

(1) Aging infrastructure

The term “aging infrastructure” means a water resources development project of the Corps of Engineers, or any other water resources, water storage, or irrigation project of another Federal agency, that is greater than 75 years old.

(2) Enhanced inspection

The term “enhanced inspection” means an inspection that uses current or innovative technology, including Light Detection and Ranging (commonly known as “LiDAR”), ground penetrating radar, subsurface imaging, or subsurface geophysical techniques, to detect whether the features of the aging infrastructure are structurally sound and can operate as intended, or are at risk of failure.

(b) Contracts for enhanced inspection**(1) In general**

The Secretary may carry out enhanced inspections of aging infrastructure, pursuant to a contract with the owner or operator of the aging infrastructure.

(2) Certain circumstances

Subject to the availability of appropriations, or funds available pursuant to subsection (d), the Secretary shall enter into a contract described in paragraph (1), if—

(A) the owner or operator of the aging infrastructure requests that the Secretary carry out the enhanced inspections; and

(B) the inspection is at the full expense of such owner or operator.

(c) Limitation

The Secretary shall not require a non-Federal entity associated with a project under the jurisdiction of another Federal agency to carry out corrective or remedial actions in response to an enhanced inspection carried out under this section.

(d) Funding

The Secretary is authorized to accept funds from an owner or operator of aging infrastructure, and may use such funds to carry out an enhanced inspection pursuant to a contract entered into with such owner or operator under this section.

(Pub. L. 116–260, div. AA, title I, §138, Dec. 27, 2020, 134 Stat. 2651.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2020, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116–260, set out as a note under section 2201 of this title.

§ 2354. Easements for electric, telephone, or broadband service facilities**(a) Definition of water resources development project**

In this section, the term “water resources development project” means a project under the administrative jurisdiction of the Corps of Engineers that is subject to part 327 of title 36, Code of Federal Regulations (or successor regulations).

(b) No consideration for easements

The Secretary may not collect consideration for an easement across water resources development project land for the electric, telephone, or broadband service facilities of nonprofit organizations eligible for financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

(c) Administrative expenses

Nothing in this section affects the authority of the Secretary under section 2695 of title 10 or under section 9701 of title 31 to collect funds to cover reasonable administrative expenses incurred by the Secretary.

(Pub. L. 114–322, title I, §1172, Dec. 16, 2016, 130 Stat. 1671.)

Editorial Notes

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b), is act May 20, 1936, ch. 432, 49 Stat. 1363, which is classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries

“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.

§ 2355. Prior project authorization

In any case in which a project under the jurisdiction of the Secretary is budgeted under a different business line than the business line under which the project was originally authorized, the Secretary shall ensure that the project is carried out in accordance with any requirements that apply to the business line under which the project was originally authorized.

(Pub. L. 115–270, title I, §1127, Oct. 23, 2018, 132 Stat. 3780.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2018, and also as part of the America’s Water Infrastructure Act of 2018, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries**“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.

§ 2356. Project consultation**(a) Reports required**

Not later than 180 days after December 27, 2020, the Secretary shall submit the following reports:

(1) The report required under section 1214 of the Water Resources Development Act of 2018 (132 Stat. 3809).

(2) The report required under section 1120(a)(3) of the Water Resources Development Act of 2016 (130 Stat. 1643).

(b) Environmental justice updates**(1) In general**

In the formulation of water development resources projects, the Secretary shall comply with any existing Executive order regarding environmental justice in effect as of December 27, 2020, to address any disproportionate and adverse human health or environmental effects on minority communities, low-income communities, and Indian Tribes.

(2) Update

Not later than 1 year after December 27, 2020, the Secretary shall review, and shall update, where appropriate, any policies, regulations, and guidance of the Corps of Engineers necessary to implement any Executive order described in paragraph (1) with respect to water resources development projects.

(3) Requirements

In updating the policies, regulations, or guidance under paragraph (2), the Secretary shall—

(A) provide notice to interested non-Federal stakeholders, including representatives of minority communities, low-income communities, and Indian Tribes;

(B) provide opportunities for interested stakeholders to comment on potential updates of policies, regulations, or guidance;

(C) consider the recommendations from the reports submitted under subsection (a); and

(D) promote the meaningful involvement of minority communities, low-income communities, and Indian Tribes.

(c) Community engagement

In carrying out a water resources development project, the Secretary shall, to the extent practicable—

(1) promote the meaningful involvement of minority communities, low-income communities, and Indian Tribes;

(2) provide guidance and technical assistance to such communities or Tribes to increase understanding of the project development and implementation activities, regulations, and policies of the Corps of Engineers; and

(3) cooperate with State, Tribal, and local governments with respect to activities carried out pursuant to this subsection.

(d) Tribal lands and consultation

In carrying out water resources development projects, the Secretary shall, to the extent practicable and in accordance with the Tribal Consultation Policy affirmed and formalized by the Secretary on November 1, 2012 (or a successor policy)—

(1) promote meaningful involvement with Indian Tribes specifically on any Tribal lands near or adjacent to any water resources development projects, for purposes of identifying lands of ancestral, cultural, or religious importance;

(2) consult with Indian Tribes specifically on any Tribal areas near or adjacent to any water resources development projects, for purposes of identifying lands, waters, and other resources critical to the livelihood of the Indian Tribes; and

(3) cooperate with Indian Tribes to avoid, or otherwise find alternate solutions with respect to, such areas.

(Pub. L. 116-260, div. AA, title I, §112, Dec. 27, 2020, 134 Stat. 2625.)

Editorial Notes**REFERENCES IN TEXT**

Section 1214 of the Water Resources Development Act of 2018, referred to in subsec. (a)(1), is section 1214 of Pub. L. 115-270, title I, Oct. 23, 2018, 132 Stat. 3768, which is not classified to the Code.

Section 1120(a)(3) of the Water Resources Development Act of 2016, referred to in subsec. (a)(2), is section 1120(a)(3) of Pub. L. 114-322, title I, Dec. 16, 2016, 130 Stat. 1632, which is not classified to the Code.

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 2020, and not as a part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

CHAPTER 37—ORGANOTIN ANTIFOULING PAINT CONTROL**§§ 2401 to 2410. Repealed. Pub. L. 111-281, title X, § 1048, Oct. 15, 2010, 124 Stat. 3032**

Section 2401, Pub. L. 100-333, § 2, June 16, 1988, 102 Stat. 605, provided findings and purposes for chapter.

Section 2402, Pub. L. 100-333, § 3, June 16, 1988, 102 Stat. 605, provided definitions for chapter.

Section 2403, Pub. L. 100-333, § 4, June 16, 1988, 102 Stat. 606, prohibited, with exceptions, application of antifouling paint containing organotin to any vessel less than 25 meters in length.

Section 2404, Pub. L. 100-333, § 5, June 16, 1988, 102 Stat. 606, prohibited certain organotin paints and additives.

Section 2405, Pub. L. 100-333, § 6, June 16, 1988, 102 Stat. 607, related to certification of antifouling paints containing organotin.

Section 2406, Pub. L. 100-333, § 7, June 16, 1988, 102 Stat. 607; Pub. L. 104-106, div. A, title X, §1064(f), Feb. 10, 1996, 110 Stat. 445, related to monitoring and research of ecological effects.

Section 2407, Pub. L. 100-333, § 8, June 16, 1988, 102 Stat. 608, provided for alternative antifouling research.