregate square footage of facilities of the Department of Defense, which shall be designated as ‘1 in 1 out guidance’, pursuant to the requirements of this section.

“(b) MAINTENANCE OF SQUARE FOOTAGE.—Guidance required under subsection (a) shall ensure that every square footage of growth of a facility is offset with an equivalent reduction in square footage by—

“(1) a funded disposal action; or

“(2) identifying facilities to be entered into a contingency operational status.

“(c) DOCUMENTATION.—Upon completion of the design phase of a project that results in the growth of a facility, the Secretary of Defense shall update the Department of Defense Form 1391 for such project to identify the reduction in square footage to accompany such increase.

“(d) SUBMISSION.—Not later than 15 days after the date of submission of the defense budget materials for fiscal year 2026 (as submitted to Congress in support of the budget of the President under section 1105(a) of title 31, United States Code), and for each subsequent submission thereafter, each Secretary of a military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

“(1) a list of facilities scheduled for a disposal action described in subsection (b) for the fiscal year covered by the submission and the subsequent fiscal year; and

“(2) a list of facilities, disaggregated by military installation, for which a disposal action has been completed during the fiscal year preceding the date of the submission.

“(e) APPLICATION.—This section and the requirements of this section shall apply to—

“(1) military construction or unspecified minor military construction (as defined under section 2805

of title 10, United States Code) funded in fiscal year 2027 or a subsequent fiscal year; and

“(2) other sources of growth on or after the date of the enactment of this Act [Dec. 23, 2024].

“(f) EXCEPTIONS.—This section and the requirements of this section do not apply to the following:

“(1) The Sentinel intercontinental ballistic missile weapon system program.

“(2) Public shipyards covered by the Shipyard Infrastructure Optimization Program.

“(3) MHPI housing (as defined under section 606 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232; 10 U.S.C. 2871 note).

“(g) GROWTH OF A FACILITY DEFINED.—In this section, the term ‘growth of a facility’ means, with respect to a facility (as defined in section 2801 of title 10, United States Code), an increase in the square footage of such facility due to—

“(1) carrying out a military construction project or an unspecified minor military construction project (pursuant to section 2805 of title 10, United States Code);

“(2) acquisition of an existing facility on land owned by a military department;

“(3) a gift of construction;

“(4) construction of a facility carried out through the use of nonappropriated funds, private funds, or family housing funds, if the facility will be sustained with appropriated operation and maintenance funds; or

“(5) the use of appropriated funds to sustain a facility that was previously sustained with nonappropriated funds, private funds, or family housing funds.”

NOTIFICATION TO MEMBERS OF CONGRESS FOR AWARDS OF CONTRACTS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118-159, div. B, title XXVIII, §2874, Dec. 23, 2024, 138 Stat. 2283, provided that:

“(a) NOTIFICATION REQUIRED.—Not later than 30 days after the date of award of a contract for a military construction project, the Secretary of the military department with jurisdiction over such project shall notify the following Members of Congress:

“(1) Any Member representing the State in which such contract will be performed.

“(2) Any Member representing the State in which the contractor awarded such contract is a constituent of such Member.

“(b) ELEMENTS.—A notification under subsection (a) shall include the following:

“(1) The proposed value of the contract.

“(2) The contractor awarded the contract.

“(3) A brief description of the project that is the subject of the contract, including the location in which the contract will be performed.”

DESIGNATION OF OFFICIALS RESPONSIBLE FOR COORDINATION OF INFRASTRUCTURE PROJECTS TO SUPPORT ADDITIONAL MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES IN THE INDO-PACIFIC REGION

Pub. L. 118-159, div. B, title XXVIII, §2880, Dec. 23, 2024, 138 Stat. 2290, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate two officials employed by the Department of Defense or a military department as of the date of the enactment of this Act as follows:

“(1) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Hawaii.

“(2) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Guam and the Northern Mariana Islands.

“(b) DUTIES.—Each official described in subsection (a) shall, in coordination with appropriate officials from

the military departments and the United States Indo-Pacific Command—

“(1) coordinate Department of Defense-wide efforts relating to the infrastructure needs associated with the significant addition of members of the Armed Forces and their families to the region for which such official is the designated official pursuant to subsection (a) during the 10-year period following the date of the enactment of this Act;

“(2) analyze the expected impact on State and local government services of—

“(A) military infrastructure projects in the designated region of such official; and

“(B) the significant addition of members of the Armed Forces and their families as described in paragraph (1); and

“(3) ensure clear and consistent communication to State and local elected officials and the public in the designated region of such official regarding the infrastructure needs and priorities of the Department of Defense, including conveying any finding or conclusion regarding the expected impact described in paragraph (2)(B).

“(c) SELECTION.—

“(1) HAWAII.—For the designation under paragraph (1) [of] subsection (a), the Secretary of Defense may appoint an individual with significant background and expertise in—

“(A) the legal and technical aspects of city planning, State and local government services, and military infrastructure; and

“(B) liaising with State and local elected officials and the public.

“(2) GUAM AND THE NORTHERN MARIANA ISLANDS.—For the designation under paragraph (2) of subsection (a), the Secretary of Defense shall appoint the Under Secretary of the Navy.

“(d) NOTIFICATION.—For the designations under paragraph (1) and paragraph (2) of subsection (a), the Secretary of Defense shall, not later than 30 days after the date of the designation, submit to the congressional defense committees and the Governor of Hawaii or the Governors of Guam and the Northern Mariana Islands, respectively, a notification that includes the name and contact information of the individual so designated.”

#### INCLUSION ON DEPARTMENT OF DEFENSE FORM 1391 OF INFORMATION ON CONSIDERATION OF CERTAIN METHODS OF CONSTRUCTION FOR CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 118-31, div. B, title XXVIII, § 2808, Dec. 22, 2023, 137 Stat. 746, provided that:

“(a) IN GENERAL.—As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a covered military construction project, each covered official shall, to the extent practicable, include information on whether all relevant construction materials and methods of construction included in the Unified Facilities Criteria/DoD Building Code (UFC 1-200-01) were considered in the design of such covered military construction project.

“(b) DEFINITIONS.—In this section:

“(1) The terms ‘appropriate committees of Congress’ and ‘military construction project’ have the meanings given in section 2801 of title 10, United States Code.

“(2) The term ‘covered military construction project’ means a military construction project with an estimated total cost in excess of \$9,000,000.

“(3) The term ‘covered official’ means—

“(A) the Secretary of Defense; and

“(B) each Secretary of a military department.”

#### INCLUSION OF MILITARY INSTALLATION RESILIENCE IN REAL PROPERTY MANAGEMENT AND INSTALLATION MASTER PLANNING OF DEPARTMENT

Pub. L. 118-31, div. B, title XXVIII, § 2857, Dec. 22, 2023, 137 Stat. 767, provided that:

“(a) [sic; there is no subsec. (b)] IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

“(1) update Department of Defense Instruction 4165.70 (relating to real property management) and Unified Facilities Criteria 2-100-01 (relating to installation master planning) to—

“(A) include a requirement to incorporate the impact of military installation resilience in all installation master plans;

“(B) include a list of all sources of information approved by the Department of Defense;

“(C) define the 17 identified military installation resilience hazards to ensure that the impacts from such hazards are reported consistently across the Department;

“(D) require each commander of a military installation to address the rationale for determining that any such hazard is not applicable to the military installation concerned;

“(E) standardize reporting formats for military installation resilience plans;

“(F) establish and define standardized risk rating categories for the use by each Secretary of a military department; and

“(G) define criteria for determining the level of risk to a military installation to compare hazards between military departments; and

“(2) require each Secretary of a military department to update the handbook for the military department concerned to incorporate the requirements under paragraph (1).”

#### CONSIDERATION OF INSTALLATION OF INTEGRATED SOLAR ROOFING TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117-263, div. B, title XXVIII, § 2810, Dec. 23, 2022, 136 Stat. 2997, provided that: “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 integrated solar roofing as part of the project, for the purpose of—

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

“(2) providing grid support to avoid energy disruptions; and

“(3) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code.”

#### REVISION OF UNIFIED FACILITIES GUIDE SPECIFICATIONS AND UNIFIED FACILITIES CRITERIA TO INCLUDE SPECIFICATIONS ON USE OF GAS INSULATED SWITCHGEAR AND CRITERIA AND SPECIFICATIONS ON MICROGRIDS AND MICROGRID CONVERTERS

Pub. L. 117-263, div. B, title XXVIII, § 2811, Dec. 23, 2022, 136 Stat. 2997, provided that:

“(a) GAS INSULATED SWITCHGEAR.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Acquisition and Sustainment shall modify the Unified Facilities Guide Specifications to include a distinct specification for medium voltage gas insulated switchgear.

“(b) MICROGRIDS.—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment shall—

“(1) modify the Unified Facilities Criteria to include criteria for microgrids; and

“(2) modify the Unified Facilities Guide Specifications to include specifications for microgrids and microgrid controllers.”

#### DETERMINATION AND NOTIFICATION RELATING TO EXECUTIVE ORDERS THAT IMPACT COST AND SCOPE OF WORK OF MILITARY CONSTRUCTION PROJECTS

Pub. L. 117-263, div. B, title XXVIII, § 2812, Dec. 23, 2022, 136 Stat. 2997, provided that:

“(a) DETERMINATION AND UPDATE OF FORM 1391.—Not later than 30 days after the date on which an Executive order is signed by the President, the Secretary concerned shall—

“(1) determine whether implementation of the Executive order would cause a cost or scope of work variation for a military construction project under the jurisdiction of the Secretary concerned;

“(2) assess the potential for life-cycle cost savings associated with implementation of the Executive order for such a project; and

“(3) update the Department of Defense Form 1391 for each such project that has not been submitted for congressional consideration, where such implementation would affect such cost or scope of work variation, including—

“(A) projects to be commenced in the next fiscal year beginning after the date on which the Executive order was signed; and

“(B) projects covered by the future-years defense program submitted under section 221 of title 10, United States Code.

“(b) NOTIFICATION TO CONGRESS.—Not later than 10 days after determining under subsection (a)(1) that implementation of an Executive order would cause a cost or scope of work variation for a military construction project, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report indicating the estimated cost increases, scope of work increases, life-cycle costs, and any other impacts of such implementation.

“(c) CERTIFICATION.—Along with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, United States Code, each Secretary concerned shall certify to Congress that each Department of Defense Form 1391 provided to Congress for that fiscal year for a military construction project has been updated with any cost or scope of work variation specified in subsection (a)(1) with respect to an Executive order signed during the four-year period preceding such certification, including an indication of any cost increases for such project that is directly attributable to such Executive order.

“(d) SECRETARY CONCERNED DEFINED.—In this section, the term ‘Secretary concerned’ has the meaning given that term in section 101 of title 10, United States Code.”

**REQUIREMENT FOR INCLUSION OF DEPARTMENT OF DEFENSE FORMS 1391 WITH ANNUAL BUDGET SUBMISSION BY PRESIDENT**

Pub. L. 117-263, div. B, title XXVIII, §2813, Dec. 23, 2022, 136 Stat. 2998, provided that: “Concurrently with the submission to Congress by the President of the annual budget of the Department of Defense for a fiscal year under section 1105(a) of title 31, United States Code, the President shall include each Department of Defense Form 1391, or successor similar form, for a military construction project to be carried out during that fiscal year.”

**ELECTRICAL CHARGING CAPABILITY CONSTRUCTION REQUIREMENTS RELATING TO PARKING FOR FEDERAL GOVERNMENT MOTOR VEHICLES**

Pub. L. 117-263, div. B, title XXVIII, §2875, Dec. 23, 2022, 136 Stat. 3014, provided that:

“(a) IN GENERAL.—If the Secretary concerned develops plans for a project to construct any facility that includes or will include parking for covered motor vehicles, the Secretary concerned shall include in any Department of Defense Form 1391, or successor form, submitted to Congress for that project—

“(1) the provision of electric vehicle charging capability at the facility adequate to provide electrical charging, concurrently, for not less than 15 percent of all covered motor vehicles planned to be parked at the facility;

“(2) the inclusion of the cost of constructing such capability in the overall cost of the project; and

“(3) an analysis of whether a parking structure or lot will be the primary charging area for covered

motor vehicles or if another area, such as public works or the motor pool, will be the primary charging area.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘covered motor vehicle’ means a Federal Government motor vehicle, including a motor vehicle leased by the Federal Government.

“(2) The term ‘Secretary concerned’ means—

“(A) the Secretary of a military department with respect to facilities under the jurisdiction of that Secretary; and

“(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and facilities of a reserve component owned by a State rather than the United States.”

**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 required 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, as amended by Pub. L. 117–263, div. B, title XXVIII, §2865, Dec. 23, 2022, 136 Stat. 3011; Pub. L. 118–31, div. B, title XXVIII, §2871, Dec. 22, 2023, 137 Stat. 775, 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, under the pilot program, at least—

“(A) one military construction project for mass timber; and

“(B) one military construction project for low carbon concrete.

“(2) PROJECT LOCATIONS.—The pilot program shall be conducted at military installations in the 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, 2025. Any construction commenced under the pilot program before the expiration date may continue to completion.

“(e) DEADLINE FOR COMMENCEMENT OF CONSTRUCTION.—Any construction pursuant to a military construction project carried out under the pilot program must commence by not later than January 1, 2025.

“(f) 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, 2025, 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.

“(g) 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 [now 10 U.S.C. 101(f)].

“(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 [now 10 U.S.C. 101(f)(8)].”

**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 de-

signing, 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 committees [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.)