

(Pub. L. 116-260, div. AA, title I, §152, Dec. 27, 2020, 134 Stat. 2658; Pub. L. 117-263, div. H, title LXXXI, §8380, Dec. 23, 2022, 136 Stat. 3828.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2020, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263 substituted “a flood risk management or coastal storm risk management project in a region” for “flood risk management project that incidentally generates seismic safety benefits in regions”.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

§ 2214. General credit for flood control

(a) Guidelines

Within one year after November 17, 1986, the Secretary shall issue guidelines to carry out this section, consistent with the principles and guidelines on project formulation. The guidelines shall include criteria for determining whether work carried out by non-Federal interests is compatible with a project for flood control and procedures for making such determinations. The guidelines under this section shall be promulgated after notice in the Federal Register and opportunity for comment.

(b) Analysis of costs and benefits

The guidelines established under subsection (a) shall provide for the Secretary to consider, in analyzing the costs and benefits of a proposed project for flood control, the costs and benefits produced by any flood control work carried out by non-Federal interests that the Secretary determines to be compatible with the project. For purposes of the preceding sentence the Secretary may consider only work carried out after the date which is 5 years before the first obligation of funds for the reconnaissance study for such project. In no case may work which was carried out more than 5 years before November 17, 1986, be considered under this subsection, unless otherwise provided in this Act.

(c) Crediting of non-Federal share

The guidelines established under subsection (a) shall provide for crediting the cost of work carried out by the non-Federal interests against the non-Federal share of the cost of an authorized project for flood control as follows:

(1) Work which is carried out after the end of the reconnaissance study and before the submission to Congress of the final report of the Chief of Engineers on the project and which is determined by the Secretary to be compatible with the project shall be included as part of the project and shall be recommended by the Secretary in the final report for credit against the non-Federal share of the cost of the project.

(2) Work which is carried out after submission of the final report of the Chief of Engineers to Congress and which is determined by the Secretary to be compatible with the project shall be considered as part of the project and shall be credited by the Secretary against the non-Federal share of the cost of the project in accordance with the guidelines promulgated pursuant to subsection (a).

In no event may work which was carried out more than 5 years before November 17, 1986, be considered under this subsection, unless otherwise provided in this Act.

(d) Procedure for work done before November 17, 1986

The Secretary shall consider, under subsections (b) and (c), work carried out before November 17, 1986, by non-Federal interests on a project for flood control, if the non-Federal interests apply to the Secretary for consideration of such work not later than March 31, 1987. The Secretary shall make determinations under subsections (b) and (c) with respect to such work not later than 6 months after guidelines are issued under subsection (a).

(e) Procedure for work done after November 17, 1986

The Secretary shall consider work carried out after November 17, 1986, by non-Federal interests on a project for flood control under subsections (b) and (c) in accordance with the guidelines issued under subsection (a). The guidelines shall require prior approval by the Secretary of any flood control work carried out after November 17, 1986, in order to be considered under this section, taking into account the economic and environmental feasibility of the project.

(f) Limitation not applicable

Any flood control work included as part of the non-Federal share of the cost of a project under this section shall not be subject to the limitation contained in the last sentence of section 1962d-5a(a) of title 42.

(g) Cash contribution not affected

Nothing in this section affects the requirement of section 2213(a)(1)(A) of this title.

(Pub. L. 99-662, title I, §104, Nov. 17, 1986, 100 Stat. 4087.)

Editorial Notes

REFERENCES IN TEXT

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

§ 2215. Feasibility studies; planning, engineering, and design

(a) Feasibility studies

(1) Cost sharing

(A) In general

The Secretary shall not initiate any feasibility study for a water resources project after November 17, 1986, until appropriate non-Federal interests agree, by contract, to