

(n) Performance measurement

The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(o) Implementation guidance

The Secretary shall prepare, in consultation with the Council on Environmental Quality and other Federal agencies with jurisdiction over actions or resources that may be impacted by a project, guidance documents that describe the coordinated environmental review processes that the Secretary intends to use to implement this section for the planning of projects, in accordance with the civil works program of the Corps of Engineers and all applicable law.

(Pub. L. 110–114, title II, §2045, Nov. 8, 2007, 121 Stat. 1103; Pub. L. 113–121, title I, §1005(a)(1), June 10, 2014, 128 Stat. 1199.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (2), (b)(1), (d)(1), (3)(A), (4)(B), (f)(1)(D)(i), (g)(5)(A), (h)(5)(B), and (j)(1)(A), 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 Water Resources Reform and Development Act of 2014, referred to in subsec. (h)(5)(C)(iii), 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.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2014—Pub. L. 113–121 amended section generally. Prior to amendment, section related to project streamlining.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110–114, set out as a note under section 2201 of this title.

§ 2348a. NEPA reporting**(a) Definitions**

In this section:

(1) Categorical exclusion

The term “categorical exclusion” has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(2) Environmental assessment

The term “environmental assessment” has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(3) Environmental impact statement

The term “environmental impact statement” means a detailed written statement re-

quired under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) Finding of no significant impact

The term “finding of no significant impact” has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(5) Project study

The term “project study” means a feasibility study for a project carried out pursuant to section 2282 of this title for which a categorical exclusion may apply, or an environmental assessment or an environmental impact statement is required, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Reports**(1) NEPA data****(A) In general**

The Secretary shall carry out a process to track, and annually 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 containing the information described in subparagraph (B).

(B) Information described

The information referred to in subparagraph (A) is, with respect to the Corps of Engineers—

(i) the number of project studies for which a categorical exclusion was used during the reporting period;

(ii) the number of project studies for which the decision to use a categorical exclusion, to prepare an environmental assessment, or to prepare an environmental impact statement is pending on the date on which the report is submitted;

(iii) the number of project studies for which an environmental assessment was issued during the reporting period, broken down by whether a finding of no significant impact, if applicable, was based on mitigation;

(iv) the length of time the Corps of Engineers took to complete each environmental assessment described in clause (iii);

(v) the number of project studies pending on the date on which the report is submitted for which an environmental assessment is being drafted;

(vi) the number of project studies for which an environmental impact statement was issued during the reporting period;

(vii) the length of time the Corps of Engineers took to complete each environmental impact statement described in clause (vi); and

(viii) the number of project studies pending on the date on which the report is submitted for which an environmental impact statement is being drafted.

(2) Public access to NEPA reports

The Secretary shall make each annual report required under paragraph (1) publicly

available (including on a publicly available website).

(Pub. L. 117–263, div. H, title LXXXI, § 8134, Dec. 23, 2022, 136 Stat. 3721.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(5), 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 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.

§ 2349. Categorical exclusions in emergencies

For the repair, reconstruction, or rehabilitation of a water resources project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is—

- (1) in the same location with the same capacity, dimensions, and design as the original water resources project as before the declaration described in this section;¹ and
- (2) commenced within a 2-year period beginning on the date of a declaration described in this section.

(Pub. L. 113–121, title I, § 1005(b), June 10, 2014, 128 Stat. 1212.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 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 5121 of Title 42 and Tables.

This section, referred to in par. (1), means section 1005 of title I of Pub. L. 113–121, which amended this section and section 2348 of this title.

¹ See References in Text note below.

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.

§ 2350. Corrosion prevention

(a) In general

To the greatest extent practicable, the Secretary shall encourage and incorporate corrosion prevention activities at water resources development projects.

(b) Activities

In carrying out subsection (a), the Secretary, to the greatest extent practicable, shall ensure that contractors performing work for water resources development projects—

- (1) use best practices to carry out corrosion prevention activities in the field;
- (2) use industry-recognized standards and corrosion mitigation and prevention methods when—
 - (A) determining protective coatings;
 - (B) selecting materials; and
 - (C) determining methods of cathodic protection, design, and engineering for corrosion prevention;
- (3) use certified coating application specialists and cathodic protection technicians and engineers;
- (4) use best practices in environmental protection to prevent environmental degradation and to ensure careful handling of all hazardous materials;
- (5) demonstrate a history of employing industry-certified inspectors to ensure adherence to best practices and standards; and
- (6) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration.

(c) Corrosion prevention activities defined

In this section, the term “corrosion prevention activities” means—

- (1) the application and inspection of protective coatings for complex work involving steel and cementitious structures, including structures that will be exposed in immersion;
- (2) the installation, testing, and inspection of cathodic protection systems;
- (3) the carrying out of an activity described in paragraph (1) or (2) through a program in corrosion prevention that is—
 - (A) offered or accredited by an organization that sets industry standards for corrosion mitigation and prevention; or
 - (B) an industrial coatings applicator program that is—
 - (i) an employment and training activity (as defined in section 3102 of title 29); or
 - (ii) registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); and