

§ 2309a. Project modifications for improvement of environment

(a) Determination of need

The Secretary is authorized to review water resources projects constructed by the Secretary to determine the need for modifications in the structures and operations of such projects for the purpose of improving the quality of the environment in the public interest and to determine if the operation of such projects has contributed to the degradation of the quality of the environment.

(b) Authority to make modifications

The Secretary is authorized to carry out a program for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary which the Secretary determines (1) are feasible and consistent with the authorized project purposes, and (2) will improve the quality of the environment in the public interest.

(c) Restoration of environmental quality

(1) In general

If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes.

(2) Control of sea lamprey

Congress finds that—

(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts on its fishery; and

(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.

(d) Non-Federal share; limitation on maximum Federal expenditure

The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) of this section shall be 25 percent. Not more than 80 percent of the non-Federal share may be in kind, including a facility, supply, or service that is necessary to carry out the modification or measure. Not more than \$5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.

(e) Coordination of actions

The Secretary shall coordinate any actions taken pursuant to this section with appropriate Federal, State, and local agencies.

(f) Omitted

(g) Nonprofit entities

Notwithstanding section 1962d-5b of title 42, a non-Federal sponsor for any project carried out

under this section may include a nonprofit entity, with the consent of the affected local government.

(h) Authorization of appropriations

There is authorized to be appropriated not to exceed \$40,000,000 annually to carry out this section.

(i) Definition

In this section, the term “water resources project constructed by the Secretary” includes a water resources project constructed or funded jointly by the Secretary and the head of any other Federal agency (including the Natural Resources Conservation Service).

(Pub. L. 99-662, title XI, §1135, Nov. 17, 1986, 100 Stat. 4251; Pub. L. 100-676, §41, Nov. 17, 1988, 102 Stat. 4040; Pub. L. 101-640, title III, §304, Nov. 28, 1990, 104 Stat. 4634; Pub. L. 102-580, title II, §202, Oct. 31, 1992, 106 Stat. 4826; Pub. L. 104-303, title II, §204, Oct. 12, 1996, 110 Stat. 3678; Pub. L. 106-53, title V, §506, Aug. 17, 1999, 113 Stat. 338; Pub. L. 106-541, title II, §210(c), Dec. 11, 2000, 114 Stat. 2592; Pub. L. 110-114, title II, §2024, Nov. 8, 2007, 121 Stat. 1079.)

CODIFICATION

Subsec. (f) of this section, which required the Secretary to transmit biennial reports to Congress on the results of reviews conducted under subsec. (a) of this section and on the programs conducted under subsecs. (b) and (c) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 72 of House Document No. 103-7.

Section was formerly set out as a note under section 2294 of this title.

AMENDMENTS

2007—Subsec. (h). Pub. L. 110-114 substituted “\$40,000,000” for “\$25,000,000”.

2000—Subsecs. (g) to (i). Pub. L. 106-541 added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1999—Subsec. (c). Pub. L. 106-53 designated existing provisions as par. (1), inserted heading, and added par. (2).

1996—Subsec. (a). Pub. L. 104-303, §204(a), struck out “the operation of” after “to review” and inserted before period at end “and to determine if the operation of such projects has contributed to the degradation of the quality of the environment”.

Subsec. (b). Pub. L. 104-303, §204(b), struck out at end “The non-Federal share of the cost of any modifications carried out under this section shall be 25 percent. No modification shall be carried out under this section without specific authorization by Congress if the estimated cost exceeds \$5,000,000.”

Subsecs. (c), (d). Pub. L. 104-303, §204(c)(2), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 104-303, §204(c)(1), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 104-303, §204(c)(1), (3), redesignated subsec. (d) as (f) and substituted “programs conducted under subsections (b) and (c) of this section” for “program conducted under subsection (b) of this section”.

Subsec. (g). Pub. L. 104-303, §204(c)(1), redesignated subsec. (e) as (g).

Subsec. (h). Pub. L. 104-303, §204(d), added subsec. (h).

1992—Subsec. (b). Pub. L. 102-580, §202(1), inserted at end “No modification shall be carried out under this section without specific authorization by Congress if the estimated cost exceeds \$5,000,000.”

Subsec. (e). Pub. L. 102-580, §202(2), substituted "\$25,000,000" for "\$15,000,000".

1990—Subsec. (a). Pub. L. 101-640, §304(a), struck out "before the date of enactment of this Act" after "constructed by the Secretary".

Subsec. (b). Pub. L. 101-640, §304(b), substituted "program" for "demonstration program in the 5-year period beginning on the date of enactment of this Act" and struck out "before the date of enactment of this Act" after "constructed by the Secretary".

Subsec. (d). Pub. L. 101-640, §304(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a) and on the demonstration program conducted under subsection (b). Such report shall contain any recommendations of the Secretary concerning modification and extension of such program."

Subsec. (e). Pub. L. 101-640, §304(d), substituted "\$15,000,000 annually to carry out this section" for "\$25,000,000 to carry out this section".

1988—Subsec. (b). Pub. L. 100-676, §41(a), substituted "5-year period" for "two-year period".

Subsec. (d). Pub. L. 100-676, §41(b), substituted "5 years" for "two years".

§ 2310. Cost sharing for Territories

The Secretary shall waive local cost-sharing requirements up to \$200,000 for all studies and projects in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 99-662, title XI, §1156, Nov. 17, 1986, 100 Stat. 4256.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2311. Report to Congress covering proposals for water impoundment facilities

Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended [16 U.S.C. 1001 et seq.], which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

(Pub. L. 99-662, title XII, §1202, Nov. 17, 1986, 100 Stat. 4263.)

REFERENCES IN TEXT

Public Law 83-566, as amended, referred to in text, is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, known as the Watershed Protection and Flood Prevention Act, which is classified generally to chapter 18 (§1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 2312. Comments on certain changes in operations of reservoirs

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

(Pub. L. 100-676, §5, Nov. 17, 1988, 102 Stat. 4022.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1988, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

§ 2313. Collaborative research and development

(a) In general

For the purpose of improving the state of engineering and construction in the United States and consistent with the civil works mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) Pre-agreement temporary protection of technology

(1) In general

If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.

(2) Treatment

Any technology covered by this section that becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under section 12(c)(7)(B) of such Act (15 U.S.C. 3710a(c)(7)(B)).