

(c) Levee review**(1) In general**

The Secretary shall carry out a one-time inventory and review of all levees identified in the national levee database.

(2) No Federal interest

The inventory and inspection under paragraph (1) does not create a Federal interest in the construction, operation, or maintenance of any levee that is included in the inventory or inspected under this subsection.

(3) Review criteria

In carrying out the inventory and review, the Secretary shall use the levee safety action classification criteria to determine whether a levee should be classified in the inventory as requiring a more comprehensive inspection.

(4) State and tribal participation

At the request of a State or Indian tribe with respect to any levee subject to review under this subsection, the Secretary shall—

(A) allow an official of the State or Indian tribe to participate in the review of the levee; and

(B) provide information to the State or Indian tribe relating to the location, construction, operation, or maintenance of the levee.

(5) Exceptions

In carrying out the inventory and review under this subsection, the Secretary shall not be required to review any levee that has been inspected by a State or Indian tribe using the same methodology described in paragraph (3) during the 1-year period immediately preceding June 10, 2014, if the Governor of the State or chief executive of the tribal government, as applicable, requests an exemption from the review.

(Pub. L. 110-114, title IX, §9004, Nov. 8, 2007, 121 Stat. 1290; Pub. L. 113-121, title III, §3016(d), June 10, 2014, 128 Stat. 1292.)

AMENDMENTS

2014—Subsec. (a)(2)(A). Pub. L. 113-121, §3016(d)(1), substituted “and updated levee information provided by States, Indian tribes, Federal agencies, and other entities” for “and, for non-Federal levees, such information on levee location as is provided to the Secretary by State and local governmental agencies”.

Subsec. (c). Pub. L. 113-121, §3016(d)(2), added subsec. (c).

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

§ 3303a. Levee safety initiative**(a) Establishment**

The Secretary, in consultation with the Administrator, shall carry out a levee safety initiative.

(b) Management

The Secretary shall appoint—

(1) an administrator of the levee safety initiative; and

(2) such staff as are necessary to implement the initiative.

(c) Levee safety guidelines**(1) Establishment**

Not later than 1 year after June 10, 2014, the Secretary, in consultation with the Administrator and in coordination with State, local, and tribal governments and organizations with expertise in levee safety, shall establish a set of voluntary, comprehensive, national levee safety guidelines that—

(A) are available for common, uniform use by all Federal, State, tribal, and local agencies;

(B) incorporate policies, procedures, standards, and criteria for a range of levee types, canal structures, and related facilities and features; and

(C) provide for adaptation to local, regional, or watershed conditions.

(2) Requirement

The policies, procedures, standards, and criteria under paragraph (1)(B) shall be developed taking into consideration the levee hazard potential classification system established under subsection (d).

(3) Incorporation

The guidelines shall address, to the maximum extent practicable—

(A) the activities and practices carried out by State, local, and tribal governments, and the private sector to safely build, regulate, operate, and maintain levees; and

(B) Federal activities that facilitate State efforts to develop and implement effective State programs for the safety of levees, including levee inspection, levee rehabilitation, locally developed floodplain management, and public education and training programs.

(4) Consideration by Federal agencies

To the maximum extent practicable, all Federal agencies shall consider the levee safety guidelines in carrying out activities relating to the management of levees.

(5) Public comment

Prior to finalizing the guidelines under this subsection, the Secretary shall—

(A) issue draft guidelines for public comment, including comment by States, non-Federal interests, and other appropriate stakeholders; and

(B) consider any comments received in the development of final guidelines.

(d) Hazard potential classification system**(1) Establishment**

The Secretary shall establish a hazard potential classification system for use under the levee safety initiative and participating programs.

(2) Revision

The Secretary shall review and, as necessary, revise the hazard potential classification system not less frequently than once every 5 years.

(3) Consistency

The hazard potential classification system established pursuant to this subsection shall

be consistent with and incorporated into the levee safety action classification tool developed by the Corps of Engineers.

(e) Technical assistance and materials

(1) Establishment

The Secretary, in consultation with the Administrator, shall provide technical assistance and training to promote levee safety and assist States, communities, and levee owners in—

- (A) developing levee safety programs;
- (B) identifying and reducing flood risks associated with levees;
- (C) identifying local actions that may be carried out to reduce flood risks in leveed areas; and
- (D) rehabilitating, improving, replacing, reconfiguring, modifying, and removing levees and levee systems.

(2) Eligibility

To be eligible to receive technical assistance under this subsection, a State shall—

- (A) be in the process of establishing or have in effect a State levee safety program under which a State levee safety agency, in accordance with State law, carries out the guidelines established under subsection (c)(1); and
- (B) allocate sufficient funds in the budget of that State to carry out that State levee safety program.

(3) Work plans

The Secretary shall enter into an agreement with each State receiving technical assistance under this subsection to develop a work plan necessary for the State levee safety program of that State to reach a level of program performance that meets the guidelines established under subsection (c)(1).

(f) Public education and awareness

(1) In general

The Secretary, in coordination with the Administrator, shall carry out public education and awareness efforts relating to the levee safety initiative.

(2) Contents

In carrying out the efforts under paragraph (1), the Secretary and the Administrator shall—

- (A) educate individuals living in leveed areas regarding the risks of living in those areas; and
- (B) promote consistency in the transmission of information regarding levees among Federal agencies and regarding risk communication at the State and local levels.

(g) State and tribal levee safety program

(1) Guidelines

(A) In general

Not later than 1 year after June 10, 2014, in consultation with the Administrator, the Secretary shall issue guidelines that establish the minimum components necessary for recognition of a State or tribal levee safety program as a participating program.

(B) Guideline contents

The guidelines under subparagraph (A) shall include provisions and procedures re-

quiring each participating State and Indian tribe to certify to the Secretary that the State or Indian tribe, as applicable—

- (i) has the authority to participate in the levee safety initiative;
- (ii) can receive funds under this chapter;
- (iii) has adopted any levee safety guidelines developed under this chapter;
- (iv) will carry out levee inspections;
- (v) will carry out, consistent with applicable requirements, flood risk management and any emergency action planning procedures the Secretary determines to be necessary relating to levees;
- (vi) will carry out public education and awareness activities consistent with the efforts carried out under subsection (f); and
- (vii) will collect and share information regarding the location and condition of levees, including for inclusion in the national levee database.

(C) Public comment

Prior to finalizing the guidelines under this paragraph, the Secretary shall—

- (i) issue draft guidelines for public comment; and
- (ii) consider any comments received in the development of final guidelines.

(2) Assistance to States

(A) Establishment

The Administrator may provide assistance, subject to the availability of funding specified in appropriations Acts for Federal Emergency Management Agency activities pursuant to this chapter and subject to amounts available under subparagraph (E), to States and Indian tribes in establishing participating programs, conducting levee inventories, and improving levee safety programs in accordance with subparagraph (B).

(B) Requirements

To be eligible to receive assistance under this section, a State or Indian tribe shall—

- (i) meet the requirements of a participating program established by the guidelines issued under paragraph (1);
- (ii) use not less than 25 percent of any amounts received to identify and assess non-Federal levees within the State or on land of the Indian tribe;
- (iii) submit to the Secretary and Administrator any information collected by the State or Indian tribe in carrying out this subsection for inclusion in the national levee safety database; and
- (iv) identify actions to address hazard mitigation activities associated with levees and leveed areas identified in the hazard mitigation plan of the State approved by the Administrator of the Federal Emergency Management Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(C) Measures to assess effectiveness

(i) In general

Not later than 1 year after June 10, 2014, the Administrator shall implement quan-

tifiable performance measures and metrics to assess the effectiveness of the assistance provided in accordance with subparagraph (A).

(ii) Considerations

In assessing the effectiveness of assistance under clause (i), the Administrator shall consider the degree to which the State or tribal program—

(I) ensures that human lives and property that are protected by new and existing levees are safe;

(II) encourages the use of appropriate engineering policies, procedures, and technical practices for levee site investigation, design, construction, operation and maintenance, inspection, assessment, and emergency preparedness;

(III) develops and supports public education and awareness projects to increase public acceptance and support of levee safety programs and provide information;

(IV) builds public awareness of the residual risks associated with living in levee protected areas; and

(V) develops technical assistance materials, seminars, and guidelines to improve the security of levees of the United States.

(D) Maintenance of effort

Technical assistance or grants may not be provided to a State under this subsection during a fiscal year unless the State enters into an agreement with the Administrator to ensure that the State will maintain during that fiscal year aggregate expenditures for programs to ensure levee safety that equal or exceed the average annual level of such expenditures for the State for the 2 fiscal years preceding that fiscal year.

(E) Authorization of appropriations

(i) In general

There is authorized to be appropriated to the Administrator to carry out this subsection \$25,000,000 for each of fiscal years 2015 through 2019.

(ii) Allocation

For each fiscal year, amounts made available under this subparagraph shall be allocated among the States and Indian tribes as follows:

(I) $\frac{1}{3}$ among States and Indian tribes that qualify for assistance under this subsection.

(II) $\frac{2}{3}$ among States and Indian tribes that qualify for assistance under this subsection, to each such State or Indian tribe in the proportion that—

(aa) the miles of levees in the State or on the land of the Indian tribe that are listed on the inventory of levees; bears to

(bb) the miles of levees in all States and on the land of all Indian tribes that are in the national levee database.

(iii) Maximum amount of allocation

The amounts allocated to a State or Indian tribe under this subparagraph shall

not exceed 50 percent of the reasonable cost of implementing the State or tribal levee safety program.

(F) Prohibition

No amounts made available to the Administrator under this chapter shall be used for levee construction, rehabilitation, repair, operations, or maintenance.

(h) Levee rehabilitation assistance program

(1) Establishment

The Secretary shall provide assistance to States, Indian tribes, and local governments relating to addressing flood mitigation activities that result in an overall reduction in flood risk.

(2) Requirements

To be eligible to receive assistance under this subsection, a State, Indian tribe, or local government shall—

(A) participate in, and comply with, all applicable Federal floodplain management and flood insurance programs;

(B) have in place a hazard mitigation plan that—

(i) includes all levee risks; and

(ii) complies with the Disaster Mitigation Act of 2000 (Public Law 106-390; 114 Stat. 1552);

(C) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(D) commit to provide normal operation and maintenance of the project for the 50 year-period following completion of rehabilitation; and

(E) comply with such minimum eligibility requirements as the Secretary, in consultation with the committee, may establish to ensure that each owner and operator of a levee under a participating State or tribal levee safety program—

(i) acts in accordance with the guidelines developed under subsection (c); and

(ii) carries out activities relating to the public in the leveed area in accordance with the hazard mitigation plan described in subparagraph (B).

(3) Floodplain management plans

(A) In general

Not later than 1 year after the date of execution of a project agreement for assistance under this subsection, a State, Indian tribe, or local government shall prepare a floodplain management plan in accordance with the guidelines under subparagraph (D) to reduce the impacts of future flood events in each applicable leveed area.

(B) Inclusions

A plan under subparagraph (A) shall address—

(i) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in each applicable leveed area;

(ii) plans for flood fighting and evacuation; and

(iii) public education and awareness of flood risks.

(C) Implementation

Not later than 1 year after the date of completion of construction of the applicable project, a floodplain management plan prepared under subparagraph (A) shall be implemented.

(D) Guidelines

Not later than 180 days after June 10, 2014, the Secretary, in consultation with the Administrator, shall develop such guidelines for the preparation of floodplain management plans prepared under this paragraph as the Secretary determines to be appropriate.

(E) Technical support

The Secretary may provide technical support for the development and implementation of floodplain management plans prepared under this paragraph.

(4) Use of funds

(A) In general

Assistance provided under this subsection may be used—

- (i) for any rehabilitation activity to maximize overall risk reduction associated with a levee under a participating State or tribal levee safety program; and
- (ii) only for a levee that is not federally operated and maintained.

(B) Prohibition

Assistance provided under this subsection shall not be used—

- (i) to perform routine operation or maintenance for a levee; or
- (ii) to make any modification to a levee that does not result in an improvement to public safety.

(5) No proprietary interest

A contract for assistance provided under this subsection shall not be considered to confer any proprietary interest on the United States.

(6) Cost share

The maximum Federal share of the cost of any assistance provided under this subsection shall be 65 percent.

(7) Project limit

The maximum amount of Federal assistance for a project under this subsection shall be \$10,000,000.

(8) Limitation

A project shall not receive Federal assistance under this subsection more than 1 time.

(9) Federal interest

For a project that is not a project eligible for rehabilitation assistance under section 701n of this title, the Secretary shall determine that the proposed rehabilitation is in the Federal interest prior to providing assistance for such rehabilitation.

(10) Other laws

Assistance provided under this subsection shall be subject to all applicable laws (includ-

ing regulations) that apply to the construction of a civil works project of the Corps of Engineers.

(i) Effect of section

Nothing in this section—

(1) affects the requirement under section 100226(b)(2) of Public Law 112–141 (42 U.S.C. 4101 note; 126 Stat. 942); or

(2) confers any regulatory authority on—

(A) the Secretary; or

(B) the Administrator, including for the purpose of setting premium rates under the national flood insurance program established under chapter 1¹ of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(Pub. L. 110–114, title IX, §9005, as added Pub. L. 113–121, title III, §3016(e)(2), June 10, 2014, 128 Stat. 1293.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (g)(2)(B)(iv), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Disaster Mitigation Act of 2000, referred to in subsec. (h)(2)(B)(ii), is Pub. L. 106–390, Oct. 30, 2000, 114 Stat. 1552. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 5121 of Title 42 and Tables.

The National Flood Insurance Act of 1968, referred to in subsec. (i)(2)(B), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to chapter 50 (§4001 et seq.) of Title 42, The Public Health and Welfare. Chapter I of the Act is classified principally to subchapter I (§4011 et seq.) of chapter 50 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 9005 of Pub. L. 110–114 was renumbered section 9007, and is classified to section 3304 of this title.

REHABILITATION OF EXISTING LEVEES

Pub. L. 113–121, title III, §3017, June 10, 2014, 128 Stat. 1300, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] shall carry out measures that address consolidation, settlement, subsidence, sea level rise, and new datum to restore federally authorized hurricane and storm damage reduction projects that were constructed as of the date of enactment of this Act [June 10, 2014] to the authorized levels of protection of the projects if the Secretary determines the necessary work is technically feasible, environmentally acceptable, and economically justified.

“(b) LIMITATION.—This section shall only apply to those projects for which the executed project partnership agreement provides that the non-Federal interest is not required to perform future measures to restore the project to the authorized level of protection of the project to account for subsidence and sea-level rise as part of the operation, maintenance, repair, replacement, and rehabilitation responsibilities.

“(c) COST SHARE.—

“(1) IN GENERAL.—The non-Federal share of the cost of construction of a project carried out under this

¹ So in original. Probably should be “chapter I”.

section shall be determined as provided in subsections (a) through (d) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

“(2) CERTAIN ACTIVITIES.—The non-Federal share of the cost of operations, maintenance, repair, replacement, and rehabilitation for a project carried out under this section shall be 100 percent.

“(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall include in the annual report developed under section 7001 [33 U.S.C. 2282d]—

“(1) any recommendations relating to the continued need for the authority provided under this section;

“(2) a description of the measures carried out under this section;

“(3) any lessons learned relating to the measures implemented under this section; and

“(4) best practices for carrying out measures to restore hurricane and storm damage reduction projects.

“(e) TERMINATION OF AUTHORITY.—The authority of the Secretary under this subsection [probably should be “section”] terminates on the date that is 10 years after the date of enactment of this Act.”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110–114, set out as a note under section 2201 of this title.

§ 3303b. Reports

(a) State of levees

(1) In general

Not later than 1 year after June 10, 2014, and biennially thereafter, the Secretary in coordination with the committee, shall submit to Congress and make publicly available a report describing the state of levees in the United States and the effectiveness of the levee safety initiative, including—

(A) progress achieved in implementing the levee safety initiative;

(B) State and tribal participation in the levee safety initiative;

(C) recommendations to improve coordination of levee safety, floodplain management, and environmental protection concerns, including—

(i) identifying and evaluating opportunities to coordinate public safety, floodplain management, and environmental protection activities relating to levees; and

(ii) evaluating opportunities to coordinate environmental permitting processes for operation and maintenance activities at existing levee projects in compliance with all applicable laws; and

(D) any recommendations for legislation and other congressional actions necessary to ensure national levee safety.

(2) Inclusion

Each report under paragraph (1) shall include a report of the committee that describes the independent recommendations of the committee for the implementation of the levee safety initiative.

(b) National dam and levee safety program

Not later than 3 years after June 10, 2014, to the maximum extent practicable, the Secretary and the Administrator, in coordination with the committee, shall submit to Congress and make

publicly available a report that includes recommendations regarding the advisability and feasibility of, and potential approaches for, establishing a joint national dam and levee safety program.

(c) Alignment of Federal programs relating to levees

Not later than 2 years after June 10, 2014, the Comptroller General of the United States shall submit to Congress a report on opportunities for alignment of Federal programs to provide incentives to State, tribal, and local governments and individuals and entities—

(1) to promote shared responsibility for levee safety;

(2) to encourage the development of strong State and tribal levee safety programs;

(3) to better align the levee safety initiative with other Federal flood risk management programs; and

(4) to promote increased levee safety through other Federal programs providing assistance to State and local governments.

(d) Liability for certain levee engineering projects

Not later than 1 year after June 10, 2014, the Secretary shall submit to Congress and make publicly available a report that includes recommendations that identify and address any legal liability associated with levee engineering projects that prevent—

(1) levee owners from obtaining needed levee engineering services; or

(2) development and implementation of a State or tribal levee safety program.

(Pub. L. 110–114, title IX, §9006, as added Pub. L. 113–121, title III, §3016(e)(2), June 10, 2014, 128 Stat. 1299.)

PRIOR PROVISIONS

A prior section 9006 of Pub. L. 110–114 was renumbered section 9008, and is classified to section 3305 of this title.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110–114, set out as a note under section 2201 of this title.

§ 3304. Limitations on statutory construction

Nothing in this chapter shall be construed as—

(1) creating any liability of the United States or its officers or employees for the recovery of damages caused by an action or failure to act; or

(2) relieving an owner or operator of a levee of a legal duty, obligation, or liability incident to the ownership or operation of a levee.

(Pub. L. 110–114, title IX, §9007, formerly §9005, Nov. 8, 2007, 121 Stat. 1290; renumbered §9007, Pub. L. 113–121, title III, §3016(e)(1), June 10, 2014, 128 Stat. 1293.)

§ 3305. Authorization of appropriations

There is authorized to be appropriated to the Secretary—

(1) to carry out sections 3302, 3303a(c), 3303a(d), 3303a(e), and 3303a(f) of this title, \$4,000,000 for each of fiscal years 2015 through 2019;