

plain, as the case may be, after the initial date of the affected governmental unit's entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.].

**(e) Regulations**

Not later than 6 months after the date on which a report is transmitted to Congress under subsection (c) of this section, the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a) of this section. Such regulations shall define key terms, such as new or substantially improved structure, constriction, 10-year flood plain, and 100-year flood plain.

**(f) Applicability**

The provisions of this section shall not apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has been forwarded to the Secretary before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) of this section but not later than July 1, 1993.

(Pub. L. 101-640, title III, § 308, Nov. 28, 1990, 104 Stat. 4638; Pub. L. 106-53, title II, § 219(a), Aug. 17, 1999, 113 Stat. 294.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsec. (d), is title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to chapter 50 (§4001 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 4001 of Title 42 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.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-53, § 219(a)(1), inserted “Exclusion of elements from” before “benefit-cost” in heading.

Subsecs. (b) to (d). Pub. L. 106-53, § 219(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106-53, § 219(a)(2), (4), redesignated subsec. (d) as (e) and substituted “subsection (c)” for “subsection (b)”. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 106-53, § 219(a)(2), redesignated subsec. (e) as (f).

CHANGE OF NAME

References to the Director of the Federal Emergency Management Agency to be considered to refer and apply to the Administrator of the Federal Emergency Management Agency, see section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REEVALUATION OF FLOOD CONTROL PROJECTS

Pub. L. 106-53, title II, § 219(b), Aug. 17, 1999, 113 Stat. 295, provided that: “At the request of a non-Federal interest for a flood control project, the Secretary shall conduct a reevaluation of a project authorized before the date of enactment of this Act [Aug. 17, 1999] to consider nonstructural alternatives in light of the amendments made by subsection (a) [amending this section].”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

**§ 2319. Reservoir management**

The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this section, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the Secretary shall transmit to Congress a report on measures taken pursuant to this section.

(Pub. L. 101-640, title III, § 310, Nov. 28, 1990, 104 Stat. 4639; Pub. L. 104-303, title II, § 233, Oct. 12, 1996, 110 Stat. 3704.)

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.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-303, § 233(1), struck out heading and text of subsec. (a). Text read as follows: “Not later than 2 years after November 28, 1990, the Secretary shall establish for major reservoirs under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir research. The Secretary shall determine the membership of the committee, except that the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).”

Subsec. (b). Pub. L. 104-303, § 233(2), struck out “(b) PUBLIC PARTICIPATION.—” before “The Secretary shall ensure”, and substituted “section” for “subsection” in two places.

DAM OPTIMIZATION

Pub. L. 113-121, title I, § 1046(a), June 10, 2014, 128 Stat. 1251, provided that:

“(1) DEFINITION OF PROJECT.—In this subsection, the term ‘project’ means a water resources development project that is operated and maintained by the Secretary [of the Army].

“(2) REPORTS.—

“(A) ASSESSMENT OF WATER SUPPLY IN ARID REGIONS.—

“(i) IN GENERAL.—The Secretary shall conduct an assessment of the management practices, priorities, and authorized purposes at Corps of Engineers reservoirs in arid regions to determine the effects of such practices, priorities, and purposes on water supply during periods of drought.

“(ii) INCLUSIONS.—The assessment under clause (i) shall identify actions that can be carried out within the scope of existing authorities of the Secretary to increase project flexibility for the purpose of mitigating drought impacts.

“(iii) REPORT.—Not later than 1 year after the date of enactment of this Act [June 10, 2014], 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 and make publicly available a report on the results of the assessment.

“(B) UPDATED REPORT.—

“(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall update and make publicly available the report entitled ‘Authorized and Operating Purposes of Corps of Engineers Reservoirs’ and dated July 1992, which was produced pursuant to section 311 of the Water Resources Development Act of 1990 [Pub. L. 101-640] (104 Stat. 4639).

“(ii) INCLUSIONS.—The updated report described in clause (i) shall—

“(I) include—

“(aa) the date on which the most recent review of project operations was conducted and any recommendations of the Secretary relating to that review the Secretary determines to be significant;

“(bb) the activities carried out pursuant to each such review to improve the efficiency of operations and maintenance and to improve project benefits consistent with authorized purposes;

“(cc) the degree to which reviews of project operations and subsequent activities pursuant to completed reviews complied with the policies and requirements of applicable law and regulations; and

“(dd) a plan for reviewing the operations of individual projects, including a detailed schedule for future reviews of project operations, that—

“(AA) complies with the policies and requirements of applicable law and regulations;

“(BB) gives priority to reviews and activities carried out pursuant to such plan where the Secretary determines that there is support for carrying out those reviews and activities; and

“(CC) ensures that reviews and activities are carried out pursuant to such plan;

“(II) be coordinated with appropriate Federal, State, and local agencies and those public and private entities that the Secretary determines may be affected by those reviews or activities;

“(III) not supersede or modify any written agreement between the Federal Government and a non-Federal interest that is in effect on the date of enactment of this Act [June 10, 2014];

“(IV) not supersede or authorize any amendment to a multistate water control plan, including the Missouri River Master Water Control Manual (as in effect on the date of enactment of this Act);

“(V) not affect any water right in existence on the date of enactment of this Act;

“(VI) not preempt or affect any State water law or interstate compact governing water;

“(VII) not affect any authority of a State, as in effect on the date of enactment of this Act, to manage water resources within that State; and

“(VIII) comply with section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b).

“(3) GENERAL ACCOUNTABILITY OFFICE REPORT TO CONGRESS.—The Comptroller General shall—

“(A) conduct an audit to determine—

“(i) whether reviews of project operations carried out by the Secretary prior to the date of enactment of this Act complied with the policies and requirements of applicable law and regulations; and

“(ii) whether the plan developed by the Secretary pursuant to paragraph (2)(B)(ii)(I)(dd) complies with this subsection and with the policies and requirements of applicable law and regulation; and

“(B) not later than 2 years after the date of enactment of this Act, submit to Congress a report that—

“(i) summarizes the results of the audit required by subparagraph (A);

“(ii) includes an assessment of whether existing practices for managing and reviewing project operations could result in greater efficiencies that would enable the Corps of Engineers to better prepare for, contain, and respond to flood, storm, and drought conditions; and

“(iii) includes recommendations for improving the review of project operations to improve the efficiency and effectiveness of such operations and to better achieve authorized purposes while enhancing overall project benefits.

“(4) INTERAGENCY AND COOPERATIVE AGREEMENTS.—The Secretary may enter into interagency agreements with other Federal agencies and cooperative agreements with non-Federal entities to carry out this subsection and reviews of project operations or activities resulting from those reviews.

“(5) FUNDING.—

“(A) IN GENERAL.—The Secretary may use to carry out this subsection, including any reviews of project operations identified in the plan developed under paragraph (2)(B)(ii)(I)(dd), amounts made available to the Secretary.

“(B) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend amounts from non-Federal entities and other Federal agencies to carry out this subsection and reviews of project operations or activities resulting from those reviews.

“(6) EFFECT OF SUBSECTION.—

“(A) IN GENERAL.—Nothing in this subsection changes the authorized purpose of any Corps of Engineers dam or reservoir.

“(B) ADMINISTRATION.—The Secretary may carry out any recommendations and activities under this subsection pursuant to existing law.”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

### § 2320. Protection of recreational and commercial uses

#### (a) General rule

In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

#### (b) Maintenance

Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such