

§ 2354. Easements for electric, telephone, or broadband service facilities

(a) Definition of water resources development project

In this section, the term “water resources development project” means a project under the administrative jurisdiction of the Corps of Engineers that is subject to part 327 of title 36, Code of Federal Regulations (or successor regulations).

(b) No consideration for easements

The Secretary may not collect consideration for an easement across water resources development project land for the electric, telephone, or broadband service facilities of nonprofit organizations eligible for financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

(c) Administrative expenses

Nothing in this section affects the authority of the Secretary under section 2695 of title 10 or under section 9701 of title 31 to collect funds to cover reasonable administrative expenses incurred by the Secretary.

(Pub. L. 114–322, title I, §1172, Dec. 16, 2016, 130 Stat. 1671.)

Editorial Notes

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b), is act May 20, 1936, ch. 432, 49 Stat. 1363, which is classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

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.

Statutory Notes and Related Subsidiaries

NONRECREATION OUTGRANT POLICY

Pub. L. 118–272, div. A, title I, §1113, Jan. 4, 2025, 138 Stat. 3010, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Jan. 4, 2025], the Secretary [of the Army] shall update the policy guidance of the Corps of Engineers for the evaluation and approval of nonrecreational real estate outgrant requests for the installation, on lands and waters operated and maintained by the Secretary, of infrastructure for the provision of broadband services.

“(b) REQUIREMENTS.—In updating the policy guidance under subsection (a), the Secretary shall ensure that the policy guidance—

“(1) requires the consideration of benefits to the public in evaluating a request described in subsection (a);

“(2) requires the Secretary to consider financial factors when determining whether there is a viable alternative to the installation for which approval is requested as described in subsection (a);

“(3) requires that a request described in subsection (a) be expeditiously approved or denied after submission of a completed application for such request; and

“(4) requires the Secretary to include in any denial of such a request detailed information on the justification for the denial.

“(c) SAVINGS CLAUSE.—Nothing in this section affects or alters the responsibility of the Secretary—

“(1) to sustain and protect the natural resources of lands and waters operated and maintained by the Secretary; or

“(2) to carry out a water resources development project consistent with the purposes for which such project is authorized.”

“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.

§ 2355. Prior project authorization

In any case in which a project under the jurisdiction of the Secretary is budgeted under a different business line than the business line under which the project was originally authorized, the Secretary shall ensure that the project is carried out in accordance with any requirements that apply to the business line under which the project was originally authorized.

(Pub. L. 115–270, title I, §1127, Oct. 23, 2018, 132 Stat. 3780.)

Editorial Notes

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.

§ 2356. Project consultation

(a) Reports required

Not later than 180 days after December 27, 2020, the Secretary shall submit the following reports:

(1) The report required under section 1214 of the Water Resources Development Act of 2018 (132 Stat. 3809).

(2) The report required under section 1120(a)(3) of the Water Resources Development Act of 2016 (130 Stat. 1643).

(b) Environmental justice updates

(1) In general

In the formulation of water development resources projects, the Secretary shall comply with any existing Executive order regarding environmental justice in effect as of December 27, 2020, to address any disproportionate and adverse human health or environmental effects on minority communities, low-income communities, and Indian Tribes.

(2) Update

Not later than 1 year after December 27, 2020, the Secretary shall review, and shall update, where appropriate, any policies, regulations, and guidance of the Corps of Engineers necessary to implement any Executive order described in paragraph (1) with respect to water resources development projects.

(3) Requirements

In updating the policies, regulations, or guidance under paragraph (2), the Secretary shall—

(A) provide notice to interested non-Federal stakeholders, including representatives of minority communities, low-income communities, and Indian Tribes;

(B) provide opportunities for interested stakeholders to comment on potential updates of policies, regulations, or guidance;

(C) consider the recommendations from the reports submitted under subsection (a); and

(D) promote the meaningful involvement of minority communities, low-income communities, and Indian Tribes.

(c) Community engagement

In carrying out a water resources development project, the Secretary shall, to the extent practicable—

(1) promote the meaningful involvement of minority communities, low-income communities, and Indian Tribes;

(2) provide guidance and technical assistance to such communities or Tribes to increase understanding of the project development and implementation activities, regulations, and policies of the Corps of Engineers; and

(3) cooperate with State, Tribal, and local governments with respect to activities carried out pursuant to this subsection.

(d) Tribal lands and consultation

In carrying out water resources development projects, the Secretary shall, to the extent practicable and in accordance with the Tribal Consultation Policy affirmed and formalized by the Secretary on November 1, 2012 (or a successor policy)—

(1) promote meaningful involvement with Indian Tribes specifically on any Tribal lands near or adjacent to any water resources development projects, for purposes of identifying lands of ancestral, cultural, or religious importance;

(2) consult with Indian Tribes specifically on any Tribal areas near or adjacent to any water resources development projects, for purposes of identifying lands, waters, and other resources critical to the livelihood of the Indian Tribes; and

(3) cooperate with Indian Tribes to avoid, or otherwise find alternate solutions with respect to, such areas.

(Pub. L. 116–260, div. AA, title I, § 112, Dec. 27, 2020, 134 Stat. 2625.)

Editorial Notes

REFERENCES IN TEXT

Section 1214 of the Water Resources Development Act of 2018, referred to in subsec. (a)(1), is section 1214 of Pub. L. 115–270, title I, Oct. 23, 2018, 132 Stat. 3768, which is not classified to the Code.

Section 1120(a)(3) of the Water Resources Development Act of 2016, referred to in subsec. (a)(2), is section 1120(a)(3) of Pub. L. 114–322, title I, Dec. 16, 2016, 130 Stat. 1632, which is not classified to the Code.

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 2020, and not as a 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.

§ 2357. Managed aquifer recharge study and working group**(a) Assessment****(1) In general**

The Secretary shall, in consultation with applicable non-Federal interests, conduct a national assessment of carrying out managed aquifer recharge projects to address drought, water resiliency, and aquifer depletion at authorized water resources development projects.

(2) Requirements

In carrying out paragraph (1), the Secretary shall—

(A) assess and identify opportunities to support non-Federal interests, including Tribal communities, in carrying out managed aquifer recharge projects; and

(B) assess preliminarily local hydrogeologic conditions relevant to carrying out managed aquifer recharge projects.

(3) Coordination

In carrying out paragraph (1), the Secretary shall coordinate, as appropriate, with the heads of other Federal agencies, States, regional governmental agencies, units of local government, experts in managed aquifer recharge, and Tribes.

(b) Feasibility studies**(1) Authorization**

The Secretary is authorized to carry out feasibility studies, at the request of a non-Federal interest, of managed aquifer recharge projects in areas that are experiencing, or have recently experienced, prolonged drought conditions, aquifer depletion, or water supply scarcity.

(2) Limitation

The Secretary may carry out not more than 10 feasibility studies under this subsection.

(3) Use of information

The Secretary shall, to the maximum extent practicable, use information gathered from the assessment conducted under subsection (a) in identifying and selecting feasibility studies to carry out under this subsection.

(4) Cost share

The Federal share of the cost of a feasibility study carried out under this subsection shall be 90 percent.

(c) Working group**(1) In general**

Not later than 180 days after December 23, 2022, the Secretary shall establish a managed