

Subsec. (a)(2)(B). Pub. L. 116-260, §1106(b)(2)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: “submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.”

Subsec. (a)(3)(E)(i). Pub. L. 116-260, §1106(b)(3), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “The Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.”

Subsec. (a)(4). Pub. L. 116-260, §1106(b)(4), added par. (4).

Subsec. (b)(1). Pub. L. 116-260, §1106(c)(1), substituted “or eligible applicant” for “or organization with water or power delivery authority” in introductory provisions.

Subsec. (b)(1)(C), (D). Pub. L. 116-260, §1106(c)(2)-(4), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (e). Pub. L. 116-260, §1106(d), which directed substitution of “\$700,000,000, subject to the condition that \$50,000,000 of that amount shall be used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113-235)” for “\$530,000,000”, was executed by making the substitution for “\$610,000,000” to reflect the probable intent of Congress and the intervening amendment by Pub. L. 116-260, §203. See below.

Pub. L. 116-260, §203, substituted “\$610,000,000” for “\$530,000,000”.

2019—Subsec. (a)(2)(A). Pub. L. 116-9, §8501(1), substituted “within—” for “within”, inserted cl. (i) designation before “the States”, and added cls. (ii) and (iii).

Subsec. (a)(3)(B). Pub. L. 116-9, §8501(2), designated existing provisions as cl. (i) and inserted heading, substituted “Except as provided in clause (ii), in carrying” for “In carrying” in introductory provisions, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and realigned margins, and added cl. (ii).

Subsec. (e). Pub. L. 116-94 substituted “\$530,000,000” for “\$480,000,000”.

2018—Subsec. (e). Pub. L. 115-244 substituted “\$480,000,000” for “\$450,000,000”.

2016—Subsec. (e). Pub. L. 114-322 substituted “\$450,000,000” for “\$350,000,000”.

2015—Subsec. (e). Pub. L. 114-113 substituted “\$350,000,000” for “\$300,000,000”.

2014—Subsec. (e). Pub. L. 113-235 substituted “\$300,000,000” for “\$200,000,000”.

Statutory Notes and Related Subsidiaries

FUNDING

Pub. L. 114-322, title III, §4009(d), Dec. 16, 2016, 130 Stat. 1870, as amended by Pub. L. 116-260, div. FF, title XI, §1106(e), Dec. 27, 2020, 134 Stat. 3243, provided that: “Section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) is amended in subsection (e) by striking ‘\$350,000,000’ and inserting ‘\$450,000,000.’”

[Amendment of section 4009(d) of Pub. L. 114-322, set out above, by section 1106(e) of div. FF of Pub. L. 116-260 struck out before period at end “on the condition that of that amount, \$50,000,000 of it is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (43 U.S.C. 620 note; Public Law 113-235)’.”]

§ 10365. Hydroelectric power assessment

(a) Duty of Secretary of Energy

The Secretary of Energy, in consultation with the Administrator of each Federal Power Mar-

keting Administration, shall assess each effect of, and risk resulting from, global climate change with respect to water supplies that are required for the generation of hydroelectric power at each Federal water project that is applicable to a Federal Power Marketing Administration.

(b) Access to appropriate data

(1) In general

In carrying out each assessment under subsection (a), the Secretary of Energy shall consult with the United States Geological Survey, the National Oceanic and Atmospheric Administration, the program, and each appropriate State water resource agency, to ensure that the Secretary of Energy has access to the best available scientific information with respect to presently observed impacts and projected future impacts of global climate change on water supplies that are used to produce hydroelectric power.

(2) Access to data for certain assessments

In carrying out each assessment under subsection (a), with respect to the Bonneville Power Administration and the Western Area Power Administration, the Secretary of Energy shall consult with the Commissioner to access data and other information that—

(A) is collected by the Commissioner; and

(B) the Secretary of Energy determines to be necessary for the conduct of the assessment.

(c) Report

Not later than 2 years after March 30, 2009, and every 5 years thereafter, the Secretary of Energy shall submit to the appropriate committees of Congress a report that describes—

(1) each effect of, and risk resulting from, global climate change with respect to—

(A) water supplies used for hydroelectric power generation; and

(B) power supplies marketed by each Federal Power Marketing Administration, pursuant to—

- (i) long-term power contracts;
- (ii) contingent capacity contracts; and
- (iii) short-term sales; and

(2) each recommendation of the Administrator of each Federal Power Marketing Administration relating to any change in any operation or contracting practice of each Federal Power Marketing Administration to address each effect and risk described in paragraph (1), including the use of purchased power to meet long-term commitments of each Federal Power Marketing Administration.

(d) Authority

The Secretary of Energy may enter into contracts, grants, or other agreements with appropriate entities to carry out this section.

(e) Costs

(1) Nonreimbursable

Any costs incurred by the Secretary of Energy in carrying out this section shall be non-reimbursable.

(2) PMA costs

Each Federal Power Marketing Administration shall incur costs in carrying out this sec-

tion only to the extent that appropriated funds are provided by the Secretary of Energy for that purpose.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2023, to remain available until expended.

(Pub. L. 111-11, title IX, §9505, Mar. 30, 2009, 123 Stat. 1336.)

§ 10366. Climate change and water intragovernmental panel

(a) Establishment

The Secretary and the Administrator shall establish and lead a climate change and water intragovernmental panel—

(1) to review the current scientific understanding of each impact of global climate change on the quantity and quality of freshwater resources of the United States; and

(2) to develop any strategy that the panel determines to be necessary to improve observational capabilities, expand data acquisition, or take other actions—

(A) to increase the reliability and accuracy of modeling and prediction systems to benefit water managers at the Federal, State, and local levels; and

(B) to increase the understanding of the impacts of climate change on aquatic ecosystems.

(b) Membership

The panel shall be comprised of—

(1) the Secretary;

(2) the Director;

(3) the Administrator;

(4) the Secretary of Agriculture (acting through the Under Secretary for Natural Resources and Environment);

(5) the Commissioner;

(6) the Secretary of the Army, acting through the Chief of Engineers;

(7) the Administrator of the Environmental Protection Agency; and

(8) the Secretary of Energy.

(c) Review elements

In conducting the review and developing the strategy under subsection (a), the panel shall consult with State water resource agencies, the Advisory Committee, drinking water utilities, water research organizations, and relevant water user, environmental, and other non-governmental organizations—

(1) to assess the extent to which the conduct of measures of streamflow, groundwater levels, soil moisture, evapotranspiration rates, evaporation rates, snowpack levels, precipitation amounts, flood risk, and glacier mass is necessary to improve the understanding of the Federal Government and the States with respect to each impact of global climate change on water resources;

(2) to identify data gaps in current water monitoring networks that must be addressed to improve the capability of the Federal Government and the States to measure, analyze, and predict changes to the quality and quan-

tity of water resources, including flood risks, that are directly or indirectly affected by global climate change;

(3) to establish data management and communication protocols and standards to increase the quality and efficiency by which each Federal agency acquires and reports relevant data;

(4) to consider options for the establishment of a data portal to enhance access to water resource data—

(A) relating to each nationally significant freshwater watershed and aquifer located in the United States; and

(B) that is collected by each Federal agency and any other public or private entity for each nationally significant freshwater watershed and aquifer located in the United States;

(5) to facilitate the development of hydrologic and other models to integrate data that reflects groundwater and surface water interactions; and

(6) to apply the hydrologic and other models developed under paragraph (5) to water resource management problems identified by the panel, including the need to maintain or improve ecological resiliency at watershed and aquifer system scales.

(d) Report

Not later than 2 years after March 30, 2009, the Secretary shall submit to the appropriate committees of Congress a report that describes the review conducted, and the strategy developed, by the panel under subsection (a).

(e) Demonstration, research, and methodology development projects

(1) Authority of Secretary

The Secretary, in consultation with the panel and the Advisory Committee, may provide grants to, or enter into any contract, cooperative agreement, interagency agreement, or other transaction with, an appropriate entity to carry out any demonstration, research, or methodology development project that the Secretary determines to be necessary to assist in the implementation of the strategy developed by the panel under subsection (a)(2).

(2) Requirements

(A) Maximum amount of Federal share

The Federal share of the cost of any demonstration, research, or methodology development project that is the subject of any grant, contract, cooperative agreement, interagency agreement, or other transaction entered into between the Secretary and an appropriate entity under paragraph (1) shall not exceed \$1,000,000.

(B) Report

An appropriate entity that receives funds from a grant, contract, cooperative agreement, interagency agreement, or other transaction entered into between the Secretary and the appropriate entity under paragraph (1) shall submit to the Secretary a report describing the results of the demonstration, research, or methodology devel-