

report” and “The feasibility report” in par. (2), added pars. (3) and (4), and struck out last sentence of existing provisions which read as follows: “This subsection shall not apply to (1) any study with respect to which a report has been submitted to Congress before November 17, 1986, (2) any study for a project, which project is authorized for construction by this Act and is not subject to section 903(b), (3) any study for a project which is authorized under any of the following sections: section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 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), and (4) general studies not intended to lead to recommendation of a specific water resources project.”

Subsec. (b). Pub. L. 110–114, §2043(b)(2)(A), inserted heading.

Subsecs. (c) to (f). Pub. L. 110–114, §2043(b)(2)(B)–(E), added subsec. (c), redesignated former subsecs. (c) to (e) as (d) to (f), respectively, and inserted headings in subsecs. (d) and (e).

2000—Subsec. (e). Pub. L. 106–541 added subsec. (e).

#### APPLICABILITY

Pub. L. 113–121, title I, §1002(d), June 10, 2014, 128 Stat. 1199, provided that: “The Secretary [of the Army] shall continue to carry out a study for which a reconnaissance level investigation has been initiated before the date of enactment of this Act [June 10, 2014] as if this section [amending this section], including the amendments made by this section, had not been enacted.”

#### EXPEDITED COMPLETION OF REPORTS

Pub. L. 113–121, title I, §1003, June 10, 2014, 128 Stat. 1199, provided that: “The Secretary [of the Army] shall—

“(1) expedite the completion of any on-going feasibility study for a project initiated before the date of enactment of this Act [June 10, 2014]; and

“(2) if the Secretary determines that the project is justified in a completed report, proceed directly to preconstruction planning, engineering, and design of the project in accordance with section 910 of the Water Resources Development Act of 1986 (33 U.S.C. 2287).”

#### NATIONAL ACADEMY OF SCIENCES STUDY

Pub. L. 106–541, title II, §216, Dec. 11, 2000, 114 Stat. 2595, provided that:

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ACADEMY.—The term ‘Academy’ means the National Academy of Sciences.

“(2) METHOD.—The term ‘method’ means a method, model, assumption, or other pertinent planning tool used in conducting an economic or environmental analysis of a water resources project, including the formulation of a feasibility report.

“(3) FEASIBILITY REPORT.—The term ‘feasibility report’ means each feasibility report, and each associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project.

“(4) WATER RESOURCES PROJECT.—The term ‘water resources project’ means a project for navigation, a project for flood control, a project for hurricane and storm damage reduction, a project for emergency streambank and shore protection, a project for ecosystem restoration and protection, and a water resources project of any other type carried out by the Corps of Engineers.

“(b) INDEPENDENT PEER REVIEW OF PROJECTS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 11, 2000], the Secretary [of the Army] shall contract with the Acad-

emy to study, and make recommendations relating to, the independent peer review of feasibility reports.

“(2) STUDY ELEMENTS.—In carrying out a contract under paragraph (1), the Academy shall study the practicality and efficacy of the independent peer review of the feasibility reports, including—

“(A) the cost, time requirements, and other considerations relating to the implementation of independent peer review; and

“(B) objective criteria that may be used to determine the most effective application of independent peer review to feasibility reports for each type of water resources project.

“(3) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

“(A) the results of the study conducted under paragraphs (1) and (2); and

“(B) in light of the results of the study, specific recommendations, if any, on a program for implementing independent peer review of feasibility reports.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$1,000,000, to remain available until expended.

“(c) INDEPENDENT PEER REVIEW OF METHODS FOR PROJECT ANALYSIS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 11, 2000], the Secretary [of the Army] shall contract with the Academy to conduct a study that includes—

“(A) a review of state-of-the-art methods;

“(B) a review of the methods currently used by the Secretary;

“(C) a review of a sample of instances in which the Secretary has applied the methods identified under subparagraph (B) in the analysis of each type of water resources project; and

“(D) a comparative evaluation of the basis and validity of state-of-the-art methods identified under subparagraph (A) and the methods identified under subparagraphs (B) and (C).

“(2) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall transmit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

“(A) the results of the study conducted under paragraph (1); and

“(B) in light of the results of the study, specific recommendations for modifying any of the methods currently used by the Secretary for conducting economic and environmental analyses of water resources projects.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000. Such sums shall remain available until expended.”

#### ENGINEERING CONSULTING SERVICES

Pub. L. 106–541, title II, §219, Dec. 11, 2000, 114 Stat. 2596, provided that: “In conducting a feasibility study for a water resources project, the Secretary [of the Army], to the maximum extent practicable, should not employ a person for engineering and consulting services if the same person is also employed by the non-Federal interest for such services unless there is only 1 qualified and responsive bidder for such services.”

### § 2282a. Planning

#### (a) Omitted

#### (b) Planning process improvements

The Chief of Engineers—

(1) shall adopt a risk analysis approach to project cost estimates for water resources projects; and

(2) not later than one year after November 8, 2007, shall—

(A) issue procedures for risk analysis for cost estimation for water resources projects; and

(B) submit to Congress a report that includes any recommended amendments to section 2280 of this title.

**(c) Benchmarks**

**(1) In general**

Not later than 12 months after November 8, 2007, the Chief of Engineers shall establish benchmarks for determining the length of time it should take to conduct a feasibility study for a water resources project and its associated review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Chief of Engineers shall use such benchmarks as a management tool to make the feasibility study process more efficient in all districts of the Corps of Engineers.

**(2) Benchmark goals**

The Chief of Engineers shall establish, to the extent practicable, under paragraph (1) benchmark goals for completion of feasibility studies for water resources projects generally within 2 years. In the case of feasibility studies that the Chief of Engineers determines may require additional time based on the project type, size, cost, or complexity, the benchmark goal for completion shall be generally within 4 years.

**(d) Calculation of benefits and costs for flood damage reduction projects**

A feasibility study for a project for flood damage reduction shall include, as part of the calculation of benefits and costs—

(1) a calculation of the residual risk of flooding following completion of the proposed project;

(2) a calculation of the residual risk of loss of human life and residual risk to human safety following completion of the proposed project;

(3) a calculation of any upstream or downstream impacts of the proposed project; and

(4) calculations to ensure that the benefits and costs associated with structural and non-structural alternatives are evaluated in an equitable manner.

**(e) Centers of specialized planning expertise**

**(1) Establishment**

The Secretary may establish centers of expertise to provide specialized planning expertise for water resources projects to be carried out by the Secretary in order to enhance and supplement the capabilities of the districts of the Corps of Engineers.

**(2) Duties**

A center of expertise established under this subsection shall—

(A) provide technical and managerial assistance to district commanders of the Corps of Engineers for project planning, development, and implementation;

(B) provide agency peer reviews of new major scientific, engineering, or economic methods, models, or analyses that will be used to support decisions of the Secretary with respect to feasibility studies for water resources projects;

(C) provide support for independent peer review panels under section 2343 of this title; and

(D) carry out such other duties as are prescribed by the Secretary.

**(3) Deep draft navigation planning center of expertise**

**(A) In general**

The Secretary shall consolidate deep draft navigation expertise within the Corps of Engineers into a deep draft navigation planning center of expertise.

**(B) List**

Not later than 60 days after the date of the consolidation required under subparagraph (A), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the grade levels and expertise of each of the personnel assigned to the center described in subparagraph (A).

**(f) Completion of Corps of Engineers reports**

**(1) Alternatives**

**(A) In general**

Feasibility and other studies and assessments for a water resources project shall include recommendations for alternatives—

(i) that, as determined in coordination with the non-Federal interest for the project, promote integrated water resources management; and

(ii) for which the non-Federal interest is willing to provide the non-Federal share for the studies or assessments.

**(B) Constraints**

The alternatives contained in studies and assessments described in subparagraph (A) shall not be constrained by budgetary or other policy.

**(C) Reports of Chief of Engineers**

The reports of the Chief of Engineers shall identify any recommendation that is not the best technical solution to water resource needs and problems and the reason for the deviation.

**(2) Report completion**

The completion of a report of the Chief of Engineers for a water resources project—

(A) shall not be delayed while consideration is being given to potential changes in policy or priority for project consideration; and

(B) shall be submitted, on completion, to—

(i) the Committee on Environment and Public Works of the Senate; and

(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

**(g) Completion review****(1) In general**

Except as provided in paragraph (2), not later than 120 days after the date of completion of a report of the Chief of Engineers that recommends to Congress a water resources project, the Secretary shall—

(A) review the report; and

(B) provide any recommendations of the Secretary regarding the water resources project to Congress.

**(2) Prior reports**

Not later than 180 days after November 8, 2007, with respect to any report of the Chief of Engineers recommending a water resources project that is complete prior to November 8, 2007, the Secretary shall complete review of, and provide recommendations to Congress for, the report in accordance with paragraph (1).

(Pub. L. 110–114, title II, §2033, Nov. 8, 2007, 121 Stat. 1084; Pub. L. 113–121, title II, §2103, June 10, 2014, 128 Stat. 1278.)

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 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 4321 of Title 42 and Tables.

## CODIFICATION

Section is comprised of section 2033 of Pub. L. 110–114. Subsec. (a) of section 2033 of Pub. L. 110–114 amended section 2281 of this title.

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

## AMENDMENTS

2014—Subsec. (e)(3). Pub. L. 113–121 added par. (3).

## “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.

**§ 2282b. Submission of reports to Congress**

Beginning on January 17, 2014, and hereafter, not later than 120 days after the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

(Pub. L. 113–76, div. D, title I, §104, Jan. 17, 2014, 128 Stat. 157.)

## CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2014, and also as part of the Consolidated Appropriations Act, 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

**§ 2282c. Vertical integration and acceleration of studies****(a) In general**

To the extent practicable, a feasibility study initiated by the Secretary, after June 10, 2014, under section 2282(a) of this title shall—

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

(2) have a maximum Federal cost of \$3,000,000; and

(3) ensure that personnel from the district, division, and headquarters levels of the Corps of Engineers concurrently conduct the review required under that section.

**(b) Extension**

If the Secretary determines that a feasibility study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall—

(1) prepare an updated feasibility study schedule and cost estimate;

(2) notify the non-Federal feasibility cost-sharing partner that the feasibility study has been delayed; and

(3) provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as to the reasons the requirements of subsection (a) are not attainable.

**(c) Termination of authorization**

A feasibility study for which the Secretary has issued a determination under subsection (b) is not authorized after the last day of the 1-year period beginning on the date of the determination if the Secretary has not completed the study on or before such last day.

**(d) Exception****(1) In general**

Notwithstanding the requirements of subsection (c), the Secretary may extend the timeline of a study by a period not to exceed 3 years, if the Secretary determines that the feasibility study is too complex to comply with the requirements of subsections (a) and (c).

**(2) Factors**

In making a determination that a study is too complex to comply with the requirements of subsections (a) and (c), the Secretary shall consider—

(A) the type, size, location, scope, and overall cost of the project;

(B) whether the project will use any innovative design or construction techniques;

(C) whether the project will require significant action by other Federal, State, or local agencies;

(D) whether there is significant public dispute as to the nature or effects of the project; and

(E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

**(3) Notification**

Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives