

“(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

“(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

“(C) be consistent with appropriate State guidelines and goals.

“SEC. 6. EFFECT.

“(a) IN GENERAL.—Nothing in this Act affects—

“(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

“(2) the water rights of any person or entity using water from a transboundary aquifer; or

“(3) State water law, or an interstate compact or international treaty governing water.

“(b) TREATY.—Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

“SEC. 7. REPORTS.

“Not later than 5 years after the date of enactment of this Act [Dec. 22, 2006], and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes—

“(1) any activities carried out under the program;

“(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

“(3) the level of participation in the program of entities in Mexico.

“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act \$50,000,000 for the period of fiscal years 2007 through 2016.

“(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

“(c) CRITERIA.—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

“SEC. 9. SUNSET OF AUTHORITY.

“The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act [Dec. 22, 2006].”

WATERSHED PROTECTION AND FLOOD PREVENTION PROJECTS EXEMPT FROM REQUIREMENTS FOR INDEPENDENT WATER PROJECT REVIEW

Provisions exempting watershed projects under the Watershed Protection and Flood Prevention Act, Aug. 4, 1954, ch. 656, 68 Stat. 666, which is classified generally to chapter 18 (§1001 et seq.) of Title 16, Conservation, from the requirements of Executive Orders 12113 and 12141, formerly set out below, were contained in the following appropriation acts:

Pub. L. 97–370, title VI, §619, Dec. 18, 1982, 96 Stat. 1811.

Pub. L. 97–103, title VI, §619, Dec. 23, 1981, 95 Stat. 1490.

Pub. L. 96–528, title VI, §622, Dec. 15, 1980, 94 Stat. 3118.

EXECUTIVE ORDER NO. 12113

Ex. Ord. No. 12113, Jan. 4, 1979, 44 F.R. 1955, as amended by Ex. Ord. No. 12141, June 5, 1979, 44 F.R. 32635, which provided for independent review of Federal water resources programs and projects by the Water Resources Council, was revoked by section 4 of Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, set out below.

EX. ORD. NO. 12322. WATER RESOURCES PROGRAMS AND PROJECTS REVIEW

Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure efficient and coordinated planning and review of water resources programs and projects, it is hereby ordered as follows:

SECTION 1. Before any agency or officer thereof submits to the Congress, or to any committee or member thereof, for approval, appropriations, or legislative action any report, proposal, or plan relating to a Federal or Federally assisted water and related land resources project or program, such report, proposal, or plan shall be submitted to the Director of the Office of Management and Budget.

SEC. 2. The Director of the Office of Management and Budget shall examine each report, proposal, or plan for consistency with, and shall advise the agency of the relationship of the project to, the following:

(a) the policy and programs of the President;

(b) the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies or other such planning guidelines for water and related land resources planning, as shall hereafter be issued; and

(c) other applicable laws, regulations, and requirements relevant to the planning process.

SEC. 3. When such report, proposal, or plan is thereafter submitted to the Congress, or to any committee or member thereof, it shall include a statement of the advice received from the Office of Management and Budget.

SEC. 4. Executive Order No. 12113, as amended, is revoked.

RONALD REAGAN.

§ 1962–1. Effect on existing laws

Nothing in this chapter shall be construed—

(a) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this chapter with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of

this chapter; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico; (d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

(Pub. L. 89-80, § 3, July 22, 1965, 79 Stat. 244.)

REFERENCES IN TEXT

The International Joint Commission, United States and Canada, referred to in subsec. (c), was organized in 1911 pursuant to article VII of the treaty of January 11, 1909, with Great Britain, 36 Stat. 2448. Provisions relating to such Commission are contained in sections 267b and 268 of Title 22, Foreign Relations and Intercourse.

§ 1962-2. Congressional statement of objectives

It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects (including shore protection projects such as projects for beach nourishment, including the replacement of sand), and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

(Pub. L. 91-611, title II, § 209, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104-303, title II, § 227(f), Oct. 12, 1996, 110 Stat. 3703.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104-303 inserted “(including shore protection projects such as projects for beach nourishment, including the replacement of sand)” after “water resource projects”.

§ 1962-3. Water resources principles and guidelines

(a) National water resources planning policy

It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

- (1) seeking to maximize sustainable economic development;
- (2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and
- (3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

(b) Principles and guidelines

(1) Principles and guidelines defined

In this subsection, the term “principles and guidelines” means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 1962a-2 of this title, entitled “Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies”, and dated March 10, 1983.

(2) In general

Not later than 2 years after November 8, 2007, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use by the Secretary in the formulation, evaluation, and implementation of water resources projects.

(3) Considerations

In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

- (A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.
- (B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.
- (C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.
- (D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.
- (E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.
- (F) Evaluation methods that ensure that water resources projects are justified by public benefits.

(4) Consultation and public participation

In carrying out paragraph (2), the Secretary shall—

- (A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and
- (B) solicit and consider public and expert comments.

(5) Publication

The Secretary shall—

- (A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of—