

sources development projects and shall not be construed as a limitation on any other such authorization.

(Pub. L. 99-662, title IX, §910, Nov. 17, 1986, 100 Stat. 4189.)

Editorial Notes

CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and transmit an annual report to certain committees of Congress on activities undertaken under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 72 of House Document No. 103-7.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 2288. Repealed. Pub. L. 113-121, title I, § 1004, June 10, 2014, 128 Stat. 1199

Section, Pub. L. 99-662, title IX, §911, Nov. 17, 1986, 100 Stat. 4189, related to review of cost effectiveness of design.

§ 2289. Urban and rural flood control frequency

In the preparation of feasibility reports for projects for flood damage prevention in urban and rural areas, the Secretary may consider and evaluate measures to reduce or eliminate damages from flooding without regard to frequency of flooding, drainage area, and amount of runoff. This section shall apply with respect to any project, or separable element thereof, the Federal share of the cost of which is less than \$3,000,000.

(Pub. L. 99-662, title IX, §914, Nov. 17, 1986, 100 Stat. 4190.)

§ 2289a. Consideration of measures

(a) Definitions

In this section, the following definitions apply:

(1) Natural feature

The term “natural feature” means a feature that is created through the action of physical, geological, biological, and chemical processes over time.

(2) Nature-based feature

The term “nature-based feature” means a feature that is created by human design, engineering, and construction to provide risk reduction by acting in concert with natural processes.

(b) Requirement

In studying the feasibility of projects for flood risk management, hurricane and storm damage reduction, and ecosystem restoration the Secretary shall, with the consent of the non-Federal sponsor of the feasibility study, consider, as appropriate—

- (1) natural features;
- (2) nature-based features;
- (3) nonstructural measures; and
- (4) structural measures.

(c) Report to Congress

(1) In general

Not later than February 1, 2020, and 5 and 10 years thereafter, 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 report on the implementation of subsection (b).

(2) Contents

The report under paragraph (1) shall include, at a minimum, the following:

(A) A description of guidance or instructions issued, and other measures taken, by the Secretary and the Chief of Engineers to implement subsection (b).

(B) An assessment of the costs, benefits, impacts, and trade-offs associated with measures recommended by the Secretary for coastal risk reduction and the effectiveness of those measures.

(C) A description of any statutory, fiscal, or regulatory barriers to the appropriate consideration and use of a full array of measures for coastal risk reduction.

(Pub. L. 114-322, title I, §1184, Dec. 16, 2016, 130 Stat. 1679; Pub. L. 115-270, title I, §1149(b), Oct. 23, 2018, 132 Stat. 3787.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115-270 struck out “in coastal areas” after “risk reduction”.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 2289b. Stormwater management projects

(a) In general

The Secretary shall establish a program to carry out studies and projects to control, retain, and reuse stormwater associated with flood control efforts, in partnership with non-Federal interests.

(b) Requirements

(1) Prioritization

In carrying out this section, the Secretary shall prioritize studies and projects that improve urban flood control efforts, including through the management of stormwater that flows at a rate of less than 800 cubic feet per second for the 10-percent flood.

(2) Use of natural and nature-based features

In carrying out a project under this section, the Secretary shall, to the maximum extent practicable, seek to incorporate natural features and nature-based features (as those terms are defined in section 2289a(a) of this title).

(3) Consideration

In carrying out a project under this section, the Secretary shall, where appropriate, maximize the use of features for the reclamation, recycling, and reuse of flood water and stormwater associated with the project.

(4) Items provided by non-Federal interest**(A) In general**

The non-Federal interest for a project carried out under this section shall provide all land, easements, rights-of-way, and relocations necessary for the project.

(B) Credit

The value of the land, easements, rights-of-way, and relocations provided under subparagraph (A) shall be credited toward the non-Federal share of the cost of the project.

(5) Agreements

Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay—

(A) the non-Federal share of the costs of construction required under this section; and

(B) 100 percent of any operation, maintenance, replacement, and rehabilitation costs associated with the project, in accordance with regulations prescribed by the Secretary.

(c) Cost-share**(1) Study**

Subject to paragraph (3), the Federal share of the cost of a study carried out under this section shall be 50 percent, except that the first \$100,000 of the cost of the study shall be at Federal expense.

(2) Construction

Subject to paragraph (3), the non-Federal share of the cost of a project carried out under this section shall be 35 percent.

(3) Limitation

The total Federal amount expended for a study or project under this section shall be not more than \$10,000,000.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section \$50,000,000 for each fiscal year.

(Pub. L. 118-272, div. A, title I, §1108, Jan. 4, 2025, 138 Stat. 3006.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2024, and also as part of the Thom-

as R. Carper Water Resources Development Act of 2024, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of div. A of Pub. L. 118-272, set out as a note under section 2201 of this title.

§ 2290. Flood control in Trust Territory of the Pacific Islands

The Secretary is authorized to use the authority contained in section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 2 of the Flood Control Act of August 28, 1937 (33 U.S.C. 701g), section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), section 3 of the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property”, approved August 13, 1946 (33 U.S.C. 426g), and section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) in the Trust Territory of the Pacific Islands.

(Pub. L. 99-662, title IX, §915(h), Nov. 17, 1986, 100 Stat. 4191.)

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2291. Federal Project Repayment District

(a) The Secretary may enter into a contract providing for the payment or recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).

(b) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

(Pub. L. 99-662, title IX, §916, Nov. 17, 1986, 100 Stat. 4191; Pub. L. 100-676, §15, Nov. 17, 1988, 102 Stat. 4026.)