

(A) funds have been obligated for construction of, or a post-authorization study for, such project or separable element during that period; or

(B) the authorization contained in this Act has been modified by a subsequent Act of Congress.

(2) Identification of projects

Not later than 60 days after the expiration of the 10-year period referred to in paragraph (1), 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 report that identifies the projects deauthorized under paragraph (1).

(b) Report to Congress

Not later than 60 days after the expiration of the 12-year period beginning on December 16, 2016, 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 available to the public, a report that contains—

(1) a list of any water resources development projects authorized by this Act for which construction has not been completed during that period;

(2) a description of the reasons the projects were not completed;

(3) a schedule for the completion of the projects based on expected levels of appropriations; and

(4) a 5-year and 10-year projection of construction backlog and any recommendations to Congress regarding how to mitigate current problems and the backlog.

(Pub. L. 114-322, title I, § 1302, Dec. 16, 2016, 130 Stat. 1690.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1) and (b)(1), is Pub. L. 114-322, Dec. 16, 2016, 130 Stat. 1628, known as the Water Infrastructure Improvements for the Nation Act or the WIIN Act. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 2201 of this title and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 579c-2. Backlog prevention: projects from Public Law 115-270

(a) Project deauthorization

(1) In general

A water resources development project authorized for construction by this Act shall not be authorized after the last day of the 10-year period beginning on October 23, 2018 unless—

(A) funds have been obligated for construction of, or a post-authorization study for, such project or such separable element during such period; or

(B) a subsequent Act of Congress modifies the authorization contained in this Act.

(2) Identification of projects

Not later than 60 days after the expiration of the 10-year period described in paragraph (1),

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 report that identifies the projects deauthorized under paragraph (1).

(b) Report to Congress

Not later than 60 days after the expiration of the 12-year period beginning on October 23, 2018, 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 available to the public, a report that contains—

(1) a list of any water resources development projects authorized by this Act for which construction has not been completed;

(2) a description of the reasons each project was not completed;

(3) a schedule for the completion of the projects based on expected levels of appropriations;

(4) a 5-year and 10-year projection of construction backlog; and

(5) any recommendations to Congress regarding how to mitigate the backlog.

(Pub. L. 115-270, title I, § 1302, Oct. 23, 2018, 132 Stat. 3817.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1) and (b)(1), is Pub. L. 115-270, Oct. 23, 2018, 132 Stat. 3765, known as the America’s Water Infrastructure Act of 2018. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 2201 of this title and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 102 of Pub. L. 115-270, set out as a note under section 2201 of this title.

§ 579d. Deauthorization of inactive projects as of Public Law 114-322

(a) Purposes

The purposes of this section are—

(1) to identify \$10,000,000,000 in water resources development projects authorized by Congress that are no longer viable for construction due to—

(A) a lack of local support;

(B) a lack of available Federal or non-Federal resources; or

(C) an authorizing purpose that is no longer relevant or feasible;

(2) to create an expedited and definitive process for Congress to deauthorize water resources development projects that are no longer viable for construction; and

(3) to allow the continued authorization of water resources development projects that are viable for construction.

(b) Interim deauthorization list

(1) In general

The Secretary shall develop an interim deauthorization list that identifies—

(A) each water resources development project, or separable element of a project,

authorized for construction before November 8, 2007, for which—

- (i) planning, design, or construction was not initiated before December 16, 2016; or
- (ii) planning, design, or construction was initiated before December 16, 2016, but for which no funds, Federal or non-Federal, were obligated for planning, design, or construction of the project or separable element of the project during the current fiscal year or any of the 6 preceding fiscal years; and

(B) each project or separable element identified and included on a list to Congress for deauthorization pursuant to section 579a(b)(2) of this title.

(2) Public comment and consultation

(A) In general

The Secretary shall solicit comments from the public and the Governors of each applicable State on the interim deauthorization list developed under paragraph (1).

(B) Comment period

The public comment period shall be 90 days.

(3) Submission to Congress; publication

Not later than 90 days after the date of the close of the comment period under paragraph (2), the Secretary shall—

(A) submit a revised interim deauthorization list to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the revised interim deauthorization list in the Federal Register.

(c) Final deauthorization list

(1) In general

The Secretary shall develop a final deauthorization list of water resources development projects, or separable elements of projects, from the revised interim deauthorization list described in subsection (b)(3).

(2) Deauthorization amount

(A) Proposed final list

The Secretary shall prepare a proposed final deauthorization list of projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least \$10,000,000,000.

(B) Determination of Federal cost to complete

For purposes of subparagraph (A), the Federal cost to complete shall take into account any allowances authorized by section 2280 of this title, as applied to the most recent project schedule and cost estimate.

(3) Identification of projects

(A) Sequencing of projects

(i) In general

The Secretary shall identify projects and separable elements of projects for inclusion on the proposed final deauthorization

list according to the order in which the projects and separable elements of the projects were authorized, beginning with the earliest authorized projects and separable elements of projects and ending with the latest project or separable element of a project necessary to meet the aggregate amount under paragraph (2)(A).

(ii) Factors to consider

The Secretary may identify projects and separable elements of projects in an order other than that established by clause (i) if the Secretary determines, on a case-by-case basis, that a project or separable element of a project is critical for interests of the United States, based on the possible impact of the project or separable element of the project on public health and safety, the national economy, or the environment.

(iii) Consideration of public comments

In making determinations under clause (ii), the Secretary shall consider any comments received under subsection (b)(2).

(B) Appendix

The Secretary shall include as part of the proposed final deauthorization list an appendix that—

(i) identifies each project or separable element of a project on the interim deauthorization list developed under subsection (b) that is not included on the proposed final deauthorization list; and

(ii) describes the reasons why the project or separable element is not included on the proposed final list.

(4) Public comment and consultation

(A) In general

The Secretary shall solicit comments from the public and the Governor of each applicable State on the proposed final deauthorization list and appendix developed under paragraphs (2) and (3).

(B) Comment period

The public comment period shall be 90 days.

(5) Submission of final list to Congress; publication

Not later than 120 days after the date of the close of the comment period under paragraph (4), the Secretary shall—

(A) submit a final deauthorization list and an appendix to the final deauthorization list in a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the final deauthorization list and the appendix to the final deauthorization list in the Federal Register.

(d) Deauthorization; congressional review

(1) In general

After the expiration of the 180-day period beginning on the date of submission of the final deauthorization list and appendix under subsection (c), a project or separable element of a

project identified in the final deauthorization list is hereby deauthorized, unless Congress passes a joint resolution disapproving the final deauthorization list prior to the end of such period.

(2) Non-Federal contributions

(A) In general

A project or separable element of a project identified in the final deauthorization list under subsection (c) shall not be deauthorized under this subsection if, before the expiration of the 180-day period referred to in paragraph (1), the non-Federal interest for the project or separable element of the project provides sufficient funds to complete the project or separable element of the project.

(B) Treatment of projects

Notwithstanding subparagraph (A), each project and separable element of a project identified in the final deauthorization list shall be treated as deauthorized for purposes of the aggregate deauthorization amount specified in subsection (c)(2)(A).

(3) Projects identified in appendix

A project or separable element of a project identified in the appendix to the final deauthorization list shall remain subject to future deauthorization by Congress.

(e) Special rule for projects receiving funds for post-authorization study

A project or separable element of a project may not be identified on the interim deauthorization list developed under subsection (b), or the final deauthorization list developed under subsection (c), if the project or separable element received funding for a post-authorization study during the current fiscal year or any of the 6 preceding fiscal years.

(f) General provisions

(1) Definitions

In this section, the following definitions apply:

(A) Post-authorization study

The term “post-authorization study” means—

- (i) a feasibility report developed under section 2282 of this title;
- (ii) a feasibility study, as defined in section 2215(d) of this title; or
- (iii) a review conducted under section 549a of this title, including an initial appraisal that—
 - (I) demonstrates a Federal interest; and
 - (II) requires additional analysis for the project or separable element.

(B) Water resources development project

The term “water resources development project” includes an environmental infrastructure assistance project or program of the Corps of Engineers.

(2) Treatment of project modifications

For purposes of this section, if an authorized water resources development project or separable element of the project has been modified by an Act of Congress, the date of the authorization of the project or separable element shall be deemed to be the date of the most recent modification.

able element of the project has been modified by an Act of Congress, the date of the authorization of the project or separable element shall be deemed to be the date of the most recent modification.

(Pub. L. 114-322, title I, § 1301, Dec. 16, 2016, 130 Stat. 1686.)

CODIFICATION

Section is comprised of section 1301 of Pub. L. 114-322. Subsec. (g) of section 1301 of Pub. L. 114-322 amended section 579b of this title.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 579d-1. Deauthorization of inactive projects as of Public Law 115-270

(a) Purposes

The purposes of this section are—

(1) to identify \$4,000,000,000 in water resources development projects authorized by Congress that are no longer viable for construction due to—

- (A) a lack of local support;
- (B) a lack of available Federal or non-Federal resources; or
- (C) an authorizing purpose that is no longer relevant or feasible;

(2) to create an expedited and definitive process for Congress to deauthorize water resources development projects that are no longer viable for construction; and

(3) to allow the continued authorization of water resources development projects that are viable for construction.

(b) Interim deauthorization list

(1) In general

The Secretary shall develop an interim deauthorization list that identifies—

- (A) each water resources development project, or separable element of a project, authorized for construction before November 8, 2007, for which—
 - (i) planning, design, or construction was not initiated before October 23, 2018; or
 - (ii) planning, design, or construction was initiated before October 23, 2018, but for which no funds, Federal or non-Federal, were obligated for planning, design, or construction of the project or separable element of the project during the current fiscal year or any of the 6 preceding fiscal years;

(B) each project or separable element of a project identified and included on a list to Congress for deauthorization pursuant to section 579a(b)(2) of this title; and

(C) any project or separable element of a project for which the non-Federal sponsor of such project or separable element submits a request for inclusion on the list.

(2) Public comment and consultation

(A) In general

The Secretary shall solicit comments from the public and the Governors of each appli-