

(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

waterway will be based on those freight rates, taking into account projections of the economic growth of the area.

(Pub. L. 89-80, title I, §103, July 22, 1965, 79 Stat. 245; Pub. L. 97-449, §4(a), Jan. 12, 1983, 96 Stat. 2441.)

AMENDMENTS

1983—Pub. L. 97-449 designated existing provisions as subsec. (a) and added subsec. (b).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Chairman of Water Resources Council, see Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended, set out as a note under section 1962a-3 of this title.

COMPUTATION OF PRICES FOR AGRICULTURAL COMMODITIES FOR USE IN EVALUATION OF WATER RESOURCES DEVELOPMENT PROJECTS

Pub. L. 100-460, title VI, §632, Oct. 1, 1988, 102 Stat. 2262, provided that: "Hereafter, none of the funds appropriated in this or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986."

Similar provisions were contained in Pub. L. 100-202, §101(k) [title VI, §634], Dec. 22, 1987, 101 Stat. 1329-322, 1329-357.

§ 1962a-3. Review of river basin commission plans; report to President and Congress

Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 1962b-3(3) of this title, the Council shall review the plan or revision with special regard to—

- (1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;
- (2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and
- (3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

- (a) formulate such recommendations as it deems desirable in the national interest; and
- (b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

(Pub. L. 89-80, title I, §104, July 22, 1965, 79 Stat. 245.)

EX. ORD. NO. 11747. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

The Chairman of the Water Resources Council is designated and empowered to exercise, without the approval, ratification, or other action of the President, the approval function for standards and procedures vested in the President by section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a-2).

§ 1962a-4. Administrative provisions

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers

For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of title 5 of the United States Code; (5) procure services as authorized by section 3109 of title 5, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths

Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) Records; public inspection

To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies

Upon request of the Council, the head of any Federal department or agency is authorized (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds

The Council shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds.

(Pub. L. 89-80, title I, §105, July 22, 1965, 79 Stat. 246; Pub. L. 94-112, §1(b), Oct. 16, 1975, 89 Stat. 575.)