

APPENDIX H

Review and Approval of Decision Documents

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## APPENDIX H

### Review and Approval of Decision Documents

**H-1. Purpose.** This chapter prescribes approval procedures for the following decision documents: section 905(b) analyses, feasibility reports, limited and general reevaluation reports, post authorization change reports, and other reports supporting project authorization or budget decisions.

**H-2. General Requirements.**

a. **Approval Process.** Decision documents are prepared to document project evaluations and facilitate acceptance of the evaluations by the sponsor, public, state and local agencies, and the Federal government. Decision documents recommending the authorization of new projects and/or modification of existing projects must be approved prior to the execution of project cooperation agreements (PCA's), and the subsequent obligation and expenditure of funds for design or construction. Approval occurs only after a policy compliance review determines that the proposed study or project complies with existing Administration policy and Federal law. Draft decision documents are generally reviewed for policy compliance prior to public release to ensure that public expectations regarding Federal support are reasonable.

b. **Responsibility and Authority.** Policy compliance review is performed by Headquarters, USACE, unless this responsibility has been delegated. Each reporting officer is responsible for assuring that his/her decision document complies with all applicable statutory and policy guidance.

c. **Policy Compliance Review.** Policy compliance review is an integral part of the process for defining an acceptable project and developing the appropriate and necessary implementation and decision documents.

(1) **Scope.** Policy compliance review (1) determines the acceptability of decision factors, criteria, assumptions, and methods used to define the extent and nature of Federal interest, project responsibilities, and related issues; (2) ensures a uniform application of policy and procedures nationwide; (3) identifies policy issues that must be resolved in the absence of established guidance or where judgement plays a substantial role; and (4) ensures that the proposed action is consistent with the overall goals and objectives of the civil works program.

(2) **Focus.** Reviews focus primarily on the plan formulation, economic, environmental, social, cost sharing, legal, and real estate aspects of proposed projects and significant alternatives. Other aspects known to be important to the decision-making process of the Chief of Engineers and the ASA(CW) are also considered. The reviews consider the views expressed by interested parties at public meetings and workshops and in written communications received in

response to the division commander's public notice. Concerns relating to budget criteria and ability to approve or sign project implementation documents may also be addressed in the review.

d. Roles. General roles during the review and approval process are described in the following paragraphs:

(1) Districts. Districts are responsible for conducting the studies, coordination, and technical, policy and legal reviews necessary to develop quality decision documents. Districts are responsible for developing documents with project recommendations that either adhere to policy and guidance, or clearly describe and request waivers from policy and guidance. Once a report is submitted for review and approval, the District is responsible for providing supplemental information and briefings as needed, to assist the review and approval process.

(2) Divisions. The Division performs quality assurance for the independent technical, policy and legal review of district documents, and facilitates the resolution of issues arising during the policy review and report approval process. In addition to ensuring that all decision documents are consistent with applicable policy and guidance, divisions also have final policy review responsibility/accountability for decision documents that have been delegated to divisions for approval. Quality assurance is to be achieved through early, continuous involvement in the process. The divisions generally host alternative formulation briefings, issue resolution and review conferences.

(3) HQUSACE. The Civil Works Directorate will form a headquarters team to act as an extension of the district Project Delivery Team throughout the project delivery process. The headquarters team will be responsible for: supporting the resolution of issues requiring headquarters, ASA (CW) or OMB decisions; continuously evaluating the overall project delivery development process, including the independent technical review and the policy compliance processes (including independent policy review under delegated authorities); and to recommend appropriate changes.

(4) Programs Division (CECW-B), with project execution team leadership, serves as the designated point of contact for all civil works activities, and will be the receiving office for all official correspondence.

(5) Planning and Policy Division, Civil Works Directorate, HQUSACE. Planning and Policy Division (CECW-P) facilitates the Washington level processing of decision documents, including the resolution of policy and planning issues, consultations with the field, coordination of ASA(CW) participation in issue resolution and review conferences, alternative formulation briefings, feasibility scoping meetings, and prepares project guidance memoranda.

(a) Planning Management Branch, Planning and Policy Division. CECW-PM is responsible for the various planning management actions necessary to process decision documents to the appropriate and ultimate decision maker, usually the Chief of Engineers, the ASA(CW), or the Congress. CECW-PM conducts a policy compliance review for Section 905(b) Analyses.

(b) Policy Compliance Support Branch, Planning and Policy Division. CECW-PC performs the HQUSACE policy compliance reviews for decision documents for projects requiring new authorization or modification to existing authorizations. CECW-PC will work with District study teams throughout the study process to provide assistance and resolve issues. CECW-PC participates with the HQUSACE team in issue resolution and review conferences and in the resolution of any outstanding issues. The goal is to have policy issues identified, addressed and resolved early in the process and not later when the decision document is being considered for approval.

(6) Office of the Assistant Secretary of the Army (Civil Works). ASA (CW) has oversight responsibility for assuring that the authorization, implementation, and budgeting of projects is consistent with applicable laws and policies. As appropriate, ASA (CW) will be involved in resolving policy issues and approving exceptions to or waivers of policy. For certain proposals ASA (CW) may be directly involved in the policy compliance review and may chose to be represented at issue resolution and review conferences.

e. Scheduling. Policy compliance review actions at HQUSACE should generally be scheduled for a minimum of 30 days. The 30-day period begins when Headquarters receives the appropriate number (see below) of complete reports and accompanying document copies. CECW-P will provide a project guidance memorandum (PGM) within two weeks following a review conference.

f. Report Submittals. The transmittal memorandum forwarding pre-conference materials and decision documents for HQUSACE policy compliance support or review shall be addressed to the Deputy Commanding General for Civil Works, ATTN: CECW-B, and shall cite the project work item (PWI, the six-digit number used in CEFMS). Copies of supporting NEPA documentation, pertinent guidance memoranda, the PMP, documentation and certification of the District's independent technical, policy and legal review, the review conference PGM compliance document, and any other pertinent supplemental documentation will be cited in and copies enclosed with the transmittal memorandum. The District will furnish a copy of the transmittal memorandum with two sets of the decision document and all enclosures concurrently to the Division.

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Mail report submittals to the following address:

Deputy Commanding General for Civil Works  
ATTN: CECW-B  
US Army Corps of Engineers  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20314-1000

**H-3. Reconnaissance Phase Appraisals.** The HQUSACE review and approval of the reconnaissance phase certifies that proposed feasibility studies are consistent with current policies and budgetary priorities. This critical step in quality assurance achieves an early corporate agreement at all levels in the Corps of Engineers to proceed with the feasibility studies. The review seeks to determine if the water resource problem(s) warrant Federal participation in feasibility studies and assess the level of interest and support from non-Federal entities in the identified potential solutions and cost-sharing of feasibility phase and construction. The reconnaissance phase products that require HQUSACE review and approval include the Section 905(b) Analysis and deviations from the model FCSA. The appraisal or report will include the letter of intent (LOI) stating that the sponsor is ready, willing, and able to execute the FCSA. Once these documents are accepted, CECW-P will certify the reconnaissance phase to signify HQUSACE support for the proposed project. Certification of the reconnaissance phase is a prerequisite for executing the FCSA. Execution of the FCSA concludes the reconnaissance phase.

a. Reconnaissance Phase Section 905(b) Analysis. Within six months of initiating the reconnaissance phase, the district will e-mail the Section 905(b) Analysis directly to CECW-B.. A copy should be furnished to the Division. No formal transmittal letter is necessary. Any attachments, maps, and other items that cannot be e-mailed, should be faxed to CECW-B and the Division. The sponsor's LOI must be included. CECW-P will review the analysis and supporting materials, involving other HQUSACE offices as needed. CECW-P will provide comments, guidance and approval, as warranted, via e-mail to the Division within two weeks of receiving the 905(b) analysis. Once the analysis is approved, the Division Commander may release the analysis to the public or delegate the release to the District Commander.

b. Project Management Plans. The concept of developing a project management plan (PMP) to guide the feasibility study is an essential task in the reconnaissance phase and is critical to cost shared feasibility study negotiations. The first phase of the PMP supports the FCSA and must be completed in the reconnaissance phase. HQUSACE does not review or approve PMPs. Divisions will ensure that the PMP receives appropriate review and approval.

c. Feasibility Cost Sharing Agreement Deviations. District Commanders are authorized to approve and execute an FCSA when the agreement is in accordance with an approved model and

after the reconnaissance phase is certified. Model FCSA's are presented in Appendix E. Proposed deviations from a model FCSA complete with the rationale for the deviations and documentation of review by District Counsel should be forwarded to CECW-B for coordination within HQUSACE for approval. Non-Federal sponsors should be encouraged to agree to the model FCSA to avoid the time required to process and approve deviations.

d. Reconnaissance Review Conference (RRC). As a general matter, a RRC will not be held. A RRC may be held at the discretion of the Division to resolve any remaining policy and procedure issues and establish any requirements that must be met before the reconnaissance phase is certified. For all RRCs, the Division will coordinate a date with CECW-P and the District. CECW-P will coordinate HQUSACE or ASA (CW) staff participation in the RRC as needed. The district will coordinate the non-Federal sponsor and interested agency participation. Generally each RRC will be held at the District or Division headquarters, or near the proposed project site. If it appears that unresolved issues are limited in number and can be resolved easily, CECW-P may suggest holding the RRC by teleconference. The HQUSACE team will draft the reconnaissance guidance memorandum (RGM) at the RRC and issue the final RGM to the division within two weeks after the RRC.

e. Reconnaissance Phase Certification. The reconnaissance phase will be certified by CECW-P. If all issues are not satisfactorily resolved, then CECW-P may either certify the reconnaissance phase contingent upon specific requirements or defer certification. Certification may be granted contingent on acceptable documentation being provided either to the Division Commander or CECW-P. The FCSA may not be executed until the reconnaissance phase is certified or the requirements specified in the contingent certification are met. Reconnaissance phase certification should occur within twelve months of the initiation of the reconnaissance phase.

f. Feasibility Funds Release. HQUSACE will release feasibility funds within 5 working days of receipt of the Division Commander's request. The request should be directed to CECW-B with a copy of the signed FCSA.

g. Reconnaissance and Feasibility Studies Recommending No Further Federal Action.

(1) The reconnaissance and feasibility study reporting requirements for reports recommending no further Federal action will be fulfilled with release of a public notice by the Division to all interested parties including the congressional delegation(s).

(2) The public notice will include language to explain the study deauthorization provisions of Section 710 of WRDA 86 and that the study will be subject to deauthorization under this Section.

(3) Within 15 working days of receipt of the District Commander's appraisal or report recommending no Federal action, the Division will notify HQUSACE in writing (ATTN: CECW-B) of its intent to publish a public notice. This written notification will also include an evaluation of the reconnaissance report and recommendation(s) by the Division and two copies of the appraisal or report for information.

(4) In those cases where a RRC or FRC is held, the RGM or PGM will address, if warranted, any additional specific report processing requirements.

(5) HQUSACE will prepare an annual report for transmittal to Congress summarizing all reconnaissance and feasibility reports recommending no further Federal action for that year.

**H-4. Feasibility Phase.** The HQUSACE team involvement during the feasibility phase ensures that each project recommended for authorization and/or funding is consistent with current policies and budgetary priorities. This involvement is critical to achieve corporate agreement at all levels in the Corps of Engineers on the recommended project and to assure the non-Federal sponsor that the course being followed will lead to District recommendations that will be supported by HQUSACE and are likely to be supported by ASA (CW) and OMB. The objective of HQUSACE involvement is to confirm that the appropriate water resource problems and opportunities have been addressed and that the recommended solution warrants Federal participation; is in accord with current policies and budgetary priorities; can be implemented in accordance with environmental laws and statutes; and has a sponsor willing and able to fulfill the non-Federal responsibilities. A key for success will be early and continuous involvement by the HQUSACE team with the District and Division.

a. **Feasibility Scoping Meeting (FSM).** The purpose of the FSM is to reach agreement on how to focus and tailor the study to meet specific objectives. A FSM should normally be scheduled at or about the time that the study team identifies the alternatives that will be analyzed in detail. Documentation to be provided in advance of a FSM should be concise and focused on the items requiring agreement or buy in. The FSM will bring the Headquarters, Division and District staffs, the non-Federal sponsor, and resource agencies together to focus the feasibility study on key alternatives, to further define the depth of analysis required and to refine study/project constraints. Accordingly, the PMP developed during the reconnaissance phase may require revision to document changes agreed to at the FSM. The revised PMP will then form the basis for subsequent conduct and review of the feasibility report.

b. **Alternative Review Process.** The alternative review process provides early HQUSACE participation in plan formulation at an alternative formulation briefing (AFB). The goal of this early participation is to allow the district to release the draft report to the public concurrent with policy compliance review of the report. AFB's result in concurrent public and policy compliance review of the draft report and save between two to four months in the feasibility report schedule.



Because of these efficiencies, the AFB replaces the feasibility review conference (FRC). The AFB should be scheduled when the District has identified a selected plan and is prepared to present the formulation and evaluation of alternatives. Documentation to be provided in advance of an AFB should be concise and focused on issues requiring HQUSACE buy-in. The District will provide ten copies to HQUSACE and four copies to the Division in the manner explained in H-2.f. Discussion and resolution of all policy issues shall be documented in the AFB PGM. Subsequent discussion and resolution of additional policy issues will be handled by separate documentation.

c. Draft Report Submittal. A HQUSACE policy compliance review is required prior to public release of the draft report unless an AFB resulted in a guidance memorandum that approved concurrent HQUSACE and public review. After completing the technical, policy and legal review of the draft report and making any resulting changes, the District will provide ten copies of the draft report and ten copies of the PGM compliance memorandum to HQUSACE as required in paragraph H-2.f. The compliance memorandum will note where in the report resolution of a policy issue is documented. The District should provide the Division with an appropriate number of copies.

d. Draft Report Review. Thirty days should be scheduled for the policy compliance review. The District may complete the final report following receipt of the HQUSACE assessment that the report complies with policy and that proper procedures have been followed.

e. Division Commander's Public Notice. The Division Commander shall issue a public notice announcing completion of the feasibility report based upon (1) his/her endorsement of the findings and recommendations of the District Commander, and (2) his/her assessment that the report is in accord with current policy. The notice shall indicate that the report has been submitted for Washington level review. The notice should normally occur within 180 days of public circulation of the draft report. The notice shall provide for a 30-day period for comments on the report, indicate that comments are to be submitted to the Deputy Commanding General for Civil Works and state, if applicable, that the report's final NEPA document will soon be made available to the public. The notice should not indicate that the public will be notified prior to final action, should HQUSACE materially modify the recommendation contained in the report. The Division Commander shall furnish the public notice to interested parties. A copy of the notice shall be furnished to the Deputy for Policy, Planning, and Legislative Affairs, ASA (CW).

f. Final Report Submittal Package. After the Division Engineer's notice is signed, the Division or District will provide the submittal package to HQUSACE as described in H-2.f. The transmittal memorandum should state the PWI, include the names and congressional district numbers of the interested congressional delegation, the names and mailing addresses of the State point of contact and non-Federal sponsor, and the names and telephone numbers of the Division and District points of contact for the report (RCS exempt: AR 335, paragraph 5-20). The

submittal package should include one copy each of the following items unless otherwise noted:

- Division Engineer's endorsement
- Feasibility report with EIS or EA/FONSI and appendices (15 copies to CECW-P)
- Report mailing list
- Documentation and certification of technical review (10 copies)
- Legal review certification
- Draft Report of the Chief of Engineers
- PGM Compliance Memorandum, this documents compliance with all guidance memoranda (10 copies)
- M-CACES cost estimate summary
- Project map (3 copies)
- Division Engineer's public notice (3 copies)

g. Supporting Information. Fact sheets and slides are needed to support the Washington level decision and authorization process. The fact sheets and slides should be developed before the final report is submitted for final policy review and updated annually by November 30 to reflect the October, current year, price level and other changes. The fact sheet and slides shall be updated to support various briefings, decision-related meetings, and hearings both within HQUSACE and with or before ASA (CW), OMB, other agencies, Congressional staff, and Congressional committees. The fact sheets and slides should be provided and maintained in the current Corps of Engineers standard for electronic files, currently Microsoft Word and PowerPoint. Supporting maps, artwork, and photos can be provided in industry standard format (jpg or gif). Color is preferred for all slides, maps, and photos.

(1) Fact Sheets. The Division Commander shall submit a fact sheet in the Corps of Engineers word processing standard (currently Microsoft WORD) by e-mail to CECW-B when the Division Commander's public notice is issued. The fact sheet format is furnished in Appendix G. A map in electronic format showing the location and the recommended plan of improvement shall be included.

(2) Slides. The District Commander will provide a file of electronic (Microsoft PowerPoint) slides for feasibility reports which recommend Federal action by e-mail to CECW-B within 30 days after the Division Commander's public notice has been issued, and provide updated slides when requested. The project name should appear on each slide. Separate slides should depict:

- Study Title - Include the full project name and state. If the report recommends more than one project, furnish a project title slide and a set of the following slides (only one on the legislative authority is needed) for each project.
- Legislative Authority - If report is an interim, so state.

- State Map and Project Location - State boundaries, state capitols, and the location of project and major water features should be conspicuous. Nearby major population centers should also be indicated.
- Problem - An illustration, preferably a photograph, of the major water resources problem to be solved by the report recommendation(s) should be depicted. A list or graphical representation of significant problem and/or opportunity statements is acceptable if a photo is not available.
- Alternatives Considered. Include a word slide that lists structural and non-structural alternatives considered.
- Project Map - Provide a simple, multicolor map of the entire project. Schematics are acceptable, even preferable if done well.
- Project Features - One or more slides of the significant project features (conceptual level) if they can not be illustrated on the Project Map.
- Economic Summary - Include total project cost, average annual costs, average annual benefits and the BCR (if applicable). Round all costs and benefits to the nearest \$1,000, and the BCR to one decimal place unless between 1.0 and 1.05. Show the price level and discount rate.
- Artist's Rendition - Annotate a photo to show the project design or an artist's rendition of completed project (optional).

h. State and Agency Review. The district should notify CECW-B by telephone or e-mail when final reports requiring state and agency review are being sent to the printer. This will allow advance coordination with the pertinent agencies (EO 12372, public law 78-534, as amended, and public law 85-624) so that they may review and respond in a timely manner. The District should retain 50 copies of the report and NEPA documentation to mail to interested states and agencies (S&A) for 30-day review. HQUSACE shall administer the S&A review with the assistance of the District. CECW-P will provide an approval and coordination package to the District to initiate the S&A review as soon as possible after CECW-P receives the final report submittal package if the final report complies with procedural requirements of law and does not indicate significant interagency conflict. If the report does not meet these guidelines, HQUSACE will consult with the reporting Division. CECW-P will recommend deferral of S&A review only if there are serious policy concerns that could change report recommendations. HQUSACE will provide a mailing list, signed transmittal letters, and the proposed report of the Chief of Engineers to the District with instructions for mailing copies of the report to the state and Federal agencies for S&A review. The District will date and mail the transmittal letters and enclosures according to the written HQUSACE instructions. The transmittal letters explain the current status of the report and FEIS and direct any comments to the Deputy Commanding General for Civil Works.

i. Environmental Impact Statement Filing. HQUSACE will provide a signed transmittal letter for filing the FEIS with EPA. After the documents are circulated for the 30-day S&A

review, the District will distribute the FEIS to parties not included on the HQUSACE mailing list for the normal 30-day period of review (see [ER 200-2-2](#), paragraph 17). The District will then file the decision document and FEIS, together with the proposed report of the Chief of Engineers, with EPA. The 30-day review of the FEIS can occur concurrently with the 30-day S&A review period.

j. Final Report Policy Compliance Certification. The S&A review and filing of the FEIS, as appropriate, with the EPA shall be concurrent with the final policy compliance review. This review will concentrate on the compliance of the final report with the PGM and will not be a new or independent review. Should policy issues be identified, HQUSACE will work with the reporting officers to resolve these issues to finalize the report. HQUSACE will certify policy compliance when it is determined that the final document adequately complies with policy. If the final decision document does not comply with the PGM, an IRC may be requested to discuss unresolved issues or problems relating to the project or supporting documentation. If, after an IRC or other discussions, compliance with the PGM cannot be agreed upon, the DCGCW may return the report with corrective guidance to the reporting officer.

k. Final Report Recommendation Package. After the S&A review and the final feasibility report policy compliance certification have been completed, HQUSACE will prepare a recommendation package for processing to obtain signature of the Report of the Chief of Engineers. The recommendation package will include the following items:

- Project summary of the description, costs, cost-sharing responsibilities, impacts, assumptions, and other data on the recommended plan.
- HQUSACE certification of policy compliance review.
- All policy compliance review documentation
- Project map.
- Independent technical and legal review certification and findings.
- Summary of agency and public comments.
- Correspondence received from S&A review and any responses to the correspondence.
- Mailing list-for the S&A review.
- Feasibility report, FEIS or EA/FONSI, appendices, and/or supporting documentation (addendums).
- Draft Report of the Chief of Engineers.

l. Chief of Engineers Approval. The HQUSACE team through CECW-P will prepare the final Chief of Engineers Report for the Chief's signature and also prepare the final ROD for signature by the ASA (CW). The Chief of Engineers signs the report signifying approval of the project recommendation. The Chief of Staff then submits the following to ASA (CW): the Chief of Engineers Report, the final feasibility report and FEIS, the unsigned ROD, and draft letters for transmitting the report to OMB and Congress under the ASA(CW) signature.

m. ASA (CW) Approval. The ASA (CW) will review the documents provided by the DCGCW to determine the level of administration support for the Chief of Engineers recommendation. The ASA (CW) will formally submit the report to OMB per Executive Order 12322, 17 September 1981. The submittal will include the report, NEPA documentation, appendices, PGM, review assessment, and the draft transmittal letters to Congress. The submittal to OMB should normally occur within 180 days of the Division Engineer's Notice. OMB will review the recommendation to determine its relationship to the program of the President. OMB will then provide a clearance letter to ASA (CW) either allowing the release of the report to Congress subject to whatever changes OMB deems necessary or objecting to the release. If there are no OMB objections, the ASA (CW) will then provide guidance on necessary revisions and direct the DCGCW to prepare the report for transmittal to Congress with transmittal letters for his/her signature. If there are OMB objections, ASA (CW) will provide the DCGCW with guidance on necessary actions which could range from revising the recommendation, revising the final report, redoing part of the study, to terminating the study outright. Past objections have resulted in ASA (CW) recommendations to Congress that state administration support for a project in part or no support at all. The ASA (CW) and OMB may request briefings to aid their decision-making. The District Engineer and the appropriate HQUSACE team members provide these briefings and any other supplemental information that ASA (CW) or OMB may need. If the needed information is not readily available at the Washington level, the Division or District may be asked to provide it.

n. Review of Changes to Report Recommendations. Depending on the extent of changes in the recommendations it may be necessary to provide an opportunity for the sponsor, state(s), interested Federal agencies, and other parties of any modifications to comment on the changes prior to transmittal of the report to the Congress and signing of the ROD. Changes involving significant environmental impacts may require additional NEPA documentation in accordance with 33 CFR 230. In such circumstances, HQUSACE or ASA (CW) may allow additional time for further comment before finalizing their respective recommendations. Notification and scheduling requirements will be determined on a case-by-case basis since the need for coordination will vary with the degree of change.

o. Transmittal to Congress. Once the report has been approved by ASA (CW) for coordination, HQUSACE will prepare the transmittal letters to the President of the Senate and the Speaker of the House of Representatives for ASA (CW) signature. HQUSACE will also prepare instructions for printing the final feasibility report and FEIS as a House or Senate document. The DCGCW forwards the final letters, final signed ROD, and feasibility report/FEIS with printing instructions to ASA (CW). If the recommended project has already been authorized by Congress, the DCGCW will sign the ROD and include it in the submittal to ASA (CW). Otherwise the ROD is provided for ASA (CW) signature. Note that reports printed as House or Senate documents cannot include foldouts and that there may be a near future

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requirement for electronic copies of complete reports. The ASA (CW) will sign the ROD if the project has not yet been authorized and transmit the Report of the Chief of Engineers, the state and agency review letters, the ROD, and the final feasibility report/EIS to Congress. The district will then notify the sponsor, state(s), and interested agencies and other parties of the Report of the Chief of Engineers and the ROD.

**H-5.** Other Reports Supporting Project Authorization or Budget Decisions. Reevaluation and other decision documents relating to authorization will utilize the review and approval process described above for feasibility reports. The review conference for general reevaluation reports will be referred to as a general reevaluation review conference (GRC).