

(1) levee owners from obtaining needed levee engineering services; or

(2) development and implementation of a State, regional, or tribal levee safety program.

(Pub. L. 110–114, title IX, § 9006, as added Pub. L. 113–121, title III, § 3016(e)(2), June 10, 2014, 128 Stat. 1299; amended Pub. L. 114–322, title I, § 1130(d), Dec. 16, 2016, 130 Stat. 1652.)

Editorial Notes

PRIOR PROVISIONS

A prior section 9006 of Pub. L. 110–114 was renumbered section 9008, and is classified to section 3305 of this title.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–322, § 1130(d)(1)(A), substituted “1 year after December 16, 2016” for “1 year after June 10, 2014” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 114–322, § 1130(d)(1)(B), substituted “State, regional, and tribal” for “State and tribal”.

Subsec. (c). Pub. L. 114–322, § 1130(d)(2)(A), in introductory provisions, substituted “2 years after December 16, 2016” for “2 years after June 10, 2014” and “State, regional, tribal, and local” for “State, tribal, and local”.

Subsec. (c)(2). Pub. L. 114–322, § 1130(d)(2)(B), substituted “State, regional, and tribal” for “State and tribal”.

Subsec. (c)(4). Pub. L. 114–322, § 1130(d)(2)(C), substituted “State, regional, tribal, and local” for “State and local”.

Subsec. (d). Pub. L. 114–322, § 1130(d)(3)(A), substituted “1 year after December 16, 2016” for “1 year after June 10, 2014” in introductory provisions.

Subsec. (d)(2). Pub. L. 114–322, § 1130(d)(3)(B), substituted “State, regional, or tribal” for “State or tribal”.

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.

§ 3304. Limitations on statutory construction

Nothing in this chapter shall be construed as—

(1) creating any liability of the United States or its officers or employees for the recovery of damages caused by an action or failure to act; or

(2) relieving an owner or operator of a levee of a legal duty, obligation, or liability incident to the ownership or operation of a levee.

(Pub. L. 110–114, title IX, § 9007, formerly § 9005, Nov. 8, 2007, 121 Stat. 1290; renumbered § 9007, Pub. L. 113–121, title III, § 3016(e)(1), June 10, 2014, 128 Stat. 1293.)

§ 3305. Authorization of appropriations

There is authorized to be appropriated to the Secretary—

(1) to carry out sections 3302, 3303a(c), 3303a(d), 3303a(e), and 3303a(f) of this title, \$4,000,000 for each of fiscal years 2019 through 2023;

(2) to carry out section 3303 of this title, \$20,000,000 for each of fiscal years 2019 through 2023; and

(3) to carry out section 3303a(h) of this title, \$30,000,000 for each of fiscal years 2019 through 2023.

(Pub. L. 110–114, title IX, § 9008, formerly § 9006, Nov. 8, 2007, 121 Stat. 1291; renumbered § 9008 and amended Pub. L. 113–121, title III, § 3016(e)(1), (f), June 10, 2014, 128 Stat. 1293, 1300; Pub. L. 115–270, title I, § 1144(2), Oct. 23, 2018, 132 Stat. 3785.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–270 substituted “2019 through 2023” for “2015 through 2019” in pars. (1) to (3).

2014—Pub. L. 113–121, § 3016(f)(2), substituted “Secretary—” for “Secretary to carry out this chapter \$20,000,000 for each of fiscal years 2008 through 2013.” and added pars. (1) to (3).

Pub. L. 113–121, § 3016(f)(1), which directed the substitution of “is” for “are”, could not be executed because “are” does not appear in text.

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.

§ 3306. Certain levee improvements

(a) In general

Notwithstanding section 211 of the Water Resources Development Act of 2000 (31 U.S.C. 6505 note), the Secretary, at the request of a local government, is authorized to provide technical services, on a reimbursable basis, to the local government to assess the reasons a federally constructed levee owned or operated by the local government is not accredited by the Federal Emergency Management Agency.

(b) Federal levees

In carrying out this section, in a case in which a levee owned and operated by the Secretary is hydraulically tied to a levee described in subsection (a), the Secretary is encouraged to cooperate, to the maximum extent practicable, with the relevant local governmental entities in assessing the reasons the levee described in subsection (a) is not accredited.

(c) Limitation

Nothing in this section—

(1) affects the responsibilities of a local government to operate and maintain its flood control infrastructure; or

(2) obligates the Secretary to expend additional Federal resources on levees owned and operated by the Secretary.

(Pub. L. 115–270, title I, § 1123, Oct. 23, 2018, 132 Stat. 3779.)

Editorial Notes

REFERENCES IN TEXT

Section 211 of the Water Resources Development Act of 2000, referred to in subsec. (a), is section 211 of Pub. L. 106–541, which is set out as a note under section 6505 of Title 31, Money and Finance.

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 National Levee Safety Act of 2007 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.

§ 3307. Assessment of Corps of Engineers levees**(a) In general**

The Secretary shall periodically conduct assessments of federally authorized levees under the jurisdiction of the Corps of Engineers, to evaluate the potential Federal interest in the modification (including realignment or incorporation of natural features and nature-based features, as such terms are defined in section 2289a(a) of this title) of levee systems to meet one or more of the following objectives:

- (1) Increasing the flood risk reduction benefits of such systems.
- (2) Achieving greater flood resiliency.
- (3) Restoring hydrological and ecological connections with adjacent floodplains that achieve greater environmental benefits without undermining flood risk reduction or flood resiliency for levee-protected communities.

(b) Levees operated by non-Federal interests

The Secretary shall carry out an assessment under subsection (a) for a federally authorized levee system operated by a non-Federal interest only if the non-Federal interest—

- (1) requests the assessment; and
- (2) agrees to provide 50 percent of the cost of the assessment.

(c) Assessments**(1) Considerations**

In conducting an assessment under subsection (a), the Secretary shall consider and identify, with respect to each levee system—

- (A) an estimate of the number of structures and population at risk and protected by the levee system that would be adversely impacted if the levee system fails or water levels exceed the height of any levee segment within the levee system (which may be the applicable estimate included in the levee database established under section 3303 of this title, if available);
- (B) the number of times the non-Federal interest has received emergency flood-fighting or repair assistance under section 701n of this title for the levee system, and the total expenditures on postflood repairs over the life of the levee system;
- (C) the functionality of the levee system with regard to higher precipitation levels, including due to changing climatic conditions and extreme weather events;
- (D) the potential costs and benefits (including environmental benefits and implications for levee-protected communities) from modifying the applicable levee system to restore connections with adjacent floodplains; and
- (E) available studies, information, literature, or data from relevant Federal, State, or local entities.

(2) Prioritization

In conducting an assessment under subsection (a), the Secretary shall, to the max-

imum extent practicable, prioritize levee systems—

- (A) associated with an area that has been subject to flooding in two or more events in any 10-year period; and
- (B) for which the non-Federal interest has received emergency flood-fighting or repair assistance under section 701n of this title with respect to such flood events.

(3) Scope

The Secretary shall ensure that an assessment under subsection (a) shall be similar in cost and scope to an initial assessment prepared by the Secretary pursuant to section 549a of this title.

(d) Flood plain management services

In conducting an assessment under subsection (a), the Secretary shall consider information on floods and flood damages compiled under section 709a of this title.

(e) Report to Congress**(1) In general**

Not later than 18 months after December 23, 2022, and periodically thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the assessments conducted under subsection (a).

(2) Inclusion

The Secretary shall include in each report submitted under paragraph (1)—

- (A) identification of any levee system for which the Secretary has conducted an assessment under subsection (a);
- (B) a description of any opportunities identified under such subsection for the modification of a levee system, including the potential benefits of such modification for the purposes identified under such subsection;
- (C) information relating to the willingness and ability of each applicable non-Federal interest to participate in a modification to the relevant levee system, including by obtaining any real estate necessary for the modification; and
- (D) a summary of the information considered and identified under subsection (c)(1).

(f) Incorporation of information

The Secretary shall include in the levee database established under section 3303 of this title the information included in each report submitted under subsection (e), and make such information publicly available (including on a publicly available website).

(g) Levee system defined

In this section, the term “levee system” has the meaning given that term in section 3301(9) of this title.

(h) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$10,000,000, to remain available until expended.

(Pub. L. 117-263, div. H, title LXXXI, §8121, Dec. 23, 2022, 136 Stat. 3712.)