

2007—Subsec. (b)(1). Pub. L. 110–114, §2011(a)(1), inserted “carry out water-related planning activities and” after “the Secretary may” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 110–114, §2011(a)(2), inserted “, and including lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations” after “section 1151 of title 18”.

Subsec. (b)(2). Pub. L. 110–114, §2011(a)(3), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (e). Pub. L. 110–114, §2011(b), substituted “2012” for “2006”.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–541, set out as a note under section 2201 of this title.

§ 2270. Subsurface drain systems research and development

Subject to the availability of appropriations, the Secretary, acting through the Director of the Engineer Research and Development Center and, where appropriate, in consultation with other Federal agencies, shall carry out research and development activities relating to the use of subsurface drain systems as—

- (1) a flood risk-reduction measure; or
- (2) a coastal storm risk-reduction measure.

(Pub. L. 116–260, div. AA, title II, §227, Dec. 27, 2020, 134 Stat. 2698.)

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.

SUBCHAPTER V—GENERAL PROVISIONS

§ 2280. Maximum cost of projects

(a) In general

In order to insure against cost overruns, each total cost set forth with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project shall be the maximum cost of that project, except that such maximum amount—

- (1) may be increased by the Secretary for modifications which do not materially alter the scope or functions of the project as authorized, but not by more than 20 percent of the total cost stated for the project in this Act, in any later law, or in an amendment made by this Act or any later law; and

(2) shall be automatically increased for—

(A) changes in construction costs applied to unconstructed features (including real property acquisitions, preconstruction studies, planning, engineering, and design) from the date of enactment of this Act or any later law (unless otherwise specified) as indicated by engineering and other appropriate cost indexes; and

(B) additional studies, modifications, and actions (including mitigation and other environmental actions) authorized by this Act or any later law or required by changes in Federal law.

(b) Contributions by non-Federal interests

Notwithstanding subsection (a), in accordance with section 701h of this title, the Secretary may accept funds from a non-Federal interest for any authorized water resources development project that has exceeded its maximum cost under subsection (a), and use such funds to carry out such project, if the use of such funds does not increase the Federal share of the cost of such project.

(Pub. L. 99–662, title IX, §902, Nov. 17, 1986, 100 Stat. 4183; Pub. L. 100–676, §3(b), Nov. 17, 1988, 102 Stat. 4014; Pub. L. 113–121, title I, §1023, June 10, 2014, 128 Stat. 1228.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 99–662, Nov. 17, 1986, 100 Stat. 4082, known as the Water Resources Development Act of 1986. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

The date of enactment of this Act, referred to in subsec. (a), is the date of enactment of Pub. L. 99–662, which was approved Nov. 17, 1986.

The Water Resources Development Act of 1988, referred to in subsec. (a), is Pub. L. 100–676, Nov. 17, 1988, 102 Stat. 4012. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2201 of this title and Tables.

AMENDMENTS

2014—Pub. L. 113–121 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1988—Pub. L. 100–676, §3(b)(1), substituted “with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project” for “in this Act, or an amendment made by this Act, for a project”.

Par. (1). Pub. L. 100–676, §3(b)(2), inserted “, in any later law,” after “in this Act”, and “or any later law” after “by this Act”.

Par. (2). Pub. L. 100–676, §3(b)(3), (4), inserted “or any later law” after “of this Act” in subpars. (A) and (B).

§ 2281. Matters to be addressed in planning

(a) In general

Enhancing national economic development (including benefits to particular regions of the Nation not involving the transfer of economic activity to such regions from other regions), the quality of the total environment (including preservation and enhancement of the environ-

ment), the well-being of the people of the United States, the prevention of loss of life, and the preservation of cultural and historical values shall be addressed in the formulation and evaluation of water resources projects to be carried out by the Secretary, and the associated benefits and costs, both quantifiable and unquantifiable, and information regarding potential loss of human life that may be associated with flooding and coastal storm events, shall be displayed in the benefits and costs of such projects.

(b) Assessments

For all feasibility reports for water resources projects completed after December 31, 2007, the Secretary shall assess whether—

- (1) the water resources project and each separable element is cost-effective; and
- (2) the water resources project complies with Federal, State, and local laws (including regulations) and public policies.

(Pub. L. 99-662, title IX, §904, Nov. 17, 1986, 100 Stat. 4185; Pub. L. 101-640, title III, §315, Nov. 28, 1990, 104 Stat. 4641; Pub. L. 104-303, title II, §231, Oct. 12, 1996, 110 Stat. 3704; Pub. L. 110-114, title II, §2033(a), Nov. 8, 2007, 121 Stat. 1084.)

Editorial Notes

AMENDMENTS

2007—Pub. L. 110-114 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104-303 inserted “and information regarding potential loss of human life that may be associated with flooding and coastal storm events,” after “unquantifiable.”

1990—Pub. L. 101-640 inserted “(including preservation and enhancement of the environment)” after “environment”.

Statutory Notes and Related Subsidiaries

RURAL PROJECT EVALUATION AND SELECTION CRITERIA

Pub. L. 102-580, title II, §214, Oct. 31, 1992, 106 Stat. 4831, directed Comptroller General, not later than 18 months after Oct. 31, 1992, to report to Congress with specific legislative and other recommendations on improving the equitable distribution of water resources development projects in rural areas, prior to repeal by Pub. L. 104-316, title I, §117, Oct. 19, 1996, 110 Stat. 3835.

§ 2282. Feasibility reports

(a) Preparation of reports

(1) In general

In the case of any water resources project-related study authorized to be undertaken by the Secretary that results in recommendations concerning a project or the operation of a project and that requires specific authorization by Congress in law or otherwise, the Secretary shall prepare a feasibility report, subject to section 2215 of this title.

(2) Contents of feasibility reports

A feasibility report shall describe, with reasonable certainty, the economic, environmental, and social benefits and detriments of the recommended plan and alternative plans considered by the Secretary and the engineering features (including hydrologic and geologic information), the public acceptability,

and the purposes, scope, and scale of the recommended plan. A feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan, a description of a non-structural alternative to the recommended plan when such plan does not have significant nonstructural features, and a description of the Federal and non-Federal participation in such plan, and shall demonstrate that States, other non-Federal interests, and Federal agencies have been consulted in the development of the recommended plan. A feasibility report shall include a preliminary analysis of the Federal interest and the costs, benefits, and environmental impacts of the project.

(3) Applicability

This subsection shall not apply to—

(A) any study with respect to which a report has been submitted to Congress before November 17, 1986;

(B) any study for a project, which project is authorized for construction by this Act and is not subject to section 903(b);¹

(C) any study for a project which does not require specific authorization by Congress in law or otherwise; and

(D) general studies not intended to lead to recommendation of a specific water resources project.

(4) Feasibility report defined

In this subsection, the term “feasibility report” means each feasibility report, and any associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project. The term includes a project implementation report prepared under title VI of the Water Resources Development Act of 2000 (114 Stat. 2680-2694), a general reevaluation report, and a limited reevaluation report.

(b) Federal interest determination

(1) In general

(A) Economically disadvantaged communities

In preparing a feasibility report under subsection (a) for a study that will benefit an economically disadvantaged community, upon request by the non-Federal interest for the study, the Secretary shall first determine the Federal interest in carrying out the study and the projects that may be proposed in the study.

(B) Other communities

(i) Authorization

In preparing a feasibility report under subsection (a) for a study that will benefit a covered community, upon request by the non-Federal interest for the study, the Secretary may, with respect to not more than 3 studies in each fiscal year, first determine the Federal interest in carrying out the study and the projects that may be proposed in the study.

(ii) Covered communities

In this subparagraph, the term “covered community” means a community that—

¹ See References in Text note below.