

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States, Oct. 19, 2018, 83 F.R. 53961, which related to water infrastructure throughout the western United States, was revoked by Ex.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-

ica's Water Infrastructure Act of 2018, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

### Statutory Notes and Related Subsidiaries

#### NON-FEDERAL INTEREST ADVISORY COMMITTEE

Pub. L. 117-263, div. H, title LXXXI, § 8150, Dec. 23, 2022, 136 Stat. 3731, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 23, 2022], the Secretary [of the Army] shall establish a committee, to be known as the ‘Non-Federal Interest Advisory Committee’ and referred to in this section as the ‘Committee’, to develop and make recommendations to the Secretary and the Chief of Engineers on activities and actions that should be undertaken by the Corps of Engineers to ensure more effective and efficient delivery of water resources development projects, programs, and other assistance.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall be composed of the members described in paragraph (2), who shall—

“(A) be appointed by the Secretary; and

“(B) have the requisite experiential or technical knowledge needed to address issues related to water resources needs and challenges.

“(2) REPRESENTATIVES.—The members of the Committee shall include the following:

“(A) 1 representative of each of the following:

“(i) A non-Federal interest for a project for navigation for an inland harbor.

“(ii) A non-Federal interest for a project for navigation for a harbor.

“(iii) A non-Federal interest for a project for flood risk management.

“(iv) A non-Federal interest for a project for coastal storm risk management.

“(v) A non-Federal interest for a project for aquatic ecosystem restoration.

“(B) 1 representative of each of the following:

“(i) A non-Federal stakeholder with respect to inland waterborne transportation.

“(ii) A non-Federal stakeholder with respect to water supply.

“(iii) A non-Federal stakeholder with respect to recreation.

“(iv) A non-Federal stakeholder with respect to hydropower.

“(v) A non-Federal stakeholder with respect to emergency preparedness, including coastal protection.

“(C) 1 representative of each of the following:

“(i) An organization with expertise in conservation.

“(ii) An organization with expertise in environmental policy.

“(iii) An organization with expertise in rural water resources.

“(c) DUTIES.—

“(1) RECOMMENDATIONS.—The Committee shall provide advice and make recommendations to the Secretary and the Chief of Engineers to assist the Corps of Engineers in—

“(A) efficiently and effectively delivering water resources development projects;

“(B) improving the capability and capacity of the workforce of the Corps of Engineers to deliver such projects and other assistance;

“(C) improving the capacity and effectiveness of Corps of Engineers consultation and liaison roles in communicating water resources needs and solutions, including regionally specific recommendations; and

“(D) strengthening partnerships with non-Federal interests to advance water resources solutions.

“(2) MEETINGS.—The Committee shall meet as appropriate to develop and make recommendations under paragraph (1).

“(3) REPORT.—Recommendations made under paragraph (1) shall be—

“(A) included in a report submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(B) made publicly available, including on a publicly available website.

“(d) INDEPENDENT JUDGMENT.—Any recommendation made by the Committee to the Secretary and the Chief of Engineers under subsection (c)(1) shall reflect the independent judgment of the Committee.

“(e) ADMINISTRATION.—

“(1) COMPENSATION.—Except as provided in paragraph (2), the members of the Committee shall serve without compensation.

“(2) TRAVEL EXPENSES.—The members of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

“(3) TREATMENT.—The members of the Committee shall not be considered to be Federal employees, and the meetings and reports of the Committee shall not be considered a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

#### IMPLEMENTATION GUIDANCE

Pub. L. 116-260, div. AA, title II, § 223(d), Dec. 27, 2020, 134 Stat. 2696, provided that: “The Secretary [of the Army] shall expeditiously issue any guidance necessary to implement any provision of this Act [div. AA of Pub. L. 116-260, see Tables for classification], including any amendments made by this Act, in accordance with section 1105 of the Water Resources Development Act of 2018 (33 U.S.C. 2202).”

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 102 of Pub. L. 115-270, set out as a note under section 2201 of this title.

## § 2203. Review of contracting policies

### (a) Review of contractual agreements

#### (1) In general

Not later than 180 days after December 27, 2020, the Secretary shall complete a review of the policies, guidelines, and regulations of the Corps of Engineers for the development of contractual agreements between the Secretary and non-Federal interests and utilities associated with the construction of water resources development projects.

#### (2) Report

Not later than 90 days after completing the review under subsection (a)(1), 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 that includes—

(A) a summary of the results of the review; and

(B) public guidance on best practices for a non-Federal interest to use when writing or developing contractual agreements with the Secretary and utilities.

#### (3) Provision of guidance

The Secretary shall provide the best practices guidance included under paragraph (2)(A) to non-Federal interests prior to the develop-