

(iii) subtitle III of title 54.

(d) Funding

There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

(e) Effects

(1) In general

Nothing in this section supersedes or limits any existing authority provided, or responsibility conferred, by any provision of law.

(2) Effect on state water law

Nothing in this section preempts or affects any—

- (A) State water law; or
- (B) interstate compact governing water.

(f) Compliance required

The Secretary shall comply with applicable State water laws in carrying out this section.

(g) Priority for projects providing regional benefits and assistance for aging assets

When funding projects under this section, the Secretary shall prioritize projects that—

- (1) are jointly developed and supported by a diverse array of stakeholders including representatives of irrigated agricultural production, hydroelectric production, potable water purveyors and industrial water users, Indian Tribes, commercial fishing interests, and non-profit conservation organizations;
- (2) affect water resources management in 2 or more river basins while providing regional benefits not limited to fisheries restoration;
- (3) are a component of a broader strategy or plan to replace aging facilities with 1 or more alternate facilities providing similar benefits; and
- (4) contribute to the restoration of anadromous fish species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(Pub. L. 116–260, div. FF, title XI, § 1109, Dec. 27, 2020, 134 Stat. 3244.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c)(2)(D)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in subsecs. (c)(2)(D)(ii) and (g)(4), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§ 1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Section was enacted as part of Consolidated Appropriations Act, 2021, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

Pub. L. 116–260, div. FF, title XI, § 1115, Dec. 27, 2020, 134 Stat. 3251, provided that: “In this title [enacting this section and sections 390g–9 and 1477 of Title 43, Public Lands, and amending sections 1015 and 1015a of Title 16, Conservation, sections 1645 and 1647b of Title 25, Indians, sections 10362 and 10364 of Title 42, The Public Health and Welfare, section 510b of Title 43, and provisions set out as notes under sections 10301 and 10364 of Title 42]:

“(1) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

“(2) RECLAMATION STATE.—The term ‘Reclamation State’ means a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.”

[The first paragraph of 43 U.S.C. 391 is comprised of act June 17, 1902, ch. 1093, § 1 (part), 32 Stat. 388. The second paragraph of 43 U.S.C. 391 is comprised of act June 12, 1906, ch. 3288, 34 Stat. 259, as amended. See Codification note under section 391 of Title 43, Public Lands.]

§ 2330d. Public recreational amenities in ecosystem restoration projects

At the request of a non-Federal interest, the Secretary is authorized to study the incorporation of public recreational amenities, including facilities for hiking, biking, walking, and waterborne recreation, into a project for ecosystem restoration, including a project carried out under section 2330 of this title, if the incorporation of such amenities would be consistent with the ecosystem restoration purposes of the project.

(Pub. L. 117–263, div. H, title LXXXI, § 8105, Dec. 23, 2022, 136 Stat. 3699.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2022, and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, 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 8002 of Pub. L. 117–263, set out as a note under section 2201 of this title.

§ 2331. Use of continuing contracts for construction of certain projects

(a) In general

Notwithstanding any other provision of law, the Secretary shall not implement a fully allocated funding policy with respect to a water resource project if initiation of construction has occurred but sufficient funds are not available to complete the project.

(b) Continuing contracts

The Secretary shall enter into a continuing contract for a project described in subsection (a).

(c) Initiation of construction clarified

For the purposes of this section, initiation of construction for a project occurs on the date of enactment of an Act that appropriates funds for the project from 1 of the following appropriation accounts:

- (1) Construction, General.
- (2) Operation and Maintenance, General.
- (3) Flood Control, Mississippi River and Tributaries.

(Pub. L. 106–53, title II, §206, Aug. 17, 1999, 113 Stat. 286.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1999, 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 2 of Pub. L. 106–53, set out as a note under section 2201 of this title.

§ 2331a. Initiating work on separable elements

With respect to a water resources development project that has received construction funds in the previous 6-year period, for purposes of initiating work on a separable element of the project—

- (1) no new start or new investment decision shall be required; and
- (2) the work shall be treated as ongoing work.

(Pub. L. 114–322, title I, §1146, Dec. 16, 2016, 130 Stat. 1659.)

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.

§ 2332. Shoreline and riverine protection and restoration**(a) In general**

The Secretary may carry out studies and projects to—

- (1) reduce flood and hurricane and storm damage hazards; or
- (2) restore the natural functions and values of rivers and shorelines throughout the United States.

(b) Studies and projects**(1) Authority****(A) Studies**

In carrying out subsection (a), the Secretary may carry out studies to identify appropriate measures for—

- (i) the reduction of flood and hurricane and storm damage hazards, including

measures for erosion mitigation and bank stabilization; or

- (ii) the conservation and restoration of the natural functions and values of rivers and shorelines.

(B) Projects

Subject to subsection (f)(2), in carrying out subsection (a), the Secretary may design and implement projects described in subsection (a).

(2) Consultation and coordination

The studies and projects carried out under this section shall be conducted, to the maximum extent practicable, in consultation and coordination with the Federal Emergency Management Agency and other appropriate Federal agencies, and in consultation and coordination with appropriate State and local agencies and tribes.

(3) Nonstructural approaches

The studies and projects shall emphasize, to the maximum extent practicable and appropriate, nonstructural approaches to preventing or reducing flood and hurricane and storm damages, including the use of natural features or nature-based features.

(4) Participation

The studies and projects shall be conducted, to the maximum extent practicable, in cooperation with State and local agencies and tribes to ensure the coordination of local flood and hurricane and storm damage reduction or riverine, shoreline, and wetland restoration studies with projects that conserve, restore, and manage hydrologic and hydraulic regimes and restore the natural functions and values of floodplains and coastal barriers.

(c) Cost-sharing requirements**(1) Studies**

Studies conducted under this section shall be subject to cost sharing in accordance with section 2215 of this title, except that the first \$200,000 of the costs of a study conducted under this section shall be at Federal expense.

(2) Environmental restoration and non-structural projects**(A) In general**

Design and construction of a project under this section that includes a nonstructural measure, a natural feature or nature-based feature, or an environmental restoration measure, shall be subject to cost sharing in accordance with section 2213 of this title, except that the non-Federal share of the cost to design and construct such a project benefiting an economically disadvantaged community (including economically disadvantaged communities located in urban and rural areas) shall be 10 percent.

(B) Items provided by non-Federal interests

The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for such projects.

(C) Credit

The value of such land, easements, rights-of-way, dredged material disposal areas, and