

### § 2285. Environmental Protection and Mitigation Fund

There is established an Environmental Protection and Mitigation Fund. There is authorized to be appropriated to such fund \$35,000,000 for fiscal years beginning after September 30, 1986. Amounts in the fund<sup>1</sup> shall be available for undertaking, in advance of construction of any water resources project authorized to be constructed by the Secretary, such measures authorized as part of such project, including the acquisition of lands and interests therein, as may be necessary to ensure that project-induced losses to fish and wildlife production and habitat will be mitigated. The Secretary shall reimburse the Fund for any amounts expended under this section for a water resources project from the first appropriations made for construction, including planning and designing, of such project.

(Pub. L. 99-662, title IX, §908, Nov. 17, 1986, 100 Stat. 4188.)

### § 2286. Acceptance of certain funds for mitigation

The Secretary is authorized to accept funds from any entity, public or private, in accordance with the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.] to be used to protect, mitigate, and enhance fish and wildlife in connection with projects constructed or operated by the Secretary. The Secretary may accept and use funds for such purposes without regard to any limitation established under any other provision of law or rule of law.

(Pub. L. 99-662, title XI, §1146, Nov. 17, 1986, 100 Stat. 4253.)

#### REFERENCES IN TEXT

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in text, is Pub. L. 96-501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 839 of Title 16 and Tables.

### § 2287. Continued planning and investigations

#### (a) Pre-authorization planning and engineering

After the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary for transmittal to the Congress, as authorized in section 701-1 of this title, and before authorization for construction of such project, the Chief of Engineers is authorized to undertake continued planning and engineering (other than preparation of plans and specifications) for such project if the Chief of Engineers finds that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations and the Chief of Engineers transmits to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a statement of such findings. In the one-year period after authorization

for construction of such project, the Chief of Engineers is authorized to undertake planning, engineering, and design for such project.

#### (b) Omitted

#### (c) Authorizations as additions to other authorizations

The authorization made by this section shall be in addition to any other authorizations for planning, engineering, and design of water resources development projects and shall not be construed as a limitation on any other such authorization.

(Pub. L. 99-662, title IX, §910, Nov. 17, 1986, 100 Stat. 4189.)

#### CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and transmit an annual report to certain committees of Congress on activities undertaken under 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.

#### 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.

### § 2288. Repealed. Pub. L. 113-121, title I, § 1004, June 10, 2014, 128 Stat. 1199

Section, Pub. L. 99-662, title IX, §911, Nov. 17, 1986, 100 Stat. 4189, related to review of cost effectiveness of design.

### § 2289. Urban and rural flood control frequency

In the preparation of feasibility reports for projects for flood damage prevention in urban and rural areas, the Secretary may consider and evaluate measures to reduce or eliminate damages from flooding without regard to frequency of flooding, drainage area, and amount of runoff. This section shall apply with respect to any project, or separable element thereof, the Federal share of the cost of which is less than \$3,000,000.

(Pub. L. 99-662, title IX, §914, Nov. 17, 1986, 100 Stat. 4190.)

### § 2290. Flood control in Trust Territory of the Pacific Islands

The Secretary is authorized to use the authority contained in section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g), section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g), and section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) in the Trust Territory of the Pacific Islands.

(Pub. L. 99-662, title IX, §915(h), Nov. 17, 1986, 100 Stat. 4191.)

<sup>1</sup> So in original. Probably should be capitalized.

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.

**§ 2291. Federal Project Repayment District**

(a) The Secretary may enter into a contract providing for the payment or recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b) of this section.

(b) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

(Pub. L. 99-662, title IX, §916, Nov. 17, 1986, 100 Stat. 4191; Pub. L. 100-676, §15, Nov. 17, 1988, 102 Stat. 4026.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-676 substituted “have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b) of this section” for “include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries”.

**§ 2292. Surveying and mapping**

Any surveying or mapping services to be performed in connection with a water resources project which is or has been authorized to be undertaken by the Secretary shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949.<sup>1</sup>

(Pub. L. 99-662, title IX, §918, Nov. 17, 1986, 100 Stat. 4192.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Title IX of the Act, which was classified generally to subchapter VI (§541 et seq.) of chapter 10 of former Title 40, Public Buildings, Property, and Works, was repealed and reenacted by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapter 11

<sup>1</sup> See References in Text note below.

(§1101 et seq.) of Title 40, Public Buildings, Property, and Works. For disposition of sections of former Title 40 to revised Title 40, see Table preceding section 101 of Title 40. For complete classification of this Act to the Code, see Tables.

**§ 2293. Reprogramming during national emergencies**

**(a) Termination or deferment of civil works projects; application of resources to national defense projects**

In the event of a declaration of war or a declaration by the President of a national emergency in accordance with the National Emergencies Act [50 U.S.C. 1601 et seq.] that requires or may require use of the Armed Forces, the Secretary, without regard to any other provision of law, may (1) terminate or defer the construction, operation, maintenance, or repair of any Department of the Army civil works project that he deems not essential to the national defense, and (2) apply the resources of the Department of the Army's civil works program, including funds, personnel, and equipment, to construct or assist in the construction, operation, maintenance, and repair of authorized civil works, military construction, and civil defense projects that are essential to the national defense.

**(b) Termination of state of war or national emergency**

The Secretary shall immediately notify the appropriate committees of Congress of any actions taken pursuant to the authorities provided by this section, and cease to exercise such authorities not later than 180 calendar days after the termination of the state of war or national emergency, whichever occurs later.

(Pub. L. 99-662, title IX, §923, Nov. 17, 1986, 100 Stat. 4194.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (a), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

**§ 2293a. Reprogramming of funds for projects by Corps of Engineers**

None of the funds made available before, on, or after June 15, 2006, in an appropriations Act may be expended to prevent or limit any reprogramming of funds for a project to be carried out by the Corps of Engineers using funds appropriated in any Act making appropriations for energy and water development, based on whether the project was included by the President in the budget transmitted under section 1105(a) of title 31 or is otherwise proposed by the President or considered part of the budget by the Office of Management and Budget, if the project received funds in an Act making appropriations for energy and water development or any other appropriations Act making additional funds available for energy and water development.

(Pub. L. 109-234, title II, §2307, June 15, 2006, 120 Stat. 457.)