

“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.

§ 2315a. Transparency in accounting and administrative expenses

On the request of a non-Federal interest, the Secretary shall provide to the non-Federal interest a detailed accounting of the Federal expenses associated with a water resources project.

(Pub. L. 113–121, title I, §1012(a), June 10, 2014, 128 Stat. 1218.)

CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

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§ 2316. Environmental protection mission

(a) General rule

The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) Limitation

Nothing in this section affects—

- (1) existing Corps of Engineers’ authorities, including its authorities with respect to navigation and flood control;
- (2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or
- (3) the application of public interest review procedures for Corps of Engineers permits.

(Pub. L. 101–640, title III, §306, Nov. 28, 1990, 104 Stat. 4635.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1990, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

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§ 2317. Wetlands

(a) Goals and action plan

(1) Goals

There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation’s remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation’s wetlands, as defined by acreage and function.

(2) Use of authorities

The Secretary shall utilize all appropriate authorities, including those to restore and cre-

ate wetlands, in meeting the interim and long-term goals.

(3) Action plan

(A) Development

The Secretary shall develop, in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) Contents

The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) Completion deadline

The Secretary shall complete the plan not later than 1 year after November 28, 1990.

(b) Constructed wetlands for Mud Creek, Arkansas

Notwithstanding any other provision of law, the Secretary is authorized and directed to establish and carry out a research and pilot project to evaluate and demonstrate—

- (1) the use of constructed wetlands for wastewater treatment, and
- (2) methods by which such projects contribute—

(A) to meeting the objective of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] to restore and maintain the physical, chemical, and biological integrity of the Nation’s waters, and

(B) to attaining the goals established by subsection (a) of this section.

The project under this subsection shall be carried out to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(c) Non-Federal responsibilities

For the project conducted under subsection (b) of this section, the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices; except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal

share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(d) Wetlands restoration and enhancement demonstration program

(1) Establishment and implementation

The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of wetlands restoration, enhancement, and creation as a means of contributing to the goals established by subsection (a) of this section.

(2) Goal

The goal of the program under this subsection shall be to establish a limited number of demonstration wetlands restoration, enhancement, and creation areas in districts of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such areas as a means of contributing to the attainment of the goals established by subsection (a) of this section. Federal and State land-owning agencies and private parties may contribute to such areas.

(3) Factors to consider

In establishing the demonstration program under this subsection, the Secretary shall consider—

(A) past experience with wetlands restoration, enhancement, and creation;

(B) the appropriate means of measuring benefits of compensatory mitigation activities, including enhancement or restoration of existing wetlands or creation of wetlands;

(C) the appropriate geographic scope for which wetlands loss may be offset by restoration, enhancement, and creation efforts;

(D) the technical feasibility and scientific likelihood that wetlands can be successfully restored, enhanced, and created;

(E) means of establishing liability for, and long-term ownership of, wetlands restoration, enhancement, and creation areas; and

(F) responsibilities for short- and long-term project monitoring.

(4) Reporting

(A) To the Chief of Engineers

The district engineer for each district of the Corps of Engineers in which a wetlands restoration, enhancement, and creation area is established under this subsection shall transmit annual reports to the Chief of Engineers describing the amount and value of wetlands restored, enhanced, and created for the area and a summary of whether the area is contributing to the goal established in paragraph (2).

(B) To Congress

Not later than 3 years after November 28, 1990, the Secretary shall transmit to Congress a report evaluating the use of wetlands restoration, enhancement, and creation areas in fulfilling the goal established by paragraph (2), together with recommendations on whether or not to continue use of such areas as a means of meeting the goals established by subsection (a) of this section.

(5) Effect on other laws

Nothing in this subsection affects any requirements under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 403 of this title.

(e) Training and certification of delineators

(1) In general

The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) Reports

The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(Pub. L. 101-640, title III, § 307, Nov. 28, 1990, 104 Stat. 4635.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(2)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1990, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under subsec. (e)(2) of this section is listed on page 70), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

WETLANDS ENHANCEMENT OPPORTUNITIES

Pub. L. 101-640, title IV, § 409, Nov. 28, 1990, 104 Stat. 4648, provided that: "Not later than January 20, 1992, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects."

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§ 2317a. Cooperative agreements

(a) In general

For the purpose of expediting the cost-effective design and construction of wetlands restoration that is part of an authorized water resources project, the Secretary may enter into