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### § 2201. “Secretary” defined

For purposes of this Act, the term “Secretary” means the Secretary of the Army.

(Pub. L. 99-662, §2, Nov. 17, 1986, 100 Stat. 4082.)

### Editorial Notes

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Resources Development Act of 1986. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

### Statutory Notes and Related Subsidiaries

#### SHORT TITLE OF 2025 AMENDMENT

Pub. L. 118-272, §101(a), Jan. 4, 2025, 138 Stat. 2992, provided that: “This Act [see Tables for classification] may be cited as the ‘Thomas R. Carper Water Resources Development Act of 2024’.”

Pub. L. 118-272, div. A, §1001, Jan. 4, 2025, 138 Stat. 2996, provided that: “This division [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2024’.”

Pub. L. 118-272, div. A, title I, §1160, Jan. 4, 2025, 138 Stat. 3046, provided that: “This subtitle [subtitle B (§§1160-1165) of title I of div. A of Pub. L. 118-272, enacting section 2281d of this title, amending section 390b-2 of Title 43, Public Lands, and enacting provisions set out as notes under section 2319 of this title] may be cited as the ‘Grace F. Napolitano Priority for Water Supply, Water Conservation, and Drought Resiliency Act of 2024’.”

#### SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117-263, div. H, title LXXXI, §8001(a), Dec. 23, 2022, 136 Stat. 3691, provided that: “This title [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2022’.”

#### SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-260, div. AA, §1(a), Dec. 27, 2020, 134 Stat. 2615, provided that: “This division [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2020’.”

#### SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-270, §1(a), Oct. 23, 2018, 132 Stat. 3765, provided that: “This Act [see Tables for classification] may be cited as ‘America’s Water Infrastructure Act of 2018’.”

Pub. L. 115-270, title I, §101, Oct. 23, 2018, 132 Stat. 3768, provided that: “This title [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2018’.”

#### SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114-322, §1(a), Dec. 16, 2016, 130 Stat. 1628, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Infrastructure Improvements for the Nation Act’ or the ‘WIIN Act’.”

Pub. L. 114-322, title I, §1001, Dec. 16, 2016, 130 Stat. 1632, provided that: “This title [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2016’.”

#### SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113-121, §1(a), June 10, 2014, 128 Stat. 1193, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Reform and Development Act of 2014’.”

#### SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-114, §1(a), Nov. 8, 2007, 121 Stat. 1041, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2007’.”

#### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-541, §1(a), Dec. 11, 2000, 114 Stat. 2572, provided that: “This Act [see Tables for classification]

may be cited as the ‘Water Resources Development Act of 2000’.”

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-53, §1(a), Aug. 17, 1999, 113 Stat. 269, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 1999’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-303, §1(a), Oct. 12, 1996, 110 Stat. 3658, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 1996’.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-580, §1(a), Oct. 31, 1992, 106 Stat. 4797, provided that: “This Act [enacting sections 59gg, 426i-1, 569d to 569f, 653, 1271, 2268, and 2325 to 2329 of this title, amending sections 426j, 467f, 467j to 467l, 562, 652, 1342, 1412, 1413, 1414, 1415, 1416, 1420, 1421, 2211, 2213, 2283, and 2309a of this title, section 3036 of Title 10, Armed Forces, sections 460tt, 4702, and 4711 of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 541, 1271, 2211, 2239, 2267, and 2281 of this title, section 9505 of Title 26, Internal Revenue Code, and sections 390h-4 and 390h-5 of Title 43, Public Lands] may be cited as the ‘Water Resources Development Act of 1992’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-640, §1(a), Nov. 28, 1990, 104 Stat. 4604, provided that: “This Act [enacting sections 59bb and 2316 to 2324 of this title, amending sections 579a, 652, 701n, 709a, 2213, 2215, 2232, 2238, 2281, 2309a, and 2314a of this title, section 460tt of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, repealing sections 579 and 2239 of this title, enacting provisions set out as notes under this section, sections 426e, 1252, 1268, 2213, 2232, 2239, 2313, and 2317 of this title, and section 1405c of Title 48, Territories and Insular Possessions, and amending provisions set out as notes under sections 2294 and 2314 of this title and section 460d of Title 16] may be cited as the ‘Water Resources Development Act of 1990’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-676, §1(a), Nov. 17, 1988, 102 Stat. 4012, provided that: “This Act [enacting sections 59j-1, 59y, 59z, and 2312 to 2315 of this title, amending sections 426j, 701b-12, 1293a, 2211, 2239, 2280, and 2291 of this title and section 1962d-5a of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 579a, 988, 2211, 2294, 2300, and 2314 of this title, and section 1962d-5g of Title 42, and amending provisions set out as a note under section 2294 of this title] may be cited as the ‘Water Resources Development Act of 1988’.”

SHORT TITLE

Pub. L. 99-662, §1(a), Nov. 17, 1986, 100 Stat. 4082, provided that: “This Act [enacting this chapter and sections 59n-1, 59v, 59w, 403b, 426n, 426o, 467f to 467n, 555a, 579a, 652, 701b-12, 709b, 988a, and 1414a of this title, sections 460tt of Title 16, Conservation, sections 4461, 4462, 9505, and 9506 of Title 26, Internal Revenue Code, section 483d of former Title 40, Public Buildings, Property, and Works, and sections 1962d-11b and 1962d-20 of Title 42, The Public Health and Welfare, amending sections 409, 414, 415, 426g, 426i, 426j, 426m, 467, 467b, 555, 557, 603a, 610, 701a-1, 701g, 701n, 701r, 701s, 984, and 1804 of this title, section 3036 of Title 10, Armed Forces, sections 460ee and 1002 of Title 16, section 4042 of Title 26, sections 1962d-5a, 1962d-5b, 1962d-5d, 1962d-5f, and 1962d-16 of Title 42, sections 390 and 390b of Title 43, Public Lands, and section 1121-1 of Title 46, Appendix, Shipping, repealing sections 1801 and 1802 of this title, en-

acting provisions set out as notes under this section, sections 426, 426g, 467, 661, 984, 988, 1414a, and 2294 of this title, sections 460d and 1004 of Title 16, sections 1, 4042, 4461, 9505, and 9506 of Title 26, sections 1962d-5b, 1962d-20, and 10301 of Title 42, and section 390b of Title 43, and amending provisions set out as a note under section 1962b-3 of Title 42] may be cited as the ‘Water Resources Development Act of 1986’.”

Pub. L. 99-662, title II, §215, Nov. 17, 1986, 100 Stat. 4109, provided that: “This title [enacting subchapter II of this chapter] may be cited as the ‘Harbor Development and Navigation Improvement Act of 1986’.”

NOTICE TO CONGRESS REGARDING WRDA IMPLEMENTATION

Pub. L. 118-272, div. A, title I, §1102, Jan. 4, 2025, 138 Stat. 2997, provided that:

“(a) PLAN OF IMPLEMENTATION.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Jan. 4, 2025], the Secretary [of the Army] shall develop a plan for implementing this division [div. A of Pub. L. 118-272, see Tables for classification] and the amendments made by this division.

“(2) REQUIREMENTS.—In developing the plan under paragraph (1), the Secretary shall—

“(A) identify each provision of this division (or an amendment made by this division) that will require—

“(i) the development and issuance of guidance, including whether that guidance will be significant guidance;

“(ii) the development and issuance of a rule; or

“(iii) appropriations;

“(B) develop timelines for the issuance of—

“(i) any guidance described in subparagraph (A)(i); and

“(ii) each rule described in subparagraph (A)(ii); and

“(C) establish a process to disseminate information about this division and the amendments made by this division to each District and Division Office of the Corps of Engineers.

“(3) TRANSMITTAL.—On completion of the plan under paragraph (1), the Secretary shall transmit the plan to—

“(A) the Committee on Environment and Public Works of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(b) IMPLEMENTATION OF PRIOR WATER RESOURCES DEVELOPMENT LAWS.—

“(1) DEFINITION OF PRIOR WATER RESOURCES DEVELOPMENT LAW.—In this subsection, the term “prior water resources development law” means each of the following (including the amendments made by any of the following):

“(A) The Water Resources Development Act of 2000 (Public Law 106-541).

“(B) The Water Resources Development Act of 2007 (Public Law 110-114).

“(C) The Water Resources Reform and Development Act of 2014 (Public Law 113-121).

“(D) The Water Resources Development Act of 2016 (Public Law 114-322).

“(E) The Water Resources Development Act of 2018 (Public Law 115-270).

“(F) The Water Resources Development Act of 2020 ([div. AA of] Public Law 116-260).

“(G) The Water Resources Development Act of 2022 ([title LXXXI of div. H of] Public Law 117-263).

“(2) NOTICE.—

“(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the status of efforts by the Secretary to implement the prior water resources development laws.

## “(B) CONTENTS.—

“(i) IN GENERAL.—As part of the notice under subparagraph (A), the Secretary shall include a list describing each provision of a prior water resources development law that has not been fully implemented as of the date of submission of the notice.

“(ii) ADDITIONAL INFORMATION.—For each provision included on the list under clause (i), the Secretary shall—

“(I) establish a timeline for implementing the provision;

“(II) provide a description of the status of the provision in the implementation process; and

“(III) provide an explanation for the delay in implementing the provision.

## “(3) BRIEFINGS.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and every 90 days thereafter until the Chairs of the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives determine that this division, the amendments made by this division, and prior water resources development laws are fully implemented, the Secretary shall provide to relevant congressional committees a briefing on the implementation of this division, the amendments made by this division, and prior water resources development laws.

“(B) INCLUSIONS.—A briefing under subparagraph (A) shall include—

“(i) updates to the implementation plan under subsection (a); and

“(ii) updates to the written notice under paragraph (2).

“(c) ADDITIONAL NOTICE PENDING ISSUANCE.—Not later than 30 days before issuing any guidance, rule, notice in the Federal Register, or other documentation required to implement this division, an amendment made by this division, or a prior water resources development law (as defined in subsection (b)(1)), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice regarding the pending issuance.

## “(d) WRDA IMPLEMENTATION TEAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) PRIOR WATER RESOURCES DEVELOPMENT LAW.—The term “prior water resources development law” has the meaning given the term in subsection (b)(1).

“(B) TEAM.—The term “team” means the Water Resources Development Act implementation team established under paragraph (2).

“(2) ESTABLISHMENT.—The Secretary shall establish a Water Resources Development Act implementation team that shall consist of current employees of the Federal Government, including—

“(A) not fewer than 2 employees in the Office of the Assistant Secretary of the Army for Civil Works;

“(B) not fewer than 2 employees at the headquarters of the Corps of Engineers; and

“(C) a representative of each district and division of the Corps of Engineers.

“(3) DUTIES.—The team shall be responsible for assisting with the implementation of this division, the amendments made by this division, and prior water resources development laws, including—

“(A) performing ongoing outreach to—

“(i) Congress; and

“(ii) employees and servicemembers stationed in districts and divisions of the Corps of Engineers to ensure that all Corps of Engineers employees are aware of and implementing provisions of this division, the amendments made by this division, and prior water resources development laws, in a manner consistent with congressional intent;

“(B) identifying any issues with implementation of a provision of this division, the amendments made by this division, and prior water resources development laws at the district, division, or national level;

“(C) resolving the issues identified under subparagraph (B), in consultation with Corps of Engineers leadership and the Secretary; and

“(D) ensuring that any interpretation developed as a result of the process under subparagraph (C) is consistent with congressional intent for this division, the amendments made by this division, and prior water resources development laws.”

## CONTINUING AUTHORITY PROGRAMS

Pub. L. 118–272, div. A, title I, §1107(a), Jan. 4, 2025, 138 Stat. 3002, provided that:

“(a) PILOT PROGRAM FOR ALTERNATIVE PROJECT DELIVERY FOR CONTINUING AUTHORITY PROGRAM PROJECTS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Jan. 4, 2025], the Secretary [of the Army] shall implement a pilot program, in accordance with this subsection, allowing a non-Federal interest or the Secretary, at the request of the non-Federal interest, to carry out a project under a continuing authority program through the use of an alternative delivery method.

“(2) PARTICIPATION IN PILOT PROGRAM.—In carrying out paragraph (1), the Secretary shall—

“(A) solicit project proposals from non-Federal interests by posting program information on a public-facing website and reaching out to non-Federal interests that have previously submitted project requests to the Secretary;

“(B) review such proposals and select projects, taking into consideration geographic diversity among the selected projects and the alternative delivery methods used for the selected projects; and

“(C) notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of each project selected under subparagraph (B), including—

“(i) identification of the project name, type, and location, and the associated non-Federal interest;

“(ii) a description of the type of alternative delivery method being used to carry out the project; and

“(iii) a description of how the project meets the authorized purposes and requirements of the applicable continuing authority program.

“(3) COST SHARE.—The Federal and non-Federal shares of the cost of a project carried out pursuant to this subsection shall be consistent with the cost share requirements of the applicable continuing authority program.

“(4) MODIFICATIONS TO PROCESSES.—With respect to a project selected under paragraph (3), the Secretary, at the request of the non-federal interest, shall to the maximum extent practicable—

“(A) allow the non-Federal interest to contribute more than the non-Federal share of the project required under the applicable continuing authority program;

“(B) allow the use of return on Federal investment as an alternative to benefit-cost analysis;

“(C) allow the use of a real estate acquisition audit process to replace existing crediting, oversight, and review processes and procedures; and

“(D) allow the use of a single contract with the non-Federal interest that incorporates the feasibility and construction phases.

## “(5) REIMBURSEMENT.—

“(A) IN GENERAL.—A project selected under paragraph (3) that is carried out by a non-Federal interest pursuant to this subsection shall be eligible for reimbursement for the Federal share of the cost of the project if, before initiation of construction of the project—

“(i) the non-Federal interest enters into a written agreement with the Secretary under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) consistent with the applicable continuing authority program; and

“(ii) the Secretary—

“(I) reviews the plans for construction of the project developed by the non-Federal interest;

“(II) determines that the project meets the requirements of the applicable continuing authority program;

“(III) determines that the project outputs are consistent with the project scope;

“(IV) determines that the plans comply with applicable Federal laws and regulations; and

“(V) verifies that the construction documents, including supporting information, have been signed by an Engineer of Record.

“(B) APPLICATION OF REIMBURSEMENT.—The Secretary may only provide reimbursement under subparagraph (A) if the Secretary certifies that—

“(i) the non-Federal interest has obligated funds for the cost of the project selected under paragraph (3) and has requested reimbursement of the Federal share of the cost of the project; and

“(ii) the project has been constructed in accordance with—

“(I) all applicable permits or approvals; and

“(II) the requirements of this subsection.

“(C) MONITORING.—The Secretary shall regularly monitor and audit any project being constructed by a non-Federal interest pursuant to this subsection to ensure that the construction is carried out in compliance with the requirements of—

“(i) this subsection; and

“(ii) the relevant continuing authorities program.

“(6) EVALUATIONS AND REPORTING.—The Secretary shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and outcomes of projects carried out pursuant to this subsection, including—

“(A) an assessment of whether the use of alternative delivery methods has resulted in cost savings or time efficiencies; and

“(B) identification of changes to laws or policies needed in order to implement more projects using alternative delivery methods.

“(7) DEFINITIONS.—In this subsection:

“(A) ALTERNATIVE DELIVERY METHOD.—The term ‘alternative delivery method’ means a project delivery method that is not the traditional design-bid-build method, including progressive design-build, public-private partnerships, and construction manager at risk.

“(B) CONTINUING AUTHORITY PROGRAM.—The term ‘continuing authority program’ has the meaning given that term in the section 7001(c)(1)(D) of Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d [(c)(1)(D)]).

“(C) RETURN ON FEDERAL INVESTMENT.—The term ‘return on Federal investment’ means, with respect to Federal investment in a water resources development project, the economic return on the investment for the Federal Government, taking into consideration qualitative returns for any anticipated life safety, risk reduction, economic growth, environmental, and social benefits accruing as a result of the investment.

“(8) MAXIMUM PROJECTS.—Not more than 25 projects may be carried out under this subsection.

“(9) SUNSET.—The authority to commence pursuant to this subsection a project selected under paragraph (3) shall terminate on the date that is 10 years after the date of enactment of this Act [Jan. 4, 2025].

“(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2025 through 2032.”

#### PRIOR GUIDANCE

Pub. L. 118–272, div. A, title I, §1150(c), Jan. 4, 2025, 138 Stat. 3042, provided that: “Not later than 180 days after the date of enactment of this Act [Jan. 4, 2025], the Secretary [of the Army] shall issue the guidance required pursuant to each of the following provisions:

“(1) Section 1043(b)(9) of the Water Resources Reform and Development Act of 2014 [Pub. L. 113–121] (33 U.S.C. 2201 note).

“(2) Section 8101 of the Water Resources Development Act of 2022 (33 U.S.C. 2351b).

“(3) Section 8107 of the Water Resources Development Act of 2022 [title LXXXI of div. H of Pub. L. 117–263] (42 U.S.C. 1962d–5b note).

“(4) Section 8112 of the Water Resources Development Act of 2022 (33 U.S.C. 2281a).

“(5) Section 8116 of the Water Resources Development Act of 2022 [title LXXXI of div. H of Pub. L. 117–263] (10 U.S.C. 7036 note).

“(6) Section 8136 of the Water Resources Development Act of 2022 [title LXXXI of div. H of Pub. L. 117–263] (10 U.S.C. 2667 note).”

#### PUBLIC-PRIVATE PARTNERSHIP USER’S GUIDE

Pub. L. 118–272, div. A, title II, §1241, Jan. 4, 2025, 138 Stat. 3090, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Jan. 4, 2025], the Secretary [of the Army] shall develop and make publicly available on an existing website of the Corps of Engineers a guide on the use of public-private partnerships for water resources development projects.

“(b) INCLUSIONS.—In developing the guide under subsection (a), the Secretary shall include—

“(1) a description of—

“(A) applicable authorities and programs of the Secretary that allow for the use of public-private partnerships to carry out water resources development projects; and

“(B) opportunities across the civil works program of the Corps of Engineers for the use of public-private partnerships, including at recreational facilities;

“(2) a summary of prior public-private partnerships for water resources development projects, including lessons learned and best practices from those partnerships and projects;

“(3) a discussion of—

“(A) the roles and responsibilities of the Corps of Engineers and non-Federal interests when using a public-private partnership for a water resources development project, including the opportunities for risk-sharing; and

“(B) the potential benefits associated with using a public-private partnership for a water resources development project, including the opportunities to accelerate funding as compared to the annual appropriations process; and

“(4) a description of the process for executing a project partnership agreement for a water resources development project, including any unique considerations when using a public-private partnership.

“(c) FLEXIBILITY.—The Secretary may satisfy the requirements of this section by modifying an existing partnership handbook in accordance with this section.”

#### ENVIRONMENTAL INFRASTRUCTURE PILOT PROGRAM

Pub. L. 118–272, div. A, title III, §1305, Jan. 4, 2025, 138 Stat. 3134, provided that:

“(a) IN GENERAL.—Notwithstanding subsection (b) of section 219 of the Water Resources Development Act of 1992 [Pub. L. 102–580] (106 Stat. 4835) and subject to the availability of appropriations, in carrying out projects under that section benefitting an economically disadvantaged community (as defined by the Secretary [of the Army] under section 160 of the Water Resources Development Act of 2020 [div. AA of Pub. L. 116–260] (33 U.S.C. 2201 note)), the Secretary may increase the Federal share of the cost of those projects to not more than 90 percent.

“(b) LIMITATION.—The total amount expended for an increased Federal share for all projects under subsection (a) shall not exceed \$10,000,000 for each fiscal year.

“(c) TERMINATION.—The authority provided by this section expires on the date that is 7 years after the date of enactment of this Act [Jan. 4, 2025].”

**PILOT PROGRAMS ON THE FORMULATION OF CORPS OF ENGINEERS PROJECTS IN RURAL COMMUNITIES AND ECONOMICALLY DISADVANTAGED COMMUNITIES**

Pub. L. 116-260, div. AA, title I, §118, Dec. 27, 2020, 134 Stat. 2629, as amended by Pub. L. 117-263, div. H, title LXXXI, §8118(a), Dec. 23, 2022, 136 Stat. 3710; Pub. L. 118-272, div. A, title III, §1303(h), Jan. 4, 2025, 138 Stat. 3115, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] shall establish and implement pilot programs, in accordance with this section, to evaluate opportunities to address the flood risk management and hurricane and storm damage risk reduction needs of rural communities and economically disadvantaged communities.

**“(b) ECONOMICALLY DISADVANTAGED COMMUNITY FLOOD PROTECTION AND HURRICANE AND STORM DAMAGE REDUCTION STUDY PILOT PROGRAM.—**

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary shall establish and implement a pilot program to carry out feasibility studies, in accordance with this subsection, for flood risk management and hurricane and storm damage risk reduction projects for economically disadvantaged communities, in coordination with non-Federal interests.

“(2) PARTICIPATION IN PILOT PROGRAM.—In carrying out paragraph (1), the Secretary shall—

“(A) annually publish a notice in the Federal Register that requests from non-Federal interests proposals for the potential feasibility study of a flood risk management project or hurricane and storm damage risk reduction project for an economically disadvantaged community;

“(B) upon request of a non-Federal interest for such a project, provide technical assistance to such non-Federal interest in the formulation of a proposal for a potential feasibility study to be submitted to the Secretary under the pilot program; and

“(C) review such proposals and, subject to the availability of appropriations, annually select 10 feasibility studies for such projects to be carried out by the Secretary, in coordination with the non-Federal interest, under this pilot program.

“(3) SELECTION CRITERIA.—In selecting a feasibility study under paragraph (2)(C), the Secretary shall consider whether—

“(A) the percentage of people living in poverty in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than the percentage of people living in poverty in the State, based on census bureau data;

“(B) the percentage of families with income above the poverty threshold but below the average household income in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than such percentage for the State, based on census bureau data;

“(C) the percentage of the population that identifies as belonging to a minority or indigenous group in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than the average such percentage in the State, based on census bureau data; and

“(D) the project is addressing flooding or hurricane or storm damage effects that have a disproportionate impact on a rural community, a minority community, or an Indian Tribe.

“(4) ADMINISTRATION.—Notwithstanding the requirements of section 105(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2215), the Federal share of the cost of a feasibility study carried out under the pilot program shall be 100 percent.

“(5) STUDY REQUIREMENTS.—Feasibility studies carried out under this subsection shall, to the maximum extent practicable, incorporate natural features or nature-based features (as such terms are defined in section 1184 of the Water Resources Development Act of 2016 (33 U.S.C. 2289a)), or a combination of such features and nonstructural features, that avoid or reduce at least 50 percent of flood or storm damages in one or more of the alternatives included in the final alternatives evaluated.

“(6) NOTIFICATION.—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the selection of each feasibility study under the pilot program.

“(7) COMPLETION.—Upon completion of a feasibility report for a feasibility study selected to be carried out under this subsection, the Secretary shall transmit the report to Congress for authorization, and shall include the report in the next annual report submitted under section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d).

**“(c) PILOT PROGRAM FOR THE RECOMMENDATION OF FLOOD PROTECTION AND HURRICANE AND STORM DAMAGE REDUCTION PROJECTS IN RURAL COMMUNITIES AND ECONOMICALLY DISADVANTAGED COMMUNITIES.—**

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate, and make recommendations to Congress on, flood risk management projects and hurricane and storm damage risk reduction projects in rural communities or economically disadvantaged communities, without demonstrating that each project is justified solely by national economic development benefits.

“(2) CONSIDERATIONS.—In carrying out this subsection, the Secretary may make a recommendation to Congress on up to 10 projects annually, without demonstrating that the project is justified solely by national economic development benefits, if the Secretary determines that—

“(A) the community to be served by the project is an economically disadvantaged community or a rural community;

“(B) the long-term life safety, economic viability, and environmental sustainability of the community would be threatened without the project; and

“(C) the project is consistent with the requirements of section 1 of the Flood Control Act of 1936 (33 U.S.C. 701a).

“(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that project recommendations are consistent with the principles and requirements and the interagency guidelines, as such terms are defined in section 110 of this Act [42 U.S.C. 1962-4], including the consideration of quantifiable monetary and nonmonetary benefits of the project.

“(4) PRIORITIZATION.—The Secretary may give equivalent budgetary consideration and priority to projects recommended under this subsection.

“(d) GEOGRAPHIC DIVERSITY.—In selecting feasibility studies under subsection (b)(2)(C) or in making project recommendations under subsection (c), the Secretary shall consider the geographic diversity among proposed projects.

“(e) REPORT.—Not later than 5 years, 10 years, and 15 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, and make publicly available, a report detailing the results of the pilot programs carried out under this section, including—

“(1) a description of proposals received from non-Federal interests pursuant to subsection (b)(2)(A);

“(2) a description of technical assistance provided to non-Federal interests under subsection (b)(2)(B);

“(3) a description of proposals selected under subsection (b)(2)(C) and criteria used to select such proposals;

“(4) a description of the projects evaluated or recommended by the Secretary under subsection (c);

“(5) a description of the quantifiable monetary and nonmonetary benefits associated with the projects recommended under subsection (c); and

“(6) any recommendations to Congress on how the Secretary can address the flood risk management and hurricane and storm damage risk reduction needs of economically disadvantaged communities.

“(f) STATE DEFINED.—In this section, the term ‘State’ means each of the several States, the District of Columbia, and each of the commonwealths, territories, and possessions of the United States.

“(g) SUNSET.—The authority to commence a feasibility study under subsection (b), and the authority make a recommendation under subsection (c), shall terminate on the date that is 15 years after the date of enactment of this Act.

“(h) PRIORITY PROJECTS.—In carrying out this section, the Secretary shall prioritize the following projects:

“(1) The project for flood risk management, city of Rialto, California, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3050].

“(2) The project for ecosystem restoration and recreation, Santa Ana River, Jurupa Valley, California, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3051].

“(3) The project for flood control and other purposes, Kentucky River and its tributaries, Kentucky, authorized by section 6 of the Act of August 11, 1939 (chapter 699, 53 Stat. 1416) [33 U.S.C. 701f note].

“(4) The project for flood risk management, Kentucky River, Kentucky, authorized by section 8201(a)(31) of the Water Resources Development Act of 2022 [title LXXXI of div. H of Pub. L. 117–263] (136 Stat. 3746).

“(5) The project for navigation, Hagaman Chute, Lake Providence, Louisiana, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3053].

“(6) The project for flood risk management, Otero County, New Mexico, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3055].

“(7) The project for flood control and other purposes, Susquehanna River Basin, Williamsport, Pennsylvania, authorized by section 5 of the Act of June 22, 1936 (chapter 688, 49 Stat. 1573).

“(8) The project for flood risk management and ecosystem restoration, Winooski River basin, Vermont, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3058].

“(9) The project for flood risk management and sediment management, Grays River, Wahkiakum County, Washington, authorized by section 1201 of the Water Resources Development Act of 2024 [Pub. L. 118–272, 138 Stat. 3058].”

[For definition of “economically disadvantaged community” as used in section 118 of div. AA of Pub. L. 116–260, set out above, see section 160 of div. AA of Pub. L. 116–260, set out as a note below.]

#### NON-FEDERAL PROJECT IMPLEMENTATION FOR COMPREHENSIVE EVERGLADES RESTORATION PLAN PROJECTS

Pub. L. 116–260, div. AA, title I, § 134(b), Dec. 27, 2020, 134 Stat. 2649, provided that:

“(1) IN GENERAL.—In carrying out the pilot program authorized under section 1043(b) of the Water Resources Reform and Development Act of 2014 [Pub. L. 113–121] (33 U.S.C. 2201 note), the Secretary [of the Army] is authorized to include a project authorized to be implemented by, or in accordance with, section 601 of the Water Resources Development Act of 2000 [Pub. L. 106–541, 114 Stat. 2680], in accordance with such section 1043(b).

“(2) ELIGIBILITY.—In the case of a project described in paragraph (1) for which the non-Federal interest has

initiated construction in compliance with authorities governing the provision of in-kind contributions for such project, the Secretary shall take into account the value of any in-kind contributions carried out by the non-Federal interest for such project prior to the date of execution of the project partnership agreement under section 1043(b) of the Water Resources Reform and Development Act of 2014 when determining the non-Federal share of the costs to complete construction of the project.

“(3) GUIDANCE.—Not later than 180 days after the date of enactment of this subsection [Dec. 27, 2020], and in accordance with the guidance issued under section 1043(b)(9) of the Water Resources Reform and Development Act of 2014 (as added by this section), the Secretary shall issue any additional guidance that the Secretary determines necessary for the implementation of this subsection.”

#### UNIFORMITY OF NOTIFICATION SYSTEMS

Pub. L. 116–260, div. AA, title I, § 139, Dec. 27, 2020, 134 Stat. 2651, provided that:

“(a) INVENTORY.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall complete an inventory of all systems used by the Corps of Engineers for external communication and notification with respect to projects, initiatives, and facilities of the Corps of Engineers.

“(b) UNIFORM PLAN.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for the uniformity of such communication and notification systems for projects, initiatives, and facilities of the Corps of Engineers.

“(2) INCLUSIONS.—The plan developed under paragraph (1) shall—

“(A) provide access to information in all forms practicable, including through email, text messages, news programs and websites, radio, and other forms of notification;

“(B) establish a notification system for any projects, initiatives, or facilities of the Corps of Engineers that do not have a notification system;

“(C) streamline existing communication and notification systems to improve the strength and uniformity of those systems; and

“(D) emphasize the necessity of timeliness in notification systems and ensure that the methods of notification can transmit information in a timely manner.

“(3) IMPLEMENTATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 2 years after the date of enactment of this Act, the Secretary shall complete the implementation of the plan developed under paragraph (1).

“(B) EMERGENCY MANAGEMENT NOTIFICATION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall implement the provisions of the plan developed under paragraph (1) relating to emergency management notifications.

“(4) SAVINGS PROVISION.—Nothing in this section authorizes the elimination of any existing communication or notification system used by the Corps of Engineers.”

#### CONTINUING AUTHORITY PROGRAMS

Pub. L. 116–260, div. AA, title I, § 165, Dec. 27, 2020, 134 Stat. 2668, as amended by Pub. L. 117–263, div. H, title LXXXI, § 8118(b), Dec. 23, 2022, 136 Stat. 3711, which related to continuing authority programs, was transferred to section 2281c of this title.

#### REPORTS TO CONGRESS

Pub. L. 113–121, title I, § 1042, June 10, 2014, 128 Stat. 1243, provided that:

“(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary [of the Army] shall com-

plete and submit to Congress by the applicable date required the reports that address public safety and enhanced local participation in project delivery described in subsection (b).

“(b) REPORTS.—The reports referred to in subsection (a) are the reports required under—

“(1) subparagraphs (A) and (B) of section 1043(a)(5) [33 U.S.C. 2201 note];

“(2) section 1046(a)(2)(B) [33 U.S.C. 2319 note];

“(3) section 210(e)(3) of the Water Resources Development Act of 1986 [former] 33 U.S.C. 2238(e)(3) (as amended by section 2102(a)); and

“(4) section 7001 [33 U.S.C. 2282d].

“(c) FAILURE TO PROVIDE A COMPLETED REPORT.—

“(1) IN GENERAL.—Subject to subsection (d), if the Secretary fails to provide a report listed under subsection (b) by the date that is 180 days after the applicable date required for that report, \$5,000 shall be reprogrammed from the General Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Army Corps of Engineers with responsibility for completing that report.

“(2) SUBSEQUENT REPROGRAMMING.—Subject to subsection (d), for each additional week after the date described in paragraph (1) in which a report described in that paragraph remains uncompleted and unsubmitted to Congress, \$5,000 shall be reprogrammed from the General Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Secretary of the Army with responsibility for completing that report.

“(d) LIMITATIONS.—

“(1) IN GENERAL.—For each report, the total amounts reprogrammed under subsection (c) shall not exceed, in any fiscal year, \$50,000.

“(2) AGGREGATE LIMITATION.—The total amount reprogrammed under subsection (c) in a fiscal year shall not exceed \$200,000.

“(e) NO FAULT OF THE SECRETARY.—Amounts shall not be reprogrammed under subsection (c) if the Secretary certifies in a letter to the applicable committees of Congress that—

“(1) a major modification has been made to the content of the report that requires additional analysis for the Secretary to make a final decision on the report;

“(2) amounts have not been appropriated to the agency under this Act or any other Act to carry out the report; or

“(3) additional information is required from an entity other than the Corps of Engineers and is not available in a timely manner to complete the report by the deadline.

“(f) LIMITATION.—The Secretary shall not reprogram funds to the General Expenses account of the civil works program of the Corps of Engineers for the loss of the funds.”

#### NON-FEDERAL IMPLEMENTATION PILOT PROGRAM

Pub. L. 113–121, title I, §1043, June 10, 2014, 128 Stat. 1244, as amended by Pub. L. 115–270, title I, §1137, Oct. 23, 2018, 132 Stat. 3783; Pub. L. 116–260, div. AA, title I, §134(a), Dec. 27, 2020, 134 Stat. 2648; Pub. L. 118–272, div. A, title III, §1303(e), Jan. 4, 2025, 138 Stat. 3114, provided that:

“(a) NON-FEDERAL IMPLEMENTATION OF FEASIBILITY STUDIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [June 10, 2014], the Secretary [of the Army] shall establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out feasibility studies for flood risk management, hurricane and storm damage reduction, aquatic ecosystem restoration, and coastal harbor and channel and inland navigation.

“(2) PURPOSES.—The purposes of the pilot program are—

“(A) to identify project delivery and cost-saving alternatives to the existing feasibility study process;

“(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out a feasibility study of 1 or more projects; and

“(C) to evaluate alternatives for the decentralization of the project planning, management, and operational decisionmaking process of the Corps of Engineers.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—On the request of a non-Federal interest, the Secretary may enter into an agreement with the non-Federal interest for the non-Federal interest to provide full project management control of a feasibility study for a project for—

“(i) flood risk management;

“(ii) hurricane and storm damage reduction, including levees, floodwalls, flood control channels, and water control structures;

“(iii) coastal harbor and channel and inland navigation; and

“(iv) aquatic ecosystem restoration.

“(B) USE OF NON-FEDERAL FUNDS.—

“(i) IN GENERAL.—A non-Federal interest that has entered into an agreement with the Secretary pursuant to subparagraph (A) may use non-Federal funds to carry out the feasibility study.

“(ii) CREDIT.—The Secretary shall credit towards the non-Federal share of the cost of construction of a project for which a feasibility study is carried out under this subsection an amount equal to the portion of the cost of developing the study that would have been the responsibility of the Secretary, if the study were carried out by the Secretary, subject to the conditions that—

“(I) non-Federal funds were used to carry out the activities that would have been the responsibility of the Secretary;

“(II) the Secretary determines that the feasibility study complies with all applicable Federal laws and regulations; and

“(III) the project is authorized by any provision of Federal law enacted after the date on which an agreement is entered into under subparagraph (A).

“(C) TRANSFER OF FUNDS.—

“(i) IN GENERAL.—After the date on which an agreement is executed pursuant to subparagraph (A), the Secretary may transfer to the non-Federal interest to carry out the feasibility study—

“(I) if applicable, the balance of any unobligated amounts appropriated for the study, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

“(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of the feasibility study.

“(ii) ADMINISTRATION.—The Secretary shall include such provisions as the Secretary determines to be necessary in an agreement under subparagraph (A) to ensure that a non-Federal interest receiving Federal funds under this paragraph—

“(I) has the necessary qualifications to administer those funds; and

“(II) will comply with all applicable Federal laws (including regulations) relating to the use of those funds.

“(D) NOTIFICATION.—The Secretary shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives

on the initiation of each feasibility study under the pilot program.

“(E) AUDITING.—The Secretary shall regularly monitor and audit each feasibility study carried out by a non-Federal interest under this section to ensure that the use of any funds transferred under subparagraph (C) are used in compliance with the agreement signed under subparagraph (A).

“(F) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest relating to any aspect of the feasibility study, if the non-Federal interest contracts with the Secretary for the technical assistance and compensates the Secretary for the technical assistance.

“(G) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to the feasibility study.

“(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a feasibility study carried out under this subsection.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this section, including—

“(i) a description of the progress of the non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (3)(G); and

“(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

“(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

“(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the feasibility study shall apply to a non-Federal interest carrying out a feasibility study under this subsection.

“(7) TERMINATION OF AUTHORITY.—The authority to commence a feasibility study under this subsection terminates on the date that is 5 years after the date of enactment of this Act.

“(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this subsection, including the costs of administration of the Secretary, \$25,000,000 for each of fiscal years 2015 through 2019.

“(b) NON-FEDERAL PROJECT IMPLEMENTATION PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate

the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out flood risk management, hurricane and storm damage reduction, coastal harbor and channel inland navigation, and aquatic ecosystem restoration projects.

“(2) PURPOSES.—The purposes of the pilot program are—

“(A) to identify project delivery and cost-saving alternatives that reduce the backlog of authorized Corps of Engineers projects;

“(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out the design, execution, management, and construction of 1 or more projects; and

“(C) to evaluate alternatives for the decentralization of the project management, design, and construction for authorized Corps of Engineers water resources projects.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—In carrying out the pilot program, the Secretary shall—

“(i) identify a total of not more than 20 projects for flood risk management, hurricane and storm damage reduction (including levees, floodwalls, flood control channels, and water control structures), coastal harbor and channels, inland navigation, and aquatic ecosystem restoration that have been authorized for construction, including—

“(I) not more than 12 projects that have been authorized for construction prior to the date of enactment of this Act and that—

“(aa)(AA) have received Federal funds prior to the date of enactment of this Act; or

“(BB) for more than 2 consecutive fiscal years, have an unobligated funding balance for that project in the Corps of Engineers construction account; and

“(bb) to the maximum extent practicable, are located in each of the divisions of the Corps of Engineers;

“(II) not more than 3 projects that have been authorized for construction prior to the date of enactment of this Act and that have not received Federal funds in the period beginning on the date on which the project was authorized and ending on the date of enactment of this Act; and

“(III) not more than 5 projects that have been authorized for construction, but did not receive the authorization prior to the date of enactment of this Act;

“(ii) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the identification of each project under the pilot program;

“(iii) in collaboration with the non-Federal interest, develop a detailed project management plan for each identified project that outlines the scope, budget, design, and construction resource requirements necessary for the non-Federal interest to execute the project, or a separable element of the project;

“(iv) on the request of the non-Federal interest, enter into a project partnership agreement with the non-Federal interest for the non-Federal interest to provide full project management control for construction of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

“(v) following execution of the project partnership agreement, transfer to the non-Federal interest to carry out construction of the project, or a separable element of the project—

“(I) if applicable, the balance of the unobligated amounts appropriated for the project, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

“(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of construction, including any required design; and

“(vi) regularly monitor and audit each project being constructed by a non-Federal interest under this section to ensure that the construction activities are carried out in compliance with the plans approved by the Secretary and that the construction costs are reasonable.

“(B) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A)(iv), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on estimated funding levels, that lists all deadlines for each milestone in the construction of the project.

“(C) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest, if the non-Federal interest contracts with and compensates the Secretary for the technical assistance relating to—

“(i) any study, engineering activity, and design activity for construction carried out by the non-Federal interest under this subsection; and

“(ii) expeditiously obtaining any permits necessary for the project.

“(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a project carried out under this subsection.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this subsection, including—

“(i) a description of the progress of non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (2)(B); and

“(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

“(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

“(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the project shall apply to a non-Federal interest carrying out a project under this subsection.

“(7) TERMINATION OF AUTHORITY.—The authority to commence a project under this subsection terminates on September 30, 2030.

“(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this

subsection, including the costs of administration of the Secretary, \$25,000,000 for each of fiscal years 2019 through 2030.

“(9) IMPLEMENTATION GUIDANCE.—

“(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph [Dec. 27, 2020], the Secretary shall issue guidance for the implementation of the pilot program that, to the extent practicable, identifies—

“(i) the metrics for measuring the success of the pilot program;

“(ii) a process for identifying future projects to participate in the pilot program;

“(iii) measures to address the risks of a non-Federal interest constructing projects under the pilot program, including which entity bears the risk for projects that fail to meet the Corps of Engineers standards for design or quality;

“(iv) the laws and regulations that a non-Federal interest must follow in carrying out a project under the pilot program; and

“(v) which entity bears the risk in the event that a project carried out under the pilot program fails to be carried out in accordance with the project authorization or this subsection.

“(B) NEW PROJECT PARTNERSHIP AGREEMENTS.—

The Secretary may not enter into a project partnership agreement under this subsection during the period beginning on the date of enactment of this paragraph and ending on the date on which the Secretary issues the guidance under subparagraph (A).”

#### WATER INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM

Pub. L. 113–121, title V, §5014, June 10, 2014, 128 Stat. 1329, as amended by Pub. L. 117–263, div. H, title LXXXI, §8147, Dec. 23, 2022, 136 Stat. 3730, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] shall establish a pilot program to evaluate the cost effectiveness and project delivery efficiency of allowing non-Federal pilot applicants to carry out authorized water resources development projects for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, ecosystem restoration, and hurricane and storm damage reduction.

“(b) PURPOSES.—The purposes of the pilot program established under subsection (a) are—

“(1) to identify cost-saving project delivery alternatives that reduce the backlog of authorized Corps of Engineers projects; and

“(2) to evaluate the technical, financial, and organizational benefits of allowing a non-Federal pilot applicant to carry out and manage the design or construction (or both) of 1 or more of such projects.

“(c) SUBSEQUENT APPROPRIATIONS.—Any activity undertaken under this section is authorized only to the extent specifically provided for in subsequent appropriations Acts.

“(d) ADMINISTRATION.—In carrying out the pilot program established under subsection (a), the Secretary shall—

“(1) identify for inclusion in the program at least 15 projects that are authorized for construction for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, ecosystem restoration, or hurricane and storm damage reduction;

“(2) notify in writing the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of each project identified under paragraph (1);

“(3) in consultation with the non-Federal pilot applicant associated with each project identified under paragraph (1), develop a detailed project management plan for the project that outlines the scope, financing, budget, design, and construction resource requirements necessary for the non-Federal pilot applicant to execute the project, or a separable element of the project;

“(4) at the request of the non-Federal pilot applicant associated with each project identified under paragraph (1), enter into a project partnership agreement with the non-Federal pilot applicant under which the non-Federal pilot applicant is provided full project management control for the financing, design, or construction (or any combination thereof) of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

“(5) following execution of a project partnership agreement under paragraph (4) and completion of all work under the agreement, issue payment, in accordance with subsection (g), to the relevant non-Federal pilot applicant for that work; and

“(6) regularly monitor and audit each project carried out under the program to ensure that all activities related to the project are carried out in compliance with plans approved by the Secretary and that construction costs are reasonable.

“(e) SELECTION CRITERIA.—In identifying projects under subsection (d)(1), the Secretary shall consider the extent to which the project—

“(1) is significant to the economy of the United States;

“(2) leverages Federal investment by encouraging non-Federal contributions to the project;

“(3) employs innovative project delivery and cost-saving methods;

“(4) received Federal funds in the past and experienced delays or missed scheduled deadlines;

“(5) has unobligated Corps of Engineers funding balances; and

“(6) has not received Federal funding for recapitalization and modernization since the project was authorized.

“(f) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into a project partnership agreement under subsection (d)(4), a non-Federal pilot applicant, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule for the relevant project, based on estimated funding levels, that specifies deadlines for each milestone with respect to the project.

“(g) PAYMENT.—Payment to the non-Federal pilot applicant for work completed pursuant to a project partnership agreement under subsection (d)(4) may be made from—

“(1) if applicable, the balance of the unobligated amounts appropriated for the project; and

“(2) other amounts appropriated to the Corps of Engineers, subject to the condition that the total amount transferred to the non-Federal pilot applicant may not exceed the estimate of the Federal share of the cost of construction, including any required design.

“(h) TECHNICAL ASSISTANCE.—At the request of a non-Federal pilot applicant participating in the pilot program established under subsection (a), the Secretary may provide to the non-Federal pilot applicant, if the non-Federal pilot applicant contracts with and compensates the Secretary, technical assistance with respect to—

“(1) a study, engineering activity, or design activity related to a project carried out by the non-Federal pilot applicant under the program; and

“(2) obtaining permits necessary for such a project.

“(i) IDENTIFICATION OF IMPEDIMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) except as provided in paragraph (2), identify any procedural requirements under the authority of the Secretary that impede greater use of public-private partnerships and private investment in water resources development projects;

“(B) develop and implement, on a project-by-project basis, procedures and approaches that—

“(i) address such impediments; and

“(ii) protect the public interest and any public investment in water resources development projects that involve public-private partnerships or private investment in water resources development projects; and

“(C) not later than 1 year after the date of enactment of this section [June 10, 2014], issue rules to carry out the procedures and approaches developed under subparagraph (B).

“(2) RULE OF CONSTRUCTION.—Nothing in this section allows the Secretary to waive any requirement under—

“(A) sections 3141 through 3148 and sections 3701 through 3708 of title 40, United States Code;

“(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

“(C) any other provision of Federal law.

“(j) PUBLIC BENEFIT STUDIES.—

“(1) IN GENERAL.—Before entering into a project partnership agreement under subsection (d)(4), the Secretary shall conduct an assessment of whether, and provide justification in writing to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that, the proposed agreement provides better public and financial benefits than a similar transaction using public funding or financing.

“(2) REQUIREMENTS.—An assessment under paragraph (1) shall—

“(A) be completed in a period of not more than 90 days;

“(B) take into consideration any supporting materials and data submitted by the relevant non-Federal pilot applicant and other stakeholders; and

“(C) determine whether the proposed project partnership agreement is in the public interest by determining whether the agreement will provide public and financial benefits, including expedited project delivery and savings for taxpayers.

“(k) NON-FEDERAL FUNDING.—The non-Federal pilot applicant may finance the non-Federal share of a project carried out under the pilot program established under subsection (a).

“(l) APPLICABILITY OF FEDERAL LAW.—Any provision of Federal law that would apply to the Secretary if the Secretary were carrying out a project shall apply to a non-Federal pilot applicant carrying out a project under this section.

“(m) COST SHARE.—Nothing in this section affects a cost-sharing requirement under Federal law that is applicable to a project carried out under the pilot program established under subsection (a).

“(n) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the results of the pilot program established under subsection (a), including any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(o) NON-FEDERAL PILOT APPLICANT DEFINED.—In this section, the term ‘non-Federal pilot applicant’ means—

“(1) the non-Federal sponsor of the water resources development project;

“(2) a non-Federal interest, as defined in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1982d–5b [1962d–5b]); or

“(3) a private entity with the consent of the local government in which the project is located or that is otherwise affected by the project.”

#### FUNDING TO PROCESS PERMITS

Pub. L. 106–541, title II, §214, Dec. 11, 2000, 114 Stat. 2594, as amended by Pub. L. 108–137, title I, §114, Dec. 1, 2003, 117 Stat. 1836; Pub. L. 109–99, §1, Nov. 11, 2005, 119 Stat. 2169; Pub. L. 109–209, §1, Mar. 24, 2006, 120 Stat. 318; Pub. L. 109–434, §1, Dec. 20, 2006, 120 Stat. 3197; Pub. L. 110–114, title II, §2002, Nov. 8, 2007, 121 Stat. 1067; Pub. L. 111–120, §1, Dec. 22, 2009, 123 Stat. 3478; Pub. L. 111–315, §1, Dec. 18, 2010, 124 Stat. 3450; Pub. L. 113–121, title I, §1006, June 10, 2014, 128 Stat. 1212, which related to funding to process permits and was formerly set out

as a note under this section, was transferred to section 2352 of this title.

#### MONITORING

Pub. L. 106-541, title II, §223, Dec. 11, 2000, 114 Stat. 2597, provided that:

“(a) IN GENERAL.—The Secretary shall conduct a monitoring program of the economic and environmental results of up to 5 eligible projects selected by the Secretary.

“(b) DURATION.—The monitoring of a project selected by the Secretary under this section shall be for a period of not less than 12 years beginning on the date of its selection.

“(c) REPORTS.—The Secretary shall transmit to Congress every 3 years a report on the performance of each project selected under this section.

“(d) ELIGIBLE PROJECT DEFINED.—In this section, the term ‘eligible project’ means a water resources project, or separable element thereof—

“(1) for which a contract for physical construction has not been awarded before the date of enactment of this Act [Dec. 11, 2000];

“(2) that has a total cost of more than \$25,000,000; and

“(3)(A) that has as a benefit-to-cost ratio of less than 1.5 to 1; or

“(B) that has significant environmental benefits or significant environmental mitigation components.

“(e) COSTS.—The cost of conducting monitoring under this section shall be a Federal expense.”

#### WATER CONTROL MANAGEMENT

Pub. L. 106-53, title V, §511, Aug. 17, 1999, 113 Stat. 341, provided that:

“(a) IN GENERAL.—In evaluating potential improvements for water control management activities and consolidation of water control management centers, the Secretary may consider a regionalized water control management plan but may not implement such a plan until the date on which a report is submitted under subsection (b).

“(b) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 17, 1999], the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate a report containing—

“(1) a description of the primary objectives of streamlining water control management activities;

“(2) a description of the benefits provided by streamlining water control management activities through consolidation of centers for those activities;

“(3) a determination whether the benefits to users of establishing regional water control management centers will be retained in each district office of the Corps of Engineers that does not have a regional center;

“(4) a determination whether users of regional centers will receive a higher level of benefits from streamlining water control management activities; and

“(5) a list of the members of Congress who represent a district that includes a water control management center that is to be eliminated under a proposed regionalized plan.”

#### BUY AMERICAN; SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Pub. L. 106-53, title II, §222, Aug. 17, 1999, 113 Stat. 295, provided that:

“(a) IN GENERAL.—It is the sense of Congress that, to the extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide

to each recipient of the assistance a notice describing the statement made in subsection (a).”

Pub. L. 104-303, title II, §235, Oct. 12, 1996, 110 Stat. 3704, provided that:

“(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American-made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).”

#### BUDGET ACT REQUIREMENTS

Pub. L. 99-662, title IX, §948, Nov. 17, 1986, 100 Stat. 4201, provided that: “Any spending authority under this Act [see Short Title note above] shall be effective only to such extent and in such amounts as are provided in appropriation Acts. For purposes of this Act, the term ‘spending authority’ has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)], except that such term does not include spending authority for which an exception is made under section 401(d) of such Act.”

#### DEFINITION OF ECONOMICALLY DISADVANTAGED COMMUNITY

Pub. L. 116-260, div. AA, title I, §160, Dec. 27, 2020, 134 Stat. 2665, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall issue guidance defining the term ‘economically disadvantaged community’ for the purposes of this Act [div. AA of Pub. L. 116-260, see Short Title of 2020 Amendment note above] and the amendments made by this Act.

“(b) CONSIDERATIONS.—In defining the term ‘economically disadvantaged community’ under subsection (a), the Secretary shall, to the maximum extent practicable, utilize the criteria under paragraph (1) or (2) of section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161), to the extent that such criteria are applicable in relation to the development of water resources development projects.

“(c) PUBLIC COMMENT.—In developing the guidance under subsection (a), the Secretary shall provide notice and an opportunity for public comment.”

#### “SECRETARY” DEFINED

Pub. L. 118-272, div. A, §1002, Jan. 4, 2025, 138 Stat. 2996, provided that: “In this division [div. A of Pub. L. 118-272, see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 117-263, div. H, title LXXXI, §8002, Dec. 23, 2022, 136 Stat. 3694, provided that: “In this title [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 116-260, div. AA, §2, Dec. 27, 2020, 134 Stat. 2618, provided that: “In this Act [div. AA of Pub. L. 116-260, see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 115-270, title I, §102, Oct. 23, 2018, 132 Stat. 3768, provided that: “In this title [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 114-322, title I, §1002, Dec. 16, 2016, 130 Stat. 1632, provided that: “In this title [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 113-121, §2, June 10, 2014, 128 Stat. 1195, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 110-114, §2, Nov. 8, 2007, 121 Stat. 1049, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-541, §2, Dec. 11, 2000, 114 Stat. 2575, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-53, §2, Aug. 17, 1999, 113 Stat. 273, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 104-303, §2, Oct. 12, 1996, 110 Stat. 3662, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 102-580, §3, Oct. 31, 1992, 106 Stat. 4801, provided that: “For purposes of this Act [see Short Title of 1992 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 101-640, §2, Nov. 28, 1990, 104 Stat. 4605, provided that: “For purposes of this Act [see Short Title of 1990 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 100-676, §2, Nov. 17, 1988, 102 Stat. 4013, provided that: “For purposes of this Act [see Short Title of 1988 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

### Executive Documents

#### PROMOTING THE RELIABLE SUPPLY AND DELIVERY OF WATER IN THE WEST

Memorandum of President of the United States, Oct. 19, 2018, 83 F.R. 53961, which related to water infrastructure throughout the western United States, was revoked by Ex. Ord. No. 13990, §7(d), Jan. 20, 2021, 86 F.R. 7042, set out in a note under section 4321 of Title 42, The Public Health and Welfare.

### § 2202. Non-Federal engagement and review

#### (a) Issuance

The Secretary shall expeditiously issue guidance to implement each covered provision of law in accordance with this section.

#### (b) Public notice

##### (1) In general

Prior to developing and issuing any new or revised implementation guidance for a covered water resources development law, the Secretary shall issue a public notice that—

(A) informs potentially interested non-Federal stakeholders of the Secretary’s intent to develop and issue such guidance; and

(B) provides an opportunity for interested non-Federal stakeholders to engage with, and provide input and recommendations to, the Secretary on the development and issuance of such guidance.

##### (2) Issuance of notice

The Secretary shall issue the notice under paragraph (1) through a posting on a publicly accessible website dedicated to providing notice on the development and issuance of implementation guidance for a covered water resources development law.

#### (c) Stakeholder engagement

##### (1) Input

The Secretary shall allow a minimum of 60 days after issuance of the public notice under subsection (b) for non-Federal stakeholders to provide input and recommendations to the Secretary, prior to finalizing implementation guidance for a covered water resources development law.

##### (2) Outreach

The Secretary may, as appropriate (as determined by the Secretary), reach out to

non-Federal stakeholders and circulate drafts of implementation guidance for a covered water resources development law for informal input and recommendations.

#### (d) Submission

The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of all input and recommendations received pursuant to subsection (c) and a description of any consideration of such input and recommendations.

#### (e) Development of guidance

When developing implementation guidance for a covered water resources development law, the Secretary shall take into consideration the input and recommendations received from non-Federal stakeholders, and make the final guidance available to the public on the publicly accessible website described in subsection (b)(2).

#### (f) Definitions

In this section:

##### (1) Covered provision of law

The term “covered provision of law” means a provision of law under the jurisdiction of the Secretary contained in, or amended by, a covered water resources development law, with respect to which—

(A) the Secretary determines guidance is necessary in order to implement the provision; and

(B) no such guidance has been issued as of October 23, 2018.

##### (2) Covered water resources development law

The term “covered water resources development law” means—

(A) the Water Resources Reform and Development Act of 2014;

(B) the Water Resources Development Act of 2016;

(C) this Act; and

(D) any Federal water resources development law enacted after October 23, 2018.

(Pub. L. 115-270, title I, §1105, Oct. 23, 2018, 132 Stat. 3772.)

### Editorial Notes

#### REFERENCES IN TEXT

The Water Resources Reform and Development Act of 2014, referred to in subsec. (f)(2)(A), is Pub. L. 113-121, June 10, 2014, 128 Stat. 1193. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 2201 of this title and Tables.

The Water Resources Development Act of 2016, referred to in subsec. (f)(2)(B), is title I of Pub. L. 114-322, Dec. 16, 2016, 130 Stat. 1632. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 2201 of this title and Tables.

This Act, referred to in subsec. (f)(2)(C), probably means title I of Pub. L. 115-270, Oct. 23, 2018, 132 Stat. 3768, known as the Water Resources Development Act of 2018. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 2201 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2018, and also as part of the Amer-