

“(B) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend amounts from non-Federal entities and other Federal agencies to carry out this subsection and reviews of project operations or activities resulting from those reviews.

“(6) EFFECT OF SUBSECTION.—

“(A) IN GENERAL.—Nothing in this subsection changes the authorized purpose of any Corps of Engineers dam or reservoir.

“(B) ADMINISTRATION.—The Secretary may carry out any recommendations and activities under this subsection pursuant to existing law.”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

### § 2320. Protection of recreational and commercial uses

#### (a) General rule

In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

#### (b) Maintenance

Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

#### (c) Mitigation

##### (1) In general

If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

##### (2) Maximum amount

The Secretary may not expend more than \$2,000,000 in a fiscal year to carry out this subsection.

##### (3) Termination date

This subsection shall not be effective after the last day of the 5-year period beginning on November 28, 1990; except that the Secretary may complete any restoration commenced under this subsection on or before such last day.

#### (d) Applicability

##### (1) General rule

Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction

for which physical construction is initiated after May 1, 1988.

#### (2) Limitation

Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

#### (e) Cost sharing

Costs incurred by the Secretary to carry out the objectives of this section shall be allocated to recreation and shall be payable by the beneficiaries of the recreation.

(Pub. L. 101-640, title III, § 313, Nov. 28, 1990, 104 Stat. 4640.)

### Editorial Notes

#### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1990, 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 Pub. L. 101-640, set out as a note under section 2201 of this title.

### § 2321. Operation and maintenance of navigation and hydroelectric facilities

#### (a) In general

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of navigation or hydroelectric power generating facilities at Corps of Engineers water resources projects are to be considered as inherently governmental functions and not commercial activities.

#### (b) Major maintenance contracts allowed

This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

#### (c) Exclusion

This section does not—

(1) apply to a navigation facility that was under contract on or before October 23, 2018, with a non-Federal interest to perform operations or maintenance; and

(2) prohibit the Secretary from contracting out commercial activities after October 23, 2018, at a navigation facility.

(Pub. L. 101-640, title III, § 314, Nov. 28, 1990, 104 Stat. 4641; Pub. L. 115-270, title I, § 1151(a), Oct. 23, 2018, 132 Stat. 3787.)

### Editorial Notes

#### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1990, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

#### AMENDMENTS

2018—Pub. L. 115-270 inserted “navigation and” before “hydroelectric facilities” in section catchline, des-