

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1962d-15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States

The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

(Pub. L. 93-251, title I, §9, Mar. 7, 1974, 88 Stat. 16.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-16. Comprehensive plans for development, utilization, and conservation of water and related resources**(a) Federal State cooperation****(1) Comprehensive plans**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, non-Federal interest working with a State or group of States, local government, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, local government, or entity, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(2) Technical assistance**(A) In general**

At the request of a governmental agency or non-Federal interest, the Secretary may provide technical assistance to such agency or non-Federal interest in managing water resources.

(B) Types of assistance

Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses and title research for abandoned structures.

(3) Institution of higher education

Notwithstanding section 4141 of title 10, in carrying out this subsection, the Secretary

may work with an institution of higher education, as determined appropriate by the Secretary.

(4) Prioritization

To the maximum extent practicable, the Secretary shall prioritize the provision of assistance under this subsection to address both inland and coastal life safety risks.

(b) Fees**(1) Establishment and collection**

For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to subsection (a), the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to whom assistance is provided under subsection (a).

(2) Contributed funds

The Secretary may accept and expend funds in excess of the fees established under paragraph (1) that are provided by a State or other non-Federal interest for assistance under this section.

(3) In-kind services

The non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan.

(4) Deposit and use

Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out this section.

(c) Authorization of appropriations**(1) Federal and State cooperation**

There is authorized to be appropriated not to exceed \$30,000,000 annually to carry out subsection (a)(1), except that not more than \$5,000,000 in Federal funds shall be expended in any one year in any one State. The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).

(2) Technical assistance

There is authorized to be appropriated \$30,000,000 annually to carry out subsection (a)(2), of which not more than \$2,000,000 annually may be used by the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities.

(d) Annual submission of proposed activities

Concurrent with the President's submission to Congress of the President's request for appropriations for the Civil Works Program for a fiscal year, 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 describing the individual activities proposed for funding under subsection (a)(1) for that fiscal year.

(e) “State” defined

For the purposes of this section, the term “State” means the several States of the United States, Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(f) Special rule

(1) Tribes and territories

The cost-share for assistance under this section provided to Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall be as provided under section 2310 of title 33.

(2) Economically disadvantaged communities

Notwithstanding subsection (b)(1) and the limitation in section 2310 of title 33, as applicable pursuant to paragraph (1) of this subsection, the Secretary is authorized to waive the collection of fees for any local government to which assistance is provided under subsection (a) that the Secretary determines is an economically disadvantaged community, as defined by the Secretary under section 160 of the Water Resources Development Act of 2020 (33 U.S.C. 2201 note) (including economically disadvantaged communities located in urban and rural areas).

(Pub. L. 93-251, title I, §22, Mar. 7, 1974, 88 Stat. 20; Pub. L. 94-587, §168, Oct. 22, 1976, 90 Stat. 2936; Pub. L. 96-597, title VI, §605, Dec. 24, 1980, 94 Stat. 3482; Pub. L. 99-662, title IX, §921, Nov. 17, 1986, 100 Stat. 4194; Pub. L. 101-640, title III, §319, Nov. 28, 1990, 104 Stat. 4642; Pub. L. 102-580, title II, §208, Oct. 31, 1992, 106 Stat. 4829; Pub. L. 104-303, title II, §221, Oct. 12, 1996, 110 Stat. 3697; Pub. L. 110-114, title II, §2013, Nov. 8, 2007, 121 Stat. 1075; Pub. L. 113-121, title III, §3015, June 10, 2014, 128 Stat. 1288; Pub. L. 114-322, title I, §§1128, 1129, Dec. 16, 2016, 130 Stat. 1649; Pub. L. 115-270, title I, §1159, Oct. 23, 2018, 132 Stat. 3795; Pub. L. 117-263, div. H, title LXXXI, §8119(a), Dec. 23, 2022, 136 Stat. 3711; Pub. L. 118-272, div. A, title I, §1127, Jan. 4, 2025, 138 Stat. 3018.)

Editorial Notes

REFERENCES IN TEXT

Section 160 of the Water Resources Development Act of 2020, referred to in subsec. (f)(2), is section 160 of Pub. L. 116-260, div. AA, title I, Dec. 27, 2020, 134 Stat. 2665, which is set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2025—Subsec. (a)(2)(B). Pub. L. 118-272 inserted “and title research for abandoned structures” before period at end.

2022—Subsec. (a)(1). Pub. L. 117-263, §8119(a)(1)(A), inserted “local government,” after “State or group of States,” and after “such State, interest.”

Subsec. (a)(3). Pub. L. 117-263, §8119(a)(1)(B), substituted “section 4141 of title 10” for “section 236 of title 10”.

Subsec. (a)(4). Pub. L. 117-263, §8119(a)(1)(C), added par. (4).

Subsec. (c)(2). Pub. L. 117-263, §8119(a)(2), substituted “\$30,000,000” for “\$15,000,000”.

Subsec. (f). Pub. L. 117-263, §8119(a)(3), designated existing provisions as par. (1), inserted heading, and added par. (2).

2018—Subsec. (a)(1). Pub. L. 115-270, §1159(1), amended par. (1) generally. Prior to amendment, text read as follows: “The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, or non-Federal interest working with a State or group of States in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State or group of States, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.”

Subsec. (a)(3). Pub. L. 115-270, §1159(2), added par. (3).

2016—Subsec. (a)(1). Pub. L. 114-322, §1128(1), substituted “, group of States, or non-Federal interest” for “or other non-Federal interest” and inserted “or group of States” after “working with a State” and after “boundaries of such State”.

Subsec. (c)(1). Pub. L. 114-322, §1128(2), inserted at end “The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).”

Subsec. (f). Pub. L. 114-322, §1129, added subsec. (f).

2014—Subsec. (a)(1). Pub. L. 113-121, §3015(1)(A), inserted “or other non-Federal interest working with a State” after “cooperate with any State” and “, including plans to comprehensively address water resources challenges,” after “of such State”.

Subsec. (a)(2)(A). Pub. L. 113-121, §3015(1)(B), struck out “, at Federal expense,” after “provide”.

Subsec. (b)(1). Pub. L. 113-121, §3015(2)(A), substituted “subsection (a)” for “subsection (a)(1)” in two places.

Subsec. (b)(2) to (4). Pub. L. 113-121, §3015(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c)(1). Pub. L. 113-121, §3015(3)(A), substituted “\$30,000,000” for “\$10,000,000” and “\$5,000,000 in Federal funds” for “\$2,000,000”.

Subsec. (c)(2). Pub. L. 113-121, §3015(3)(B), substituted “\$15,000,000” for “\$5,000,000”.

2007—Subsec. (a). Pub. L. 110-114, §2013(1), (2), designated existing provisions as par. (1), inserted headings for subsec. (a) and par. (1), and added par. (2).

Subsec. (b)(1). Pub. L. 110-114, §2013(3), substituted “subsection (a)(1)” for “this section” in two places.

Subsec. (b)(2). Pub. L. 110-114, §2013(4), substituted “The” for “Up to ½ of the”.

Subsec. (c). Pub. L. 110-114, §2013(5)–(7), designated existing provisions as par. (1), inserted headings for subsec. (c) and par. (1), substituted “subsection (a)(1),” for “the provisions of this section” and “\$2,000,000” for “\$500,000” in par. (1), and added par. (2).

Subsecs. (d), (e). Pub. L. 110-114, §2013(8), (9), added subsec. (d) and redesignated former subsec. (d) as (e).

1996—Subsec. (a). Pub. L. 104-303, §221(1), inserted “, watersheds, or ecosystems” after “basins”.

Subsec. (b)(2) to (4). Pub. L. 104-303, §221(2), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out heading and text of former par. (2). Text read as follows: “The Secretary shall phase in the cost sharing program under this subsection by recovering—

“(A) approximately 10 percent of the total cost of providing assistance in fiscal year 1991;

“(B) approximately 30 percent of the total cost in fiscal year 1992; and

“(C) approximately 50 percent of the total cost in fiscal year 1993 and each succeeding fiscal year.”

Subsec. (c). Pub. L. 104-303, §221(3), substituted “\$10,000,000” for “\$6,000,000” and “\$500,000” for “\$300,000”.

1992—Subsec. (b)(3), (4). Pub. L. 102-580, §208(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 102-580, §208(2), inserted “Indian tribes,” after “States of the United States.”

1990—Subsecs. (b) to (d). Pub. L. 101-640 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1986—Subsec. (b). Pub. L. 99-662 substituted “\$6,000,000” for “\$4,000,000” and “\$300,000” for “\$200,000”.

1980—Subsec. (c). Pub. L. 96-597 added subsec. (c).

1976—Subsec. (b). Pub. L. 94-587 increased limitation on annual appropriation authorization to \$4,000,000 from \$2,000,000.

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EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-597, title VI, §605, Dec. 24, 1980, 94 Stat. 3482, provided that the amendment made by that section is effective Oct. 1, 1981.

PLANNING ASSISTANCE TO STATES

Pub. L. 116-260, div. AA, title I, §156, Dec. 27, 2020, 134 Stat. 2661, provided that: “In carrying out section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-16), the Secretary [of the Army] shall provide equal priority for all mission areas of the Corps of Engineers, including water supply and water conservation.”

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1962d-17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation

(a) Interest rate formula for discounting future benefits and cost computations; repeal of conflicting provisions and administrative actions

The interest rate formula to be used in plan formulation and evaluation for discounting future benefits and computing costs by Federal officers, employees, departments, agencies, and instrumentalities in the preparation of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects shall be the formula set forth in the “Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources” approved by the President on May 15, 1962, and published as Senate Document 97 of the Eighty-seventh Congress on May 29, 1962, as amended by the regulation issued by the Water Resources Council and published in the Federal Register on December 24, 1968 (33 F.R. 19170; 18 C.F.R. 704.39), until otherwise provided by a statute enacted after March 7, 1974. Every provision of law and every administrative action in conflict with this section is hereby repealed to the extent of such conflict.

(b) Interest rate for prior authorized projects assured of non-Federal share of project costs; continuation of rate

In the case of any project authorized before January 3, 1969, if the appropriate non-Federal interests have, prior to December 31, 1969, given satisfactory assurances to pay the required non-Federal share of project costs, the discount rate to be used in the computation of benefits and costs for such project shall be the rate in effect immediately prior to December 24, 1968, and that rate shall continue to be used for such project until construction has been completed, unless otherwise provided by a statute enacted after March 7, 1974.

(c) Water and related resources projects; Presidential study; scope of study; report to Congress

The President shall make a full and complete investigation and study of principles and standards for planning and evaluating water and related resources projects. Such investigation and study shall include, but not be limited to, consideration of enhancing regional economic development, the quality of the total environment including its protection and improvement, the well-being of the people of the United States, and the national economic development, as objectives to be included in federally-financed water and related resources projects and in the evaluation of costs and benefits attributable to such projects, as intended in section 1962-2 of this title, the interest rate formula to be used in evaluating and discounting future benefits for such projects, and appropriate Federal and non-Federal cost sharing for such projects. He shall report the results of such investigation and study, together with his recommendations, to Congress not later than one year after funds are first appropriated to carry out this subsection.

(Pub. L. 93-251, title I, §80, Mar. 7, 1974, 88 Stat. 34.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

RATES USED TO ASSESS RETURN ON FEDERAL GOVERNMENT'S INVESTMENT IN PROJECTS OF ARMY CORPS OF ENGINEERS AND BUREAU OF RECLAMATION

Pub. L. 95-28, title II, §204, May 13, 1977, 91 Stat. 121, provided that: “It is hereby reiterated that the interest rates or rates of discount to be used to assess the return on the Federal Government's investment in projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation, shall be those interest rates or rates of discount established by Public Law 93-251, the Water Resources Development Act of 1974 [see Short Title of 1974 Amendment note set out under section 1962 of this title] or by any prior law authorizing projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation.”