

**Editorial Notes**

## CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, 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. 113–121, set out as a note under section 2201 of this title.

**§ 2347b. Purpose and need****(a) Purpose and need statements****(1) In general**

Not later than 90 days after the date of receipt of a complete application for a water storage project, the District Engineer shall develop and provide to the applicant a purpose and need statement that describes—

(A) whether the District Engineer concurs with the assessment of the purpose of and need for the water storage project proposed by the applicant; and

(B) in any case in which the District Engineer does not concur as described in subparagraph (A), an assessment by the District Engineer of the purpose of and need for the project.

**(2) Effect on environmental impact statements**

No environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall substantially commence with respect to a water storage project until the date on which the District Engineer provides to the applicant a purpose and need statement as required under paragraph (1).

**(b) Appeals request**

A non-Federal interest may use the administrative appeals process described in part 331 of title 33, Code of Federal Regulations (or any succeeding regulation), in relation to a decision of the Secretary related to an application for a water storage project.

(Pub. L. 115–270, title I, § 1126, Oct. 23, 2018, 132 Stat. 3779.)

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## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2), 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.

## CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2018, and also as part of the America’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**

## “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.

**§ 2347c. Small water storage projects****(a) In general**

The Secretary shall carry out a program to study and construct new, or enlarge existing, small water storage projects, in partnership with a non-Federal interest.

**(b) Requirements**

To be eligible to participate in the program under this section, a small water storage project shall—

(1) in the case of a new small water storage project, have a water storage capacity of not less than 2,000 acre-feet and not more than 30,000 acre-feet;

(2) in the case of an enlargement of an existing small water storage project, be for an enlargement of not less than 1,000 acre-feet and not more than 30,000 acre-feet;

(3) provide—

(A) flood risk management benefits;

(B) ecological benefits; or

(C) water management, water conservation, or water supply; and

(4) be—

(A) economically justified, environmentally acceptable, and technically feasible; or

(B) in the case of a project providing ecological benefits, cost-effective with respect to such benefits.

**(c) Scope**

In carrying out the program under this section, the Secretary shall give preference to a small water storage project located in a State with a population of less than 1,000,000.

**(d) Expedited projects**

For the 10-year period beginning on December 27, 2020, the Secretary shall expedite small water storage projects under this section for which applicable Federal permitting requirements have been completed.

**(e) Use of data**

In conducting a study under this section, to the maximum extent practicable, the Secretary shall—

(1) as the Secretary determines appropriate, consider and utilize any applicable hydrologic, economic, or environmental data that is prepared for a small water storage project under State law as the documentation, or part of the documentation, required to complete State water plans or other State planning documents relating to water resources management; and

(2) consider information developed by the non-Federal interest in relation to another study, to the extent the Secretary determines such information is applicable, appropriate, or otherwise authorized by law.

**(f) Cost share****(1) Study**

The Federal share of the cost of a study conducted under this section shall be—

(A) 100 percent for costs not to exceed \$100,000; and

(B) 50 percent for any costs above \$100,000.

**(2) Construction**

A small water storage project carried out under this section shall be subject to the cost-sharing requirements applicable to projects under section 2213 of this title, including—

(A) municipal and industrial water supply: 100 percent non-Federal;

(B) agricultural water supply: 35 percent non-Federal; and

(C) recreation, including recreational navigation: 50 percent of separable costs and, in the case of any harbor or inland harbor or channel project, 50 percent of joint and separable costs allocated to recreational navigation.

**(g) OMRRR responsibility**

The costs of operation, maintenance, repair, and replacement and rehabilitation for a small water storage project constructed under this section shall be the responsibility of the non-Federal interest.

**(h) Individual project limit**

Not more than \$65,000,000 in Federal funds may be made available to a small water storage project under this section.

**(i) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$130,000,000 annually through fiscal year 2030.

(Pub. L. 116-260, div. AA, title I, §155, Dec. 27, 2020, 134 Stat. 2660.)

**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.

**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.

**§ 2348. Project acceleration**

**(a) Definitions**

In this section:

**(1) Environmental impact statement**

The term “environmental impact statement” means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**(2) Environmental review process**

**(A) In general**

The term “environmental review process” means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other

document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

**(B) Inclusions**

The term “environmental review process” includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**(3) Federal jurisdictional agency**

The term “Federal jurisdictional agency” means a Federal agency with jurisdiction delegated by law, regulation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

**(4) Federal lead agency**

The term “Federal lead agency” means the Corps of Engineers.

**(5) Project**

The term “project” means a water resources development project to be carried out by the Secretary.

**(6) Project sponsor**

The term “project sponsor” has the meaning given the term “non-Federal interest” in section 1962d-5b(b) of title 42.

**(7) Project study**

The term “project study” means a feasibility study for a project carried out pursuant to section 2282 of this title.

**(b) Applicability**

**(1) In general**

This section—

(A) shall apply to each project study that is initiated after June 10, 2014, and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) may be applied, to the extent determined appropriate by the Secretary, to other project studies initiated after June 10, 2014, and for which an environmental review process document is prepared under that Act.

**(2) Flexibility**

Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

**(3) List of project studies**

**(A) In general**

The Secretary shall annually prepare, and make publicly available, a separate list of each study that the Secretary has determined—

(i) meets the standards described in paragraph (1); and

(ii) does not have adequate funding to make substantial progress toward the completion of the project study.