

tional economic development are the objectives to be included in federally financed water resource projects (including shore protection projects such as projects for beach nourishment, including the replacement of sand), and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

(Pub. L. 91-611, title II, §209, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104-303, title II, §227(f), Oct. 12, 1996, 110 Stat. 3703.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104-303 inserted “(including shore protection projects such as projects for beach nourishment, including the replacement of sand)” after “water resource projects”.

§ 1962-3. Water resources principles and guidelines

(a) National water resources planning policy

It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

- (1) seeking to maximize sustainable economic development;
- (2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and
- (3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

(b) Principles and guidelines

(1) Principles and guidelines defined

In this subsection, the term “principles and guidelines” means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 1962a-2 of this title, entitled “Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies”, and dated March 10, 1983.

(2) In general

Not later than 2 years after November 8, 2007, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use by the Secretary in the formulation, evaluation, and implementation of water resources projects.

(3) Considerations

In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

- (A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.

- (B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.

- (C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.

- (D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.

- (E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.

- (F) Evaluation methods that ensure that water resources projects are justified by public benefits.

(4) Consultation and public participation

In carrying out paragraph (2), the Secretary shall—

- (A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and
- (B) solicit and consider public and expert comments.

(5) Publication

The Secretary shall—

- (A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of—

- (i) the revisions to the principles and guidelines for use by the Secretary; and
- (ii) an explanation of the intent of each revision, how each revision is consistent with this section, and the probable impact of each revision on water resources projects carried out by the Secretary; and

- (B) make the revisions to the principles and guidelines for use by the Secretary available to the public, including on the Internet.

(6) Effect

Subject to the requirements of this subsection, the principles and guidelines as revised under this subsection shall apply to water resources projects carried out by the Secretary instead of the principles and guidelines for such projects in effect on the day before November 8, 2007.

(7) Applicability

After the date of issuance of the revisions to the principles and guidelines, the revisions shall apply—

- (A) to all water resources projects carried out by the Secretary, other than projects for which the Secretary has commenced a feasibility study before the date of such issuance;

(B) at the request of a non-Federal interest, to a water resources project for which the Secretary has commenced a feasibility study before the date of such issuance; and

(C) to the reevaluation or modification of a water resources project, other than a reevaluation or modification that has been commenced by the Secretary before the date of such issuance.

(8) Existing studies

Revisions to the principles and guidelines issued under paragraph (2) shall not affect the validity of any completed study of a water resources project.

(9) Recommendation

Upon completion of the revisions to the principles and guidelines for use by the Secretary, the Secretary shall make a recommendation to Congress as to the advisability of repealing subsections (a) and (b) of section 1962d-17 of this title.

(Pub. L. 110-114, title II, § 2031, Nov. 8, 2007, 121 Stat. 1082.)

CODIFICATION

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

“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 Title 33, Navigation and Navigable Waters.

SUBCHAPTER I—WATER RESOURCES
COUNCIL

§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman

There is hereby established a Water Resources Council (hereinafter referred to as the “Council”) which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Secretary of Energy. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President.

(Pub. L. 89-80, title I, § 101, July 22, 1965, 79 Stat. 245; Pub. L. 94-112, § 1(a), Oct. 16, 1975, 89 Stat. 575; Pub. L. 95-91, title III, § 301(b), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 578, 606, 607.)

AMENDMENTS

1975—Pub. L. 94-112 included in the membership of the Water Resources Council, the Secretaries of Commerce, Housing and Urban Development, and Transportation and the Administrator of the Environmental Protection Agency, and terminated the membership for the Secretary of Health, Education, and Welfare.

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted for “Chairman of the Federal Power Commission” in text pursuant to

sections 301(b), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(b), 7293, and 7297 of this title, and which terminated Federal Power Commission and transferred its functions and functions of Chairman thereof (with certain exceptions) to Secretary of Energy.

NATIONAL WATER COMMISSION

Pub. L. 90-515, Sept. 26, 1968, 82 Stat. 868, provided for establishment of National Water Commission, its membership, chairman, compensation, powers, duties, and functions, required Commission to review national water resource problems and submit interim and final reports, and provided that Commission terminate no later than five years from Sept. 26, 1968.

§ 1962a-1. Powers and duties

The Council shall—

(a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and

(b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

(Pub. L. 89-80, title I, § 102, July 22, 1965, 79 Stat. 245.)

§ 1962a-2. Principles, standards, and procedures for Federal projects

(a) Establishment, consultation, revision

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission.

(b) Economic evaluation; primary criterion

The Council shall develop standards and criteria for economic evaluation of water resource projects. For the purpose of those standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway. “Savings to shippers” means the difference between (1) the freight rates or charges prevailing at the time of the study for the movement by the alternative means, and (2) those which would be charged on the proposed waterway. Estimated traffic that would use the