

## **US Code**

*(Unofficial compilation from the Legal Information Institute)*

### **TITLE 42 - THE PUBLIC HEALTH AND WELFARE CHAPTER 19B—WATER RESOURCES PLANNING**

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**§ 1962. Congressional statement of policy**

In order to meet the rapidly expanding demands for water throughout the Nation, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned.

(Pub. L. 89-80, § 2, July 22, 1965, 79 Stat. 244.)

**Short Title of 1974 Amendment**

Pub. L. 93-251, title I, § 109, Mar. 16, 1974, 88 Stat. 49, provided that: "This title [enacting sections 1962d-5c and 1962d-15 to 1962d-17 of this title, section 460ee of Title 16, Conservation, and sections 50c-2, 50k, 579, 701b-11, and 1252a of Title 33, Navigation and Navigable Waters, amending section 4482 of this title, sections 460l-13(a), (a)(3) and 460l-14(b)(1) of Title 16, section 275a of Title 22, Foreign Relations and Intercourse, and sections 701g, 701n, 701r, 701r-1 (c), 701s, 709a (b), and 1165a (d) of Title 33, and enacting provisions set out as notes under sections 1962d-5 and 1962d-7 of this title and section 460l-13 of Title 16] may be cited as the 'Water Resources Development Act of 1974'."

**Short Title**

Section 1 of Pub. L. 89-80 provided that: "This Act [enacting this chapter] may be cited as the 'Water Resources Planning Act'."

**United States-Mexico Transboundary Aquifer Assessment**

Pub. L. 109-448, Dec. 22, 2006, 120 Stat. 3328, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'United States-Mexico Transboundary Aquifer Assessment Act'.

"SEC. 2. PURPOSE.

"The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to systematically assess priority transboundary aquifers.

*TITLE 42 - Section 1962 - Congressional statement of policy*

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“SEC. 3. DEFINITIONS.

“In this Act:

“(1) Aquifer.—The term ‘aquifer’ means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

“(2) IBWC.—The term ‘IBWC’ means the International Boundary and Water Commission, an agency of the Department of State.

“(3) Indian tribe.—The term ‘Indian tribe’ means an Indian tribe, band, nation, or other organized group or community—

“(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

“(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

“(4) Participating state.—The term ‘Participating State’ means each of the States of Arizona, New Mexico, and Texas.

“(5) Priority transboundary aquifer.—The term ‘priority transboundary aquifer’ means a transboundary aquifer that has been designated for study and analysis under the program.

“(6) Program.—The term ‘program’ means the United States-Mexico transboundary aquifer assessment program established under section 4 (a).

“(7) Reservation.—The term ‘reservation’ means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

“(8) Secretary.—The term ‘Secretary’ means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

“(9) Transboundary aquifer.—The term ‘transboundary aquifer’ means an aquifer that underlies the boundary between a Participating State and Mexico.

“(10) Tri-regional planning group.—The term ‘Tri-Regional Planning Group’ means the binational planning group comprised of—

“(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

“(B) the El Paso Water Utilities Public Service Board; and

“(C) the Lower Rio Grande Water Users Organization.

“(11) Water resources research institutes.—The term ‘water resources research institutes’ means the institutes within the Participating States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

“SEC. 4. ESTABLISHMENT OF PROGRAM.

“(a) In General.—The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

“(b) Objectives.—The objectives of the program are to—

“(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including—

“(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing—

“(i) the proximity of a proposed priority transboundary aquifer to areas of high population density;

“(ii) the extent to which a proposed priority transboundary aquifer would be used;

“(iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and

“(iv) any other relevant criteria;

“(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

“(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

*TITLE 42 - Section 1962 - Congressional statement of policy*

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“(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

“(i) the additional data necessary to adequately define aquifer characteristics; and

“(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

“(2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

“(A) conduct joint scientific investigations;

“(B) archive and share relevant data; and

“(C) carry out any other activities consistent with the program; and

“(3) produce scientific products for each priority transboundary aquifer that—

“(A) are capable of being broadly distributed; and

“(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

“(c) Designation of Priority Transboundary Aquifers.—

“(1) In general.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

“(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

“(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

“(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

“(2) Additional aquifers.—The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie New Mexico or Texas.

“(d) Cooperation With Mexico.—To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

“(e) Grants and Cooperative Agreements.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

“SEC. 5. IMPLEMENTATION OF PROGRAM.

“(a) Coordination With States, Tribes, and Other Entities.—The Secretary shall coordinate the activities carried out under the program with—

“(1) the appropriate water resource agencies in the Participating States;

“(2) any affected Indian tribes;

“(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer; and

“(4) the IBWC, as appropriate.

“(b) New Activity.—After the date of enactment of this Act [Dec. 22, 2006], the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Participating State water resource agencies that have jurisdiction over the aquifer.

“(c) Study Plans; Cost Estimates.—

“(1) In general.—The Secretary shall work closely with appropriate Participating State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

“(2) Requirements.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

“(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

“(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

“(C) be consistent with appropriate State guidelines and goals.

“SEC. 6. EFFECT.

“(a) In General.—Nothing in this Act affects—

“(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

“(2) the water rights of any person or entity using water from a transboundary aquifer; or

“(3) State water law, or an interstate compact or international treaty governing water.

“(b) Treaty.—Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

“SEC. 7. REPORTS.

“Not later than 5 years after the date of enactment of this Act [Dec. 22, 2006], and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes—

“(1) any activities carried out under the program;

“(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

“(3) the level of participation in the program of entities in Mexico.

“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

“(a) In General.—There are authorized to be appropriated to carry out this Act \$50,000,000 for the period of fiscal years 2007 through 2016.

“(b) Distribution of Funds.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

“(c) Criteria.—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

“SEC. 9. SUNSET OF AUTHORITY.

“The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act [Dec. 22, 2006].”

### **Watershed Protection and Flood Prevention Projects Exempt From Requirements for Independent Water Project Review**

Provisions exempting watershed projects under the Watershed Protection and Flood Prevention Act, Aug. 4, 1954, ch. 656, 68 Stat. 666, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation, from the requirements of Executive Orders 12113 and 12141, formerly set out below, were contained in the following appropriation acts:

Pub. L. 97–370, title VI, § 619, Dec. 18, 1982, 96 Stat. 1811.

Pub. L. 97–103, title VI, § 619, Dec. 23, 1981, 95 Stat. 1490.

Pub. L. 96–528, title VI, § 622, Dec. 15, 1980, 94 Stat. 3118.

### **Executive Order No. 12113**

Ex. Ord. No. 12113, Jan. 4, 1979, 44 F.R. 1955, as amended by Ex. Ord. No. 12141, June 5, 1979, 44 F.R. 32635, which provided for independent review of Federal water resources programs and projects by the Water Resources Council, was revoked by section 4 of Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, set out below.

### **Ex. Ord. No. 12322. Water Resources Programs and Projects Review**

Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

*TITLE 42 - Section 1962-1 - Effect on existing laws*

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).*

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure efficient and coordinated planning and review of water resources programs and projects, it is hereby ordered as follows:

Section 1. Before any agency or officer thereof submits to the Congress, or to any committee or member thereof, for approval, appropriations, or legislative action any report, proposal, or plan relating to a Federal or Federally assisted water and related land resources project or program, such report, proposal, or plan shall be submitted to the Director of the Office of Management and Budget.

Sec. 2. The Director of the Office of Management and Budget shall examine each report, proposal, or plan for consistency with, and shall advise the agency of the relationship of the project to, the following:

- (a) the policy and programs of the President;
- (b) the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies or other such planning guidelines for water and related land resources planning, as shall hereafter be issued; and
- (c) other applicable laws, regulations, and requirements relevant to the planning process.

Sec. 3. When such report, proposal, or plan is thereafter submitted to the Congress, or to any committee or member thereof, it shall include a statement of the advice received from the Office of Management and Budget.

Sec. 4. Executive Order No. 12113, as amended, is revoked.

Ronald Reagan.

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**§ 1962–1. Effect on existing laws**

Nothing in this chapter shall be construed—

- (a) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;
- (b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this chapter with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;
- (c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this chapter; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;
- (d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

(Pub. L. 89–80, § 3, July 22, 1965, 79 Stat. 244.)

**References in Text**

The International Joint Commission, United States and Canada, referred to in subsec. (c), was organized in 1911 pursuant to article VII of the treaty of January 11, 1909, with Great Britain, 36 Stat. 2448. Provisions relating to such Commission are contained in sections 267b and 268 of Title 22, Foreign Relations and Intercourse.

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**§ 1962–2. Congressional statement of objectives**

It is the intent of Congress that the objectives 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 are the objectives to be included in federally financed water resource projects (including shore protection projects such as projects for beach nourishment, including the replacement of sand), and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

(Pub. L. 91–611, title II, § 209, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104–303, title II, § 227(f), Oct. 12, 1996, 110 Stat. 3703.)

**Codification**

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

1996—Pub. L. 104–303 inserted “(including shore protection projects such as projects for beach nourishment, including the replacement of sand)” after “water resource projects”.

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**§ 1962–3. Water resources principles and guidelines**

**(a) National water resources planning policy**

It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

- (1) seeking to maximize sustainable economic development;
- (2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and
- (3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

**(b) Principles and guidelines**

**(1) Principles and guidelines defined**

In this subsection, the term “principles and guidelines” means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 1962a–2 of this title, entitled “Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies”, and dated March 10, 1983.

**(2) In general**

Not later than 2 years after November 8, 2007, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use by the Secretary in the formulation, evaluation, and implementation of water resources projects.

**(3) Considerations**

In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

- (A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.
- (B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.
- (C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.
- (D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.
- (E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.
- (F) Evaluation methods that ensure that water resources projects are justified by public benefits.

**(4) Consultation and public participation**

In carrying out paragraph (2), the Secretary shall—

- (A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and
- (B) solicit and consider public and expert comments.

**(5) Publication**

The Secretary shall—

- (A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of—
  - (i) the revisions to the principles and guidelines for use by the Secretary; and
  - (ii) an explanation of the intent of each revision, how each revision is consistent with this section, and the probable impact of each revision on water resources projects carried out by the Secretary; and
- (B) make the revisions to the principles and guidelines for use by the Secretary available to the public, including on the Internet.

**(6) Effect**

Subject to the requirements of this subsection, the principles and guidelines as revised under this subsection shall apply to water resources projects carried out by the Secretary instead of the principles and guidelines for such projects in effect on the day before November 8, 2007.

**(7) Applicability**

After the date of issuance of the revisions to the principles and guidelines, the revisions shall apply—

- (A) to all water resources projects carried out by the Secretary, other than projects for which the Secretary has commenced a feasibility study before the date of such issuance;
- (B) at the request of a non-Federal interest, to a water resources project for which the Secretary has commenced a feasibility study before the date of such issuance; and
- (C) to the reevaluation or modification of a water resources project, other than a reevaluation or modification that has been commenced by the Secretary before the date of such issuance.

**(8) Existing studies**

Revisions to the principles and guidelines issued under paragraph (2) shall not affect the validity of any completed study of a water resources project.

**(9) Recommendation**

Upon completion of the revisions to the principles and guidelines for use by the Secretary, the Secretary shall make a recommendation to Congress as to the advisability of repealing subsections (a) and (b) of section 1962d–17 of this title.

(Pub. L. 110–114, title II, § 2031, Nov. 8, 2007, 121 Stat. 1082.)

**Codification**

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

**“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 Title 33, Navigation and Navigable Waters.

## **SUBCHAPTER I—WATER RESOURCES COUNCIL**

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### **§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman**

There is hereby established a Water Resources Council (hereinafter referred to as the “Council”) which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Secretary of Energy. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President.

(Pub. L. 89–80, title I, § 101, July 22, 1965, 79 Stat. 245; Pub. L. 94–112, § 1(a), Oct. 16, 1975, 89 Stat. 575; Pub. L. 95–91, title III, § 301(b), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 578, 606, 607.)

#### **Amendments**

1975—Pub. L. 94–112 included in the membership of the Water Resources Council, the Secretaries of Commerce, Housing and Urban Development, and Transportation and the Administrator of the Environmental Protection Agency, and terminated the membership for the Secretary of Health, Education, and Welfare.

#### **Transfer of Functions**

“Secretary of Energy” substituted for “Chairman of the Federal Power Commission” in text pursuant to sections 301(b), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151 (b), 7293, and 7297 of this title, and which terminated Federal Power Commission and transferred its functions and functions of Chairman thereof (with certain exceptions) to Secretary of Energy.

#### **National Water Commission**

Pub. L. 90–515, Sept. 26, 1968, 82 Stat. 868, provided for establishment of National Water Commission, its membership, chairman, compensation, powers, duties, and functions, required Commission to review national water resource problems and submit interim and final reports, and provided that Commission terminate no later than five years from Sept. 26, 1968.

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### **§ 1962a–1. Powers and duties**

The Council shall—

- (a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and
- (b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

(Pub. L. 89–80, title I, § 102, July 22, 1965, 79 Stat. 245.)

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### **§ 1962a–2. Principles, standards, and procedures for Federal projects**

- (a) **Establishment, consultation, revision**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission.

**(b) Economic evaluation; primary criterion**

The Council shall develop standards and criteria for economic evaluation of water resource projects. For the purpose of those standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway. "Savings to shippers" means the difference between

- (1) the freight rates or charges prevailing at the time of the study for the movement by the alternative means, and
- (2) those which would be charged on the proposed waterway. Estimated traffic that would use the waterway will be based on those freight rates, taking into account projections of the economic growth of the area.

(Pub. L. 89–80, title I, § 103, July 22, 1965, 79 Stat. 245; Pub. L. 97–449, § 4(a), Jan. 12, 1983, 96 Stat. 2441.)

**Amendments**

1983—Pub. L. 97–449 designated existing provisions as subsec. (a) and added subsec. (b).

**Delegation of Functions**

Functions of President under this section delegated to Chairman of Water Resources Council, see Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended, set out as a note under section 1962a–3 of this title.

**Computation of Prices for Agricultural Commodities for Use in Evaluation of Water Resources Development Projects**

Pub. L. 100–460, title VI, § 632, Oct. 1, 1988, 102 Stat. 2262, provided that: "Hereafter, none of the funds appropriated in this or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986."

Similar provisions were contained in Pub. L. 100–202, § 101(k) [title VI, § 634], Dec. 22, 1987, 101 Stat. 1329–322, 1329–357.

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**§ 1962a–3. Review of river basin commission plans; report to President and Congress**

Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 1962b–3 (3) of this title, the Council shall review the plan or revision with special regard to—

- (1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;
- (2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and
- (3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

- (a) formulate such recommendations as it deems desirable in the national interest; and

(b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

(Pub. L. 89–80, title I, § 104, July 22, 1965, 79 Stat. 245.)

**Ex. Ord. No. 11747. Delegation of Presidential Functions**

Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

The Chairman of the Water Resources Council is designated and empowered to exercise, without the approval, ratification, or other action of the President, the approval function for standards and procedures vested in the President by section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a-2).

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**§ 1962a-4. Administrative provisions**

**(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers**

For the purpose of carrying out the provisions of this chapter, the Council may:

- (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;
- (2) acquire, furnish, and equip such office space as is necessary;
- (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;
- (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5;
- (5) procure services as authorized by section 3109 of title 5, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 in the case of individual experts or consultants;
- (6) purchase, hire, operate, and maintain passenger motor vehicles; and
- (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

**(b) Oaths**

Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

**(c) Records; public inspection**

To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

**(d) Information and personnel from other Federal agencies**

Upon request of the Council, the head of any Federal department or agency is authorized

- (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

(2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

**(e) Responsibility for personnel and funds**

The Council shall be responsible for

- (1) the appointment and supervision of personnel,
- (2) the assignment of duties and responsibilities among such personnel, and
- (3) the use and expenditures of funds.

(Pub. L. 89–80, title I, § 105, July 22, 1965, 79 Stat. 246; Pub. L. 94–112, § 1(b), Oct. 16, 1975, 89 Stat. 575.)

**References in Text**

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

**Codification**

In subsec. (a), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “Classification Act of 1949, as amended” and “section 3109 of title 5” substituted for “section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)”, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

**Amendments**

1975—Subsec. (a)(5). Pub. L. 94–112 substituted “not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 in the case of individual experts or consultants” for “not to exceed \$100 per diem for individuals”.

**References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

## SUBCHAPTER II—RIVER BASIN COMMISSIONS

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### § 1962b. Creation of commissions; powers and duties

(a) The President is authorized to declare the establishment of a river basin water and related land resources commission upon request therefor by the Council, or request addressed to the Council by a State within which all or part of the basin or basins concerned are located if the request by the Council or by a State

(1) defines the area, river basin, or group of related river basins for which a commission is requested,

(2) is made in writing by the Governor or in such manner as State law may provide, or by the Council, and

(3) is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located and, in the event the Upper Colorado River Basin is involved, by at least three of the four States of Colorado, New Mexico, Utah, and Wyoming or, in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington. Such concurrences shall be in writing.

(b) Each such commission for an area, river basin, or group of river basins shall, to the extent consistent with section 1962–1 of this title—

(1) serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

(2) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources: Provided, That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause (2) of this subsection.

(Pub. L. 89–80, title II, § 201, July 22, 1965, 79 Stat. 246.)

#### **Executive Order No. 11331**

Ex. Ord. No. 11331, Mar. 6, 1967, 32 F.R. 3875, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Pacific Northwest River Basins Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(1) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out below.

#### **Executive Order No. 11345**

Ex. Ord. No. 11345, Apr. 20, 1967, 32 F.R. 6329, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11646, Feb. 8, 1972, 37 F.R. 2925; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Great Lakes Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(2) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out below.

### **Executive Order No. 11359**

Ex. Ord. No. 11359, eff. June 20, 1967, 32 F.R. 8851, as amended by Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11635, eff. Dec. 9, 1971, 36 F.R. 23615, which established the Souris-Red-Rainy Basins Commission, was superseded by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, formerly set out below.

### **Executive Order No. 11371**

Ex. Ord. No. 11371, Sept. 6, 1967, 32 F.R. 12903, as amended by Ex. Ord. No. 11528, Apr. 24, 1970, 35 F.R. 6695; Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11707, Mar. 12, 1973, 38 F.R. 6877; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the New England River Basins Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(3) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

### **Executive Order No. 11578**

Ex. Ord. No. 11578, Jan. 13, 1971, 36 F.R. 683, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Ohio River Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(4) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

### **Executive Order No. 11613**

Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299, which provided for membership of the Environmental Protection Agency on the Pacific Northwest River Basins Commission, the Great Lakes Basin Commission, the Souris-Red-Rainy River Basins Commission, and the New England River Basins Commission, was omitted in view of the revocation of Ex. Ord. Nos. 11331, 11345, 11359, and 11371, which provided for the establishment, jurisdiction, functions, etc., of the Pacific Northwest River Basins Commission, the Great Lakes Basin Commission, the Souris-Red-Rainy River Basins Commission, and the New England River Basins Commission, respectively. See notes set out above.

### **Executive Order No. 11658**

Ex. Ord. No. 11658, Mar. 22, 1972, 37 F.R. 6045, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Missouri River Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(5) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

### **Executive Order No. 11659**

Ex. Ord. No. 11659, Mar. 22, 1972, 37 F.R. 6047, as amended by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Upper Mississippi River Basin Commission, was revoked, effective Jan. 1, 1982, by section 5(b) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

### **Executive Order No. 11737**

Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, which provided for the enlargement of the Upper Mississippi River Basin Commission, transferred all funds, property, etc., of the Souris-Red-Rainy River Basins Commission to the Upper Mississippi River Basin Commission, and superseded Ex. Ord. Nos. 11359 and 11635, was omitted in view of the revocation of Ex. Ord. No. 11659, which established the Upper Mississippi River Basin Commission and provided for its jurisdiction, functions, etc. See note set out above.

### **Executive Order No. 11882**

Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, relating to membership of the Energy Research and Development Administration on established river basin commissions, was omitted pursuant to Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

### **Ex. Ord. No. 12319. Termination of Certain River Basin Commissions**

Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, provided:

By the authority vested in me as President by the Constitution and laws of the United States, in order to ensure the orderly termination of the six river basin commissions established pursuant to the Water Resources Planning Act (42 U.S.C. 1962 et seq.), it is hereby ordered as follows:

**TITLE 42 - Section 1962b-1 - Membership of commissions; appointment of chairman**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

Section 1. In accord with the decision of the Water Resources Council pursuant to Section 203(a) of the Water Resources Planning Act (42 U.S.C. 1962b-2 (a)), the following river basin commissions shall terminate on the date indicated:

- (a) Pacific Northwest River Basins Commission, terminated on September 30, 1981.
- (b) Great Lakes Basin Commission, terminated on September 30, 1981.
- (c) Ohio River Basin Commission, terminated on September 30, 1981.
- (d) New England River Basins Commission, terminated on September 30, 1981.
- (e) Missouri River Basin Commission, terminated on September 30, 1981.
- (f) Upper Mississippi River Basin Commission, terminated on December 31, 1981.

Sec. 2. All Federal agencies shall cooperate with the commissions and the member States to achieve an orderly close out of commission activities and, if the member States so elect, to carry out an orderly transition of appropriate commission activities to the member States.

Sec. 3. To the extent permitted by law, the assets of the commissions which the Federal Government might otherwise be entitled to claim are to be transferred to the member States of the commissions, or such entities as the States acting through their representatives on the commissions may designate, to be used for such water and related land resources planning purposes as the States may decide among themselves. The terms and conditions for transfer of assets under this Section shall be subject to the approval of the Director of the Office of Management and Budget, or such Federal agency as he designates, before the transfer is effective.

Sec. 4. Federal agency members of river basin commissions are directed to continue coordination and cooperation in future State and inter-State basin planning arrangements.

Sec. 5. (a) Effective October 1, 1981, the following Executive Orders are revoked:

- (1) Executive Order No. 11331, as amended, which established the Pacific Northwest River Basins Commission.
- (2) Executive Order No. 11345, as amended, which established the Great Lakes Basin Commission.
- (3) Executive Order No. 11371, as amended, which established the New England River Basins Commission.
- (4) Executive Order No. 11578, as amended, which established the Ohio River Basin Commission.
- (5) Executive Order No. 11658, as amended, which established the Missouri River Basin Commission.
- (b) Effective January 1, 1982, Executive Order No. 11659, as amended, which established the Upper Mississippi River Basin Commission, is revoked.

Ronald Reagan.

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**§ 1962b-1. Membership of commissions; appointment of chairman**

Each river basin commission shall be composed of members appointed as follows:

- (a) A chairman appointed by the President who shall also serve as chairman and coordinating officer of the Federal members of the commission and who shall represent the Federal Government in Federal-State relations on the commission and who shall not, during the period of his service on the commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government;
- (b) One member from each Federal department or independent agency determined by the President to have a substantial interest in the work to be undertaken by the commission, such member to be appointed by the head of such department or independent agency and to serve as the representative of such department or independent agency;
- (c) One member from each State which lies wholly or partially within the area, river basin, or group of river basins for which the commission is established, and the appointment of each such member shall be made in accordance with the laws of the State which he represents. In the absence of governing provisions of State law, such State members shall be appointed and serve at the pleasure of the Governor;

NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(d) One member appointed by any interstate agency created by an interstate compact to which the consent of Congress has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is created;

(e) When deemed appropriate by the President, one member, who shall be appointed by the President, from the United States section of any international commission created by a treaty to which the consent of the Senate has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is established.

(Pub. L. 89–80, title II, § 202, July 22, 1965, 79 Stat. 247.)

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**§ 1962b–2. Organization of commissions**

**(a) Commencement of functions; transfer of property, assets, and records upon termination of commission; availability of studies, data, and other materials to participants**

Each river basin commission shall organize for the performance of its functions within ninety days after the President shall have declared the establishment of such commission, subject to the availability of funds for carrying on its work. A commission shall terminate upon decision of the Council or agreement of a majority of the States composing the commission. Upon such termination, all property, assets, and records of the commission shall thereafter be turned over to such agencies of the United States and the participating States as shall be appropriate in the circumstances: Provided, That studies, data, and other materials useful in water and related land resources planning to any of the participants shall be kept freely available to all such participants.

**(b) Vice chairman; State election; State representation**

State members of each commission shall elect a vice chairman, who shall serve also as chairman and coordinating officer of the State members of the commission and who shall represent the State governments in Federal-State relations on the commission.

**(c) Vacancies; alternates for chairman and vice chairman**

Vacancies in a commission shall not affect its powers but shall be filled in the same manner in which the original appointments were made: Provided, That the chairman and vice chairman may designate alternates to act for them during temporary absences.

**(d) Consensus of members on issues; opportunities for individual views; record of position of chairman and vice chairman; final authority on procedural questions**

In the work of the commission every reasonable endeavor shall be made to arrive at a consensus of all members on all issues; but failing this, full opportunity shall be afforded each member for the presentation and report of individual views: Provided, That at any time the commission fails to act by reason of absence of consensus, the position of the chairman, acting in behalf of the Federal members, and the vice chairman, acting upon instructions of the State members, shall be set forth in the record: Provided further, That the chairman, in consultation with the vice chairman, shall have the final authority, in the absence of an applicable by-law adopted by the commission or in the absence of a consensus, to fix the times and places for meetings, to set deadlines for the submission of annual and other reports, to establish subcommittees, and to decide such other procedural questions as may be necessary for the commission to perform its functions.

(Pub. L. 89–80, title II, § 203, July 22, 1965, 79 Stat. 248.)

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**§ 1962b–3. Duties of commissions**

Each river basin commission shall—

NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).

- (1) engage in such activities and make such studies and investigations as are necessary and desirable in carrying out the policy set forth in section 1962 of this title and in accomplishing the purposes set forth in section 1962b (b) of this title;
- (2) submit to the Council and the Governor of each participating State a report on its work at least once each year. Such report shall be transmitted through the President to the Congress. After such transmission, copies of any such report shall be sent to the heads of such Federal, State, interstate, and international agencies as the President or the Governors of the participating States may direct;
- (3) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed, and to the head of the United States section of any international commission if the plan, portion or revision deals with a boundary water or a river crossing a boundary, or any tributary flowing into such boundary water or river, over which the international commission has jurisdiction or for which it has responsibility. Each such department and agency head, Governor, interstate agency, and United States section of an international commission shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the reports so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and
- (4) submit to the Council at the time of submitting such plan, any recommendations it may have for continuing the functions of the commission and for implementing the plan, including means of keeping the plan up to date.

(Pub. L. 89–80, title II, § 204, July 22, 1965, 79 Stat. 248.)

### Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in par. (2) of this section relating to transmittal of reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 5 on page 40 of House Document No. 103–7.

### Upper Mississippi River System Comprehensive Master Management Plan

Pub. L. 95–502, title I, § 101, Oct. 21, 1978, 92 Stat. 1693, as amended by Pub. L. 99–662, title XI, § 1103(c)(2), Nov. 17, 1986, 100 Stat. 4226, which provided for the development, revision, and implementation of the Upper Mississippi River System comprehensive master management plan by the Upper Mississippi River Basin Commission, was omitted in view of the termination of the Upper Mississippi River Basin Commission on Dec. 31, 1981, pursuant to section 1(f) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out as a note under section 1962b of this title.

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## § 1962b–4. Administrative provisions

**(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel, consultants, and professional service contracts; personnel from other agencies; retirement and employee benefit system for personnel without coverage; motor vehicles; necessary expenses; other powers**

For the purpose of carrying out the provisions of this subchapter, each river basin commission may—

- (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

- (2) acquire, furnish, and equip such office space as is necessary;
- (3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;
- (4) employ and compensate such personnel as it deems advisable, including consultants, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5, and retain and compensate such professional or technical service firms as it deems advisable on a contract basis;
- (5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;
- (6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;
- (7) purchase, hire, operate, and maintain passenger motor vehicles; and
- (8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

**(b) Oaths**

The chairman of a river basin commission, or any member of such commission designated by the chairman thereof for the purpose, is authorized to administer oaths when it is determined by a majority of the commission that testimony shall be taken or evidence received under oath.

**(c) Records; public inspection**

To the extent permitted by law, all appropriate records and papers of each river basin commission shall be made available for public inspection during ordinary office hours.

**(d) Information and personnel from other Federal agencies**

Upon request of the chairman of any river basin commission, or any member or employee of such commission designated by the chairman thereof for the purpose, the head of any Federal department or agency is authorized

- (1) to furnish to such commission such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and
- (2) to detail to temporary duty with such commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

**(e) Responsibility for personnel and funds**

The chairman of each river basin commission shall, with the concurrence of the vice chairman, appoint the personnel employed by such commission, and the chairman shall, in accordance with the general policies of such commission with respect to the work to be accomplished by it and the timing thereof, be responsible for

- (1) the supervision of personnel employed by such commission,
- (2) the assignment of duties and responsibilities among such personnel, and
- (3) the use and expenditure of funds available to such commission.

(Pub. L. 89-80, title II, § 205, July 22, 1965, 79 Stat. 249; Pub. L. 94-112, § 1(c), Oct. 16, 1975, 89 Stat. 575.)

**Amendments**

1975—Subsec. (a)(4). Pub. L. 94-112 substituted “not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5” for “not to exceed \$100 per diem”.

**References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

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**§ 1962b–5. Compensation of members and chairmen**

**(a) Additional compensation prohibited to members appointed from Federal departments, agencies, and international commissions**

Any member of a river basin commission appointed pursuant to section 1962b–1 (b) and (e) of this title shall receive no additional compensation by virtue of his membership on the commission, but shall continue to receive, from appropriations made for the agency from which he is appointed, the salary of his regular position when engaged in the performance of the duties vested in the commission.

**(b) Compensation of members from States and interstate agencies**

Members of a commission, appointed pursuant to section 1962b–1 (c) and (d) of this title, shall each receive such compensation as may be provided by the States or the interstate agency respectively, which they represent.

**(c) Compensation of chairman**

The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for grade GS–18 or when engaged in the performance of the commission’s duties on an intermittent basis such compensation shall be not more than \$100 per day and shall not exceed \$12,000 in any year.

(Pub. L. 89–80, title II, § 206, July 22, 1965, 79 Stat. 250.)

**References in Other Laws to GS–16, 17, or 18 Pay Rates**

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

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**§ 1962b–6. Expenses of commissions**

**(a) Federal share; apportionment of remainder; annual budget; estimates of proposed Federal appropriations; advances against delayed State appropriations; credit to account in the Treasury**

Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission’s expenses shall be otherwise apportioned as the commission may determine. Each commission shall prepare a budget annually and transmit it to the Council and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Council under chapter 11 of title 31, and may include an amount for advance to a commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated to or otherwise received by a commission shall be credited to the commission’s account in the Treasury of the United States.

**(b) Acceptance, reception, utilization, and disposal of appropriations, donations, and grants**

A commission may accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and services from any State or the United States or any

**TITLE 42 - CHAPTER 19B - SUBCHAPTER III FINANCIAL  
ASSISTANCE TO STATES FOR COMPREHENSIV...**

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subdivision or agency thereof, or intergovernmental agency, and may receive, utilize, and dispose of the same.

**(c) Accounts of receipts and disbursements; annual audit; inclusion in annual report**

The commission shall keep accurate accounts of all receipts and disbursements. The accounts shall be audited at least annually in accordance with generally accepted auditing standards by independent certified or licensed public accountants, certified or licensed by a regulatory authority of a State, and the report of the audit shall be included in and become a part of the annual report of the commission.

**(d) Inspection of accounts**

The accounts of the commission shall be open at all reasonable times for inspection by representatives of the jurisdictions and agencies which make appropriations, donations, or grants to the commission.

(Pub. L. 89–80, title II, § 207, July 22, 1965, 79 Stat. 250.)

**Codification**

In subsec. (a), “chapter 11 of title 31” substituted for “the Budget and Accounting Act of 1921, as amended [31 U.S.C. 1 et seq.]” on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## SUBCHAPTER III—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

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### § 1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning

(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council, \$3,000,000 for fiscal year 1979 for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

(b) The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this subchapter, and the use of funds available therefor, as may be necessary in order to assure

- (1) coordination of the program authorized by this subchapter with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954<sup>1</sup> and
- (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this chapter.

#### Footnotes

<sup>1</sup> See References in Text note below.

(Pub. L. 89–80, title III, § 301, July 22, 1965, 79 Stat. 251; Pub. L. 94–112, § 1(d), Oct. 16, 1975, 89 Stat. 575; Pub. L. 95–404, § 1(d), Sept. 30, 1978, 92 Stat. 864.)

#### References in Text

Section 701 of the Housing Act of 1954, referred to in subsec. (b), is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, § 313(b), Aug. 13, 1981, 95 Stat. 398.

#### Amendments

1978—Subsec. (a). Pub. L. 95–404 substituted “\$3,000,000 for fiscal year 1979” for “for fiscal years 1977 and 1978, \$5,000,000 in each such year”.

1975—Subsec. (a). Pub. L. 94–112 substituted “for fiscal years 1977 and 1978,” for “for the next fiscal year beginning after July 22, 1965, and for the nine succeeding fiscal years thereafter.”

#### Increases in Salary, Pay, Retirement, or Other Benefits for Federal Employees

For authority for payment of increases in salary and other Federal employee benefits, see section 1(e) of Pub. L. 95–404, set out as a note under section 1962d of this title.

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### § 1962c–1. Allotments to States: basis, population and land area determinations; payments to States: amount

(a) From the sums appropriated pursuant to section 1962c of this title for any fiscal year the Council shall from time to time make allotments to the States, in accordance with its regulations, on the basis of

- (1) the population,
- (2) the land area,
- (3) the need for comprehensive water and related land resources planning programs, and

(4) the financial need of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the States shall be determined on the basis of the official records of the United States Geological Survey.

(b) From each State's allotment under this section for any fiscal year the Council shall pay to such State an amount which is not more than 50 per centum of the cost of carrying out its State program approved under section 1962c-2 of this title, including the cost of training personnel for carrying out such program and the cost of administering such program.

(Pub. L. 89-80, title III, § 302, July 22, 1965, 79 Stat. 251.)

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### **§ 1962c-2. State programs; approval by Council; submission; requirements; notice and hearing prior to disapproval**

The Council shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

(1) provides for comprehensive planning with respect to intrastate or interstate water resources, or both, in such State to meet the needs for water and water-related activities taking into account prospective demands for all purposes served through or affected by water and related land resources development, with adequate provision for coordination with all Federal, State, and local agencies, and nongovernmental entities having responsibilities in affected fields;

(2) provides, where comprehensive statewide development planning is being carried on with or without assistance under section 701 of the Housing Act of 1954<sup>1</sup> or under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 4601-4 et seq.], for full coordination between comprehensive water resources planning and other statewide planning programs and for assurances that such water resources planning will be in conformity with the general development policy in such State;

(3) designates a State agency (hereinafter referred to as the "State agency") to administer the program;

(4) provides that the State agency will make such reports in such form and containing such information as the Council from time to time reasonably requires to carry out its functions under this subchapter;

(5) sets forth the procedure to be followed in carrying out the State program and in administering such program; and

(6) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

The Council shall not disapprove any program without first giving reasonable notice and opportunity for hearing to the State agency administering such program.

#### **Footnotes**

<sup>1</sup> See References in Text note below.

(Pub. L. 89-80, title III, § 303, July 22, 1965, 79 Stat. 252.)

#### **References in Text**

Section 701 of the Housing Act of 1954, referred to in par. (2), is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97-35, title III, § 313(b), Aug. 13, 1981, 95 Stat. 398.

The Land and Water Conservation Fund Act of 1965, referred to in par. (2), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 4601-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of Title 16 and Tables.

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**§ 1962c-3. Noncompliance; curtailing of payments**

Whenever the Council after reasonable notice and opportunity for hearing to a State agency finds that—

- (a) the program submitted by such State and approved under section 1962c-2 of this title has been so changed that it no longer complies with a requirement of such section; or
- (b) in the administration of the program there is a failure to comply substantially with such a requirement,

the Council shall notify such agency that no further payments will be made to the State under this subchapter until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such State under this subchapter.

(Pub. L. 89-80, title III, § 304, July 22, 1965, 79 Stat. 252.)

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**§ 1962c-4. Payments to States; computation of amount**

The method of computing and paying amounts pursuant to this subchapter shall be as follows:

- (1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each State under the provisions of this subchapter for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Council may find necessary.
- (2) The Council shall pay to the State, from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such State for any prior period under this subchapter was greater or less than the amount which should have been paid to such State for such prior period under this subchapter. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

(Pub. L. 89-80, title III, § 305, July 22, 1965, 79 Stat. 253.)

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**§ 1962c-5. "State" defined**

For the purpose of this subchapter the term "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands or Guam.

(Pub. L. 89-80, title III, § 306, July 22, 1965, 79 Stat. 253; Pub. L. 94-285, § 2, May 12, 1976, 90 Stat. 516.)

**Amendments**

1976—Pub. L. 94-285 inserted reference to Guam.

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**§ 1962c-6. Records; audit and examination**

- (a) Each recipient of a grant under this chapter shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

**TITLE 42 - CHAPTER 19B - SUBCHAPTER IV MISCELLANEOUS PROVISIONS**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscpint.html>).*

**(b)** The Chairman of the Council and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter.

(Pub. L. 89–80, title III, § 307, July 22, 1965, 79 Stat. 253.)

## SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

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### § 1962d. Authorization of appropriations to the Water Resources Council

There are authorized to be appropriated to the Water Resources Council:

**(a) Limitation for single river basin commission**

The sum of \$2,886,000 for fiscal year 1979 for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: Provided, That not more than \$750,000 annually shall be available under this subsection for any single river basin commission;

**(b) Limitation on the expenses of the Water Resources Council**

the<sup>1</sup> sum of \$2,668,000 for fiscal year 1979 for the expenses of the Water Resources Council in administering this chapter, not including funds authorized by subsection (c) below;

**(c) Limitation on availability of funds for preparation of certain studies and for assessments and plans**

The sum of \$3,179,900 for fiscal year 1979 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this chapter: Provided, That \$828,900 shall be available under this subsection for preparation of the Columbia River Estuary Special Study: Provided further, That \$308,000 shall be available under this subsection for preparation of the New England Port and Harbor Study and \$135,000 shall be available for completion of the Hudson River Basin Level B Study: Provided further, That \$150,000 shall be available under this subsection for completion of Case Studies of the Application of Cost Sharing Policy Options for Flood Plain Management in the Connecticut River Basin: Provided further, That not more than \$2,500,000 shall be available under this subsection for the preparation of assessments: Provided further, That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection.

#### Footnotes

<sup>1</sup> So in original. Probably should be capitalized.

(Pub. L. 89–80, title IV, § 401, July 22, 1965, 79 Stat. 253; Pub. L. 90–547, Oct. 2, 1968, 82 Stat. 935; Pub. L. 92–27, June 17, 1971, 85 Stat. 77; Pub. L. 92–396, Aug. 20, 1972, 86 Stat. 578; Pub. L. 93–55, July 1, 1973, 87 Stat. 140; Pub. L. 94–112, § 1(e), Oct. 16, 1975, 89 Stat. 575; Pub. L. 94–285, § 1, May 12, 1976, 90 Stat. 516; Pub. L. 95–41, § 1, June 6, 1977, 91 Stat. 209; Pub. L. 95–404, § 1(a)–(c), Sept. 30, 1978, 92 Stat. 864.)

#### Amendments

1978—Subsec. (a). Pub. L. 95–404, § 1(a), substituted “The sum of \$2,886,000 for fiscal year 1979” for “not to exceed \$6,000,000 for fiscal year 1978”.

Subsec. (b). Pub. L. 95–404, § 1(b), substituted “the sum of \$2,668,000 for fiscal year 1979” for “not to exceed \$2,000,000 for fiscal year 1978”.

Subsec. (c). Pub. L. 95–404, § 1(c), substituted “The sum of \$3,179,900 for fiscal year 1979” for “not to exceed the sum of \$3,905,000 for fiscal year 1978” and inserted provisions making available the sums of \$828,900 for the Columbia River Estuary Special Study, \$308,000 for the New England Port and Harbor Study, \$135,000 for the Hudson River Basin Level B Study, and \$150,000 for the Case Studies of the Application of Cost Sharing Policy Options for Flood Plan Management in the Connecticut River Basin.

**TITLE 42 - Section 1962d-1 - Rules and regulations**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).*

1977—Subsecs. (a), (b). Pub. L. 95–41, § 1(b), (c), substituted “for fiscal year 1978” for “annually”.

Subsec. (c). Pub. L. 95–41, § 1(a), substituted “not to exceed the sum of \$3,905,000 for fiscal year 1978” for “not to exceed a total of \$10,000,000 for fiscal years 1976 and 1977”.

1976—Subsec. (b). Pub. L. 94–285 substituted “\$2,000,000” for “\$1,500,000”.

1975—Subsec. (c). Pub. L. 94–112 substituted “not to exceed a total of \$10,000,000 for fiscal years 1976 and 1977” for “not to exceed \$3,500,000 annually for fiscal years 1974 and 1975”.

1973—Subsec. (c). Pub. L. 93–55 substituted “annually for fiscal years 1974 and 1975” for “in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts”.

1972—Pub. L. 92–396 authorized appropriations to the Water Resources Council, and in subsec. (a), substituted “chairmen” for “chairman”, in subsec. (b) inserted “not including funds authorized by subsection (c) below”, and added subsec. (c).

1971—Pub. L. 92–27 substituted appropriation authorization of \$6,000,000 annually for Federal share of expenses of administration and operation of river basin commissions, including salaries and expenses of chairman, for former provisions for annual appropriation authorization of \$500,000; \$6,000,000; and \$400,000 for subchapters I, II, and III of this chapter and authorize appropriation of \$1.5 million annually for administration expenses of Water Resources Council.

1968—Pub. L. 90–547 increased authorization for appropriations to carry out provisions of subchapter I of this chapter from not to exceed \$300,000 annually to not to exceed \$500,000 annually.

**Increases in Salary, Pay, Retirement, or Other Benefits for Federal Employees**

Section 1(e) of Pub. L. 95–404 provided that: “Appropriations authorized by this Act [amending sections 1962c and 1962d of this title] for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law.”

.....

**§ 1962d–1. Rules and regulations**

The Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this chapter which are administered by it.

(Pub. L. 89–80, title IV, § 402, July 22, 1965, 79 Stat. 254.)

.....

**§ 1962d–2. Delegation of functions**

The Council is authorized to delegate to any member or employee of the Council its administrative functions under section 1962a–4 of this title and the detailed administration of the grant program under subchapter III of this chapter.

(Pub. L. 89–80, title IV, § 403, July 22, 1965, 79 Stat. 254.)

.....

**§ 1962d–3. Utilization of personnel**

The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this chapter.

(Pub. L. 89–80, title IV, § 404, July 22, 1965, 79 Stat. 254.)

.....

**§ 1962d–4. Northeastern United States water supply**

**(a) Plans for Federal construction, operation, and maintenance of reservoir system within certain river basins and conveyance and purification facilities through cooperation of Secretary of the Army and government agencies; financial participation of States**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

Congress hereby recognizes that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in the solution of water supply problems. Therefore, the Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with Federal, State, and local agencies in preparing plans in accordance with the Water Resources Planning Act [42 U.S.C. 1962 et seq.] to meet the long-range water needs of the northeastern United States. This plan may provide for the construction, operation, and maintenance by the United States of

- (1) a system of major reservoirs to be located within those river basins of the northeastern United States which drain into the Chesapeake Bay, those that drain into the Atlantic Ocean north of the Chesapeake Bay, those that drain into Lake Ontario, and those that drain into the Saint Lawrence River,
- (2) major conveyance facilities by which water may be exchanged between these river basins to the extent found desirable in the national interest, and
- (3) major purification facilities. Such plans shall provide for appropriate financial participation by the States, political subdivisions thereof, and other local interests.

**(b) Construction, operation, and maintenance of reservoirs and conveyance and purification facilities**

The Secretary of the Army, acting through the Chief of Engineers, shall construct, operate, and maintain those reservoirs, conveyance facilities, and purification facilities, which are recommended in the plan prepared in accordance with subsection (a) of this section, and which are specifically authorized by law enacted after October 27, 1965.

**(c) Reservoirs as components of river basin and water supply plans**

Each reservoir included in the plan authorized by this section shall be considered as a component of a comprehensive plan for the optimum development of the river basin in which it is situated, as well as a component of the plan established in accordance with this section.

(Pub. L. 89–298, title I, § 101, Oct. 27, 1965, 79 Stat. 1073.)

**References in Text**

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to this chapter (§ 1962 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1962 of this title and Tables.

**Codification**

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

.....

**§ 1962d–5. Water resources development projects involving navigation, flood control, and shore protection**

**(a) Construction, operation, and maintenance; limitation on estimated Federal first cost of construction; Congressional committee approval of projects; reports to Congress**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain any water resource development project, including single and multiple purpose projects involving, but not limited to, navigation, flood control, and shore protection, if the estimated Federal first cost of constructing such project is less than \$15,000,000. No appropriation shall be made to construct, operate, or maintain any such project if such project has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively. For the purpose of

securing consideration of such approval the Secretary shall transmit to Congress a report of such proposed project, including all relevant data and all costs.

**(b) Local cooperation requirements based on certain estimated Federal first cost of construction**

Any water resource development project authorized to be constructed by this section shall be subject to the same requirements of local cooperation as it would be if the estimated Federal first cost of such project were \$15,000,000 or more.

(Pub. L. 89–298, title II, § 201, Oct. 27, 1965, 79 Stat. 1073; Pub. L. 94–587, § 131, Oct. 22, 1976, 90 Stat. 2928; Pub. L. 103–437, § 15(d), Nov. 2, 1994, 108 Stat. 4592.)

### **Codification**

Section was enacted as part of the Flood Control Act of 1965, and not as part of the Water Resources Planning Act which comprises this chapter.

### **Amendments**

1994—Subsec. (a). Pub. L. 103–437 substituted “Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House” for “Committees on Public Works of the Senate and House”.

1976—Subsec. (a). Pub. L. 94–587, § 131(a), substituted “\$15,000,000” for “\$10,000,000”.

Subsec. (b). Pub. L. 94–587, § 131(b), substituted “\$15,000,000” for “\$10,000,000”.

### **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.

### **Local Cooperation, Study; Report to Congress**

Pub. L. 93–251, title I, § 24, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army make a study of the items of local cooperation involving hold and save harmless provisions which have been required for water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

### **Land and Water Use, Study; Report to Congress**

Pub. L. 93–251, title I, § 25, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army conduct a study on land use practices and recreational uses at water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

### **National Streambank Erosion Prevention and Control Demonstration Program**

Pub. L. 93–251, title I, § 32, Mar. 7, 1974, 88 Stat. 21, as amended by Pub. L. 94–587, §§ 155, 161, Oct. 22, 1976, 90 Stat. 2932, 2933, known as the “Streambank Erosion Control Evaluation and Demonstration Act of 1974”, directed the Secretary of the Army, acting through the Chief of Engineers, to establish and conduct for a period of five fiscal years a national streambank erosion prevention and control demonstration program, to consist of an evaluation of the extent of streambank erosion on navigable rivers and their tributaries; development of new methods and techniques for bank protection, research on soil stability, and identification of the causes of erosion; a report to the Congress on the results of such studies and the recommendations of the Secretary of the Army on means for the prevention and correction of streambank erosion; and demonstration projects, including bank protection works. The final report to the Congress was to be made by Secretary of the Army no later than Dec. 31, 1981.

### **National Shoreline Erosion Control Development and Demonstration Program**

Pub. L. 93–251, title I, § 54, Mar. 7, 1974, 88 Stat. 26, known as the “Shoreline Erosion Control Demonstration Act of 1974”, directed the Secretary of the Army, acting through the Chief of Engineers, to establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program, to consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative, and to be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to section

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54(d) of Pub. L. 93-251. The Panel was to expire ninety days after termination of the five-year program. The Secretary of the Army was to submit to Congress a final report, sixty days after the fifth fiscal year of funding, such report to include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

**Technical and Engineering Assistance for Non-Development of Erosion Prevention Methods**

Pub. L. 93-251, title I, § 55, Mar. 7, 1974, 88 Stat. 28, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide technical and engineering assistance to non-Federal public interests in developing structural and non-structural methods of preventing damages attributable to shore and streambank erosion."

**Visitor Protection Services, Study; Report to Congress**

Pub. L. 93-251, title I, § 75, Mar. 7, 1974, 88 Stat. 32, directed Secretary of the Army to conduct a study on need for and means of providing visitor protection services at water resource development projects under jurisdiction of Department of the Army and report on such study to Congress not later than Dec. 31, 1974.

.....

**§ 1962d-5a. Reimbursement to States**

**(a) Combination of reimbursement of installation costs and reduction in contributions; single project limitation**

The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreements providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed \$5,000,000 or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed \$7,000,000 in any fiscal year.

**(b) Agreement provisions; termination of agreement for failure to commence work**

Agreements entered into pursuant to this section shall

- (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor;
- (2) specify the manner in which such work shall be carried out;
- (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee;
- (4) state the basis on which the amount of reimbursement shall be determined;
- (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and
- (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken on Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

**(c) Certification of performance**

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

**(d) Beach erosion control projects**

Reimbursement for work commenced by non-Federal public bodies no later than one year after August 13, 1968, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 426f of title 33. Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after August 13, 1968, may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

**(e) Prohibition of construction for Federal assumption of responsibilities of non-Federal bodies or for Federal liability for unnecessary or inapplicable project work of such bodies**

This section shall not be construed

- (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or
- (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

**(f) Allotment limitation for any fiscal year; specific project reimbursement authorizations**

The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed \$10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

(Pub. L. 90–483, title II, § 215, Aug. 13, 1968, 82 Stat. 747; Pub. L. 99–662, title IX, § 913, Nov. 17, 1986, 100 Stat. 4190; Pub. L. 100–676, § 12, Nov. 17, 1988, 102 Stat. 4025; Pub. L. 104–303, title II, § 224(a), Oct. 12, 1996, 110 Stat. 3697; Pub. L. 110–161, div. C, title I, § 116, Dec. 26, 2007, 121 Stat. 1945.)

**Codification**

Section was enacted as part of the Flood Control Act of 1968, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

2007—Subsec. (a). Pub. L. 110–161, which directed the substitution of “\$7,000,000” for “\$5,000,000” in last sentence, was executed by making the substitution for “\$5,000,000” the second place it appeared, to reflect the probable intent of Congress.

1996—Subsec. (a). Pub. L. 104–303, in last sentence, substituted “\$5,000,000” for “\$3,000,000” before “or 1 percent” and “any fiscal year.” for “any fiscal year..”

1988—Subsec. (a). Pub. L. 100–676 inserted before period at end “or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed \$5,000,000 in any fiscal year.”

1986—Subsec. (a). Pub. L. 99–662 substituted “\$3,000,000” for “\$1,000,000”.

.....

**§ 1962d–5b. Written agreement requirement for water resources projects**

**(a) Cooperation of non-Federal interest**

**(1) In general**

After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under any provision of law, shall not be commenced until each non-Federal interest has entered into a written partnership agreement with the Secretary (or, where appropriate, the district engineer for the district in which the project will be carried out) under which each party agrees to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than \$25,000.

**(2) Liquidated damages**

A partnership agreement described in paragraph (1) may include a provision for liquidated damages in the event of a failure of one or more parties to perform.

**(3) Obligation of future appropriations**

In any partnership agreement described in paragraph (1) and entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.

**(4) Credit for in-kind contributions**

**(A) In general**

A partnership agreement described in paragraph (1) may provide with respect to a project that the Secretary shall credit toward the non-Federal share of the cost of the project, including a project implemented without specific authorization in law, the value of in-kind contributions made by the non-Federal interest, including—

- (i) the costs of planning (including data collection), design, management, mitigation, construction, and construction services that are provided by the non-Federal interest for implementation of the project;
- (ii) the value of materials or services provided before execution of the partnership agreement, including efforts on constructed elements incorporated into the project; and
- (iii) the value of materials and services provided after execution of the partnership agreement.

**(B) Condition**

The Secretary may credit an in-kind contribution under subparagraph (A) only if the Secretary determines that the material or service provided as an in-kind contribution is integral to the project.

**(C) Work performed before partnership agreement**

In any case in which the non-Federal interest is to receive credit under subparagraph (A)(ii) for the cost of work carried out by the non-Federal interest and such work has not been carried out as of November 8, 2007, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit.

**(D) Limitations**

Credit authorized under this paragraph for a project—

- (i) shall not exceed the non-Federal share of the cost of the project;

(ii) shall not alter any other requirement that a non-Federal interest provide lands, easements, relocations, rights-of-way, or areas for disposal of dredged material for the project;

(iii) shall not alter any requirement that a non-Federal interest pay a portion of the costs of construction of the project under sections 2211 and 2213 of title 33; and

(iv) shall not exceed the actual and reasonable costs of the materials, services, or other things provided by the non-Federal interest, as determined by the Secretary.

**(E) Applicability**

(i) In general

This paragraph shall apply to water resources projects authorized after November 16, 1986, including projects initiated after November 16, 1986, without specific authorization in law.

(ii) Limitation

In any case in which a specific provision of law provides for a non-Federal interest to receive credit toward the non-Federal share of the cost of a study for, or construction or operation and maintenance of, a water resources project, the specific provision of law shall apply instead of this paragraph.

**(b) Definition of non-Federal interest**

The term “non-Federal interest” means—

- (1) a legally constituted public body (including a federally recognized Indian tribe); or
- (2) a nonprofit entity with the consent of the affected local government,

that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

**(c) Enforcement; jurisdiction**

Every agreement entered into pursuant to this section shall be enforceable in the appropriate district court of the United States.

**(d) Nonperformance of terms of agreement by non-Federal interest; notice; reasonable opportunity for performance; performance by Chief of Engineers**

After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

**(e) Delegation of authority**

Not later than June 30, 2008, the Secretary shall issue policies and guidelines for partnership agreements that delegate to the district engineers, at a minimum—

- (1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;
- (2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources project;
- (3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and
- (4) the authority to sign any partnership agreement for any water resources project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.

**(f) Report to Congress**

Not later than 2 years after November 8, 2007, and every year thereafter, the Secretary shall submit to Congress a report detailing the following:

- (1) The number of partnership agreements signed by district engineers and the number of partnership agreements signed by the Secretary.
- (2) For any partnership agreement signed by the Secretary, an explanation of why delegation to the district engineer was not appropriate.

**(g) Public availability**

Not later than 120 days after November 8, 2007, the Chief of Engineers shall—

- (1) ensure that each district engineer has made available to the public, including on the Internet, all partnership agreements entered into under this section within the preceding 10 years and all partnership agreements for water resources projects currently being carried out in that district; and
- (2) make each partnership agreement entered into after November 8, 2007, available to the public, including on the Internet, not later than 7 days after the date on which such agreement is entered into.

**(h) Effective date**

This section shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended [43 U.S.C. 390b].

(Pub. L. 91–611, title II, § 221, Dec. 31, 1970, 84 Stat. 1831; Pub. L. 92–222, § 4, Dec. 23, 1971, 85 Stat. 799; Pub. L. 99–662, title IX, § 912(a), Nov. 17, 1986, 100 Stat. 4189; Pub. L. 104–106, div. A, title X, § 1064(d), Feb. 10, 1996, 110 Stat. 445; Pub. L. 104–303, title II, § 220, Oct. 12, 1996, 110 Stat. 3696; Pub. L. 106–541, title II, § 201, Dec. 11, 2000, 114 Stat. 2587; Pub. L. 110–114, title II, § 2003(a)–(c), Nov. 8, 2007, 121 Stat. 1067, 1069.)

**References in Text**

The Water Supply Act of 1958, as amended, referred to in subsec. (h), is Pub. L. 85–500, title III, § 301, July 3, 1958, 72 Stat. 319, as amended, which is classified to section 390b of Title 43, Public Lands.

**Codification**

Section was enacted as part of the Flood Control Act of 1970, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

2007—Pub. L. 110–114, § 2003(a)(1), inserted section catchline.

Subsec. (a). Pub. L. 110–114, § 2003(a)(2), added subsec. (a) and struck out former subsec. (a), which read as follows: “After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 1962d–5a of this title or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than \$25,000. In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.”

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).*

Subsec. (b). Pub. L. 110–114, § 2003(b), inserted heading and amended text generally. Prior to amendment, text read as follows: “A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.”

Subsecs. (e) to (h). Pub. L. 110–114, § 2003(c), added subsecs. (e) to (g) and redesignated former subsec. (e) as (h).

2000—Subsec. (a). Pub. L. 106–541 in last sentence, struck out “State legislative” after “obligate future”, substituted “constitutional” for “State constitutional”, and inserted “of the State or a political subdivision of the State” before period at end.

1996—Subsec. (a). Pub. L. 104–303, in first sentence, inserted before period at end “; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than \$25,000”.

Subsecs. (e), (f). Pub. L. 104–106 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: “The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress.”

1986—Subsec. (a). Pub. L. 99–662 inserted “, or an acceptable separable element thereof,” “or the appropriate element of the project, as the case may be”, and “In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future State legislative appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations.”

1971—Subsec. (f). Pub. L. 92–222 made provisions of section inapplicable to the assurances for future demands required by the Water Supply Act of 1958, as amended.

### **Effective Date of 2007 Amendment**

Pub. L. 110–114, title II, § 2003(e), Nov. 8, 2007, 121 Stat. 1070, provided that: “The amendments made by subsections (a), (b), and (d) [amending this section and provisions set out as a note under this section] only apply to partnership agreements entered into after the date of enactment of this Act [Nov. 8, 2007]; except that, at the request of a non-Federal interest for a project, the district engineer for the district in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project has not been initiated as of such date of enactment for the purpose of incorporating such amendments.”

### **Partnership and Cooperation Agreements; References**

Pub. L. 110–114, title II, § 2003(f), Nov. 8, 2007, 121 Stat. 1070, provided that:

“(1) In general.—A goal of agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) shall be to further partnership and cooperation, and the agreements shall be referred to as ‘partnership agreements’.

“(2) References to cooperation agreements.—Any reference in a law, regulation, document, or other paper of the United States to a ‘cooperation agreement’ or ‘project cooperation agreement’ shall be deemed to be a reference to a ‘partnership agreement’ or a ‘project partnership agreement’, respectively.

“(3) References to partnership agreements.—Any reference to a ‘partnership agreement’ or ‘project partnership agreement’ in this Act [see Short Title of 2007 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters] (other than this section) shall be deemed to be a reference to a ‘cooperation agreement’ or a ‘project cooperation agreement’, respectively.”

### **Compliance With Cooperation Requirements for Non-Federal Interests in Water Resources Projects**

Pub. L. 99–662, title IX, § 912(b), Nov. 17, 1986, 100 Stat. 4190, as amended by Pub. L. 110–114, title II, § 2003(d), Nov. 8, 2007, 121 Stat. 1070, provided that:

“(1) The Secretary may require compliance with any requirements pertaining to cooperation by non-Federal interests in carrying out any water resources project authorized before, on, or after the date of enactment of this Act [Nov. 17, 1986].

“(2) Whenever on the basis of any information available to the Secretary, the Secretary finds that any non-Federal interest is not providing cooperation required under subsection (a) [amending this section], the Secretary may issue an order requiring such non-Federal interest to provide such cooperation.

“(3) Non-Federal interests shall be liable for interest on any payments required pursuant to section 221 of the Flood Control Act of 1970 [this section] that may fall delinquent. The interest rate to be charged on any such delinquent

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscp.html>).*

payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 percent of the average bond equivalent rate of the thirteen-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional three-month period if the period of delinquency exceeds three months.

“(4) The Secretary may request the Attorney General to bring a civil action for appropriate relief, including permanent or temporary injunction, for payment of damages or, for any violation of an order issued under this section, to recover any cost incurred by the Secretary in undertaking performance of any item of cooperation under section 221(d) of the Flood Control Act of 1970 [subsec. (d) of this section], or to collect interest for which a non-Federal interest is liable under paragraph (3). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides, or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, to require payment of any damages, and to require payment of any costs incurred by the Secretary in undertaking performance of any such item.

“(5) The Secretary is authorized to determine that no funds appropriated for operation and maintenance, including operation and maintenance of the project for flood control, Mississippi River and Tributaries, are to be used for the particular benefit of projects within the jurisdiction of any non-Federal interest when such non-Federal interest is in arrears for more than twenty-four months in the payment of charges due under an agreement entered into with the United States pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91-611) [this section].”

.....

**§ 1962d-5c. Non-Federal public bodies, installment construction payments**

**(a) Annual installments during period of construction in absence of other provision for extended repayment**

In connection with any water resource development project, heretofore, herein, or hereafter authorized to be undertaken by the Secretary of the Army, the construction of which has not been initiated as of March 7, 1974, where authorization requires that non-Federal public bodies make an agreed-upon cash contribution as part of their reimbursement to the Federal Government for construction costs, or a specific portion of the construction costs, and where there exists no other provision of law which would permit extended repayment for the construction costs or such specific portion of the construction costs involved, such non-Federal public bodies may make such repayment in annual installments during the period of construction.

**(b) Cost sharing; modification**

Upon the request of affected non-Federal public bodies, the Secretary of the Army is authorized to modify existing cost sharing agreements in order to effectuate the provisions of subsection (a) of this section.

(Pub. L. 93-251, title I, § 40, Mar. 7, 1974, 88 Stat. 23.)

**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-5d. Authorization of Secretary of the Army to contract with States and political subdivisions for increased law enforcement services during peak visitation periods; authorization of appropriations**

**(a)** The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

**(b)** There is authorized to be appropriated \$10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section.

NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(Pub. L. 94–587, § 120, Oct. 22, 1976, 90 Stat. 2924; Pub. L. 99–662, title IX, § 920, Nov. 17, 1986, 100 Stat. 4193.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

1986—Subsec. (b). Pub. L. 99–662 amended subsec. (b) generally, substituting “\$10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986” for “\$6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979”.

.....

**§ 1962d–5e. Wetland areas**

**(a) Authorization of Secretary of the Army to plan and establish wetland areas; criteria for establishment**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

- (1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and
- (2) the increased cost of such wetland area will not exceed \$400,000; and
- (3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

**(b) Reports to Congress**

Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after October 22, 1976, such report shall include, where appropriate, consideration of the establishment of wetland areas.

**(c) Cost**

In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

(Pub. L. 94–587, § 150, Oct. 22, 1976, 90 Stat. 2931.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

.....

**§ 1962d–5f. Beach nourishment**

The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines

necessary but in no event shall such additional period extend beyond the fiftieth year which begins after the date of initiation of construction of such project.

(Pub. L. 94–587, § 156, Oct. 22, 1976, 90 Stat. 2933; Pub. L. 99–662, title IX, § 934, Nov. 17, 1986, 100 Stat. 4197.)

### Codification

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

### Amendments

1986—Pub. L. 99–662 substituted “fiftieth” for “fifteenth”.

.....

## § 1962d–5g. Hydroelectric power resources

### (a) Study; plan

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

- (1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;
- (2) the magnitude and regional distribution of needs for hydroelectric power;
- (3) the integration of hydroelectric power generation with generation from other types of generating facilities;
- (4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;
- (5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;
- (6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;
- (7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;
- (8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and
- (9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

### (b) Transmittal of plan to Congressional committees

Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) of this section with supporting studies and documentation, together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

### (c) Authorization of appropriation

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed \$7,000,000.

**(d) Feasibility studies of specific hydroelectric power installations; authorization of appropriations**

The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed \$5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

(Pub. L. 94–587, § 167, Oct. 22, 1976, 90 Stat. 2935; Pub. L. 103–437, § 15(e)(1), Nov. 2, 1994, 108 Stat. 4592.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

1994—Subsec. (b). Pub. L. 103–437 substituted “Committee on Environment and Public Works of the Senate” for “Committee on Public Works of the Senate”.

**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.

**Federal Hydroelectric Power Modernization Study**

Pub. L. 100–676, § 42, Nov. 17, 1988, 102 Stat. 4040, directed Secretary to conduct a study of need to modernize and upgrade federally owned and operated hydroelectric power system, and to submit a report, along with recommendations, to Congress not later than 2 years after Nov. 17, 1988.

**Water Quality Effects of Hydroelectric Facilities**

Pub. L. 100–676, § 43, Nov. 17, 1988, 102 Stat. 4040, directed Secretary, in cooperation with Administrator of Environmental Protection Agency, to undertake a study of water quality effects of hydroelectric facilities owned and operated by Corps of Engineers, which was to be transmitted to Congress within 2 years of Nov. 17, 1988, and was to consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

.....

**§ 1962d–6. Feasibility studies; acceleration; advancement of costs by non-Federal sources**

The Secretary may accelerate feasibility studies authorized by law when and to the extent that the costs of such studies shall have been advanced by non-Federal sources.

(Pub. L. 89–561, § 5, Sept. 7, 1966, 80 Stat. 714.)

**Codification**

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

.....

**§ 1962d-7. Delmarva Peninsula hydrologic study; duties of Secretary of the Interior**

The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized and directed to make a comprehensive study and investigation of the water resources of the Delmarva Peninsula with a view to determining the availability of fresh water supplies needed to meet the anticipated future water requirements of the Delmarva Peninsula area, and with a view to determining the most effective means from the standpoint of hydrologic feasibility of protecting and developing fresh water sources so as to insure, insofar as practicable, the availability of adequate water supplies in the future. In carrying out such study and investigation with respect to the Delmarva Peninsula, the Secretary shall—

- (1) appraise the water use, requirements, and trends, and determine the availability of water in the streams and underground sources for the entire peninsula;
- (2) determine the depths, thicknesses, and permeabilities, the perennial yield, and the recharge characteristics of major aquifers, and the quality characteristics to be expected from each such major aquifer;
- (3) determine with respect to ground water resources the continuity and extent of important water-bearing formations;
- (4) determine the yield from stream systems under natural flow conditions and under varying degrees of storage and the amounts and quality of waters available from such systems during drought, flood, and intermediate conditions;
- (5) determine whether sea water has moved inland into heavily pumped coastal aquifers;
- (6) give special consideration to conditions which may invite the invasion of sea water into fresh-water supplies;
- (7) compile and make available to appropriate State and local officials any results of this study and investigation that would be appropriate for their use in long-range planning, development, and management of water supplies;
- (8) cooperate with State and local agencies for the purpose of using any information and data available to carry out the purposes of this study; and
- (9) consider such other matters as the Secretary may deem appropriate to the study and investigation herein authorized.

(Pub. L. 89-618, § 1, Oct. 4, 1966, 80 Stat. 870.)

**Codification**

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

**Washington Metropolitan Area Water Needs and Estuarial Water Supplies; Studies**

Pub. L. 93-251, title I, § 85, Mar. 7, 1974, 88 Stat. 36, provided in part for a study of Washington Metropolitan Area Future Water Needs, coordinated with Northeastern United States Water Supply study, and for a study of Estuarial Water Supplies, including a Potomac Estuary Water Treatment Pilot Project, for review of scientific basis for study conclusions by National Academy of Sciences-National Academy of Engineering, and made further authorizations for Sixes Bridge Dam and Lake Project, Maryland dependent on such studies and review.

.....

**§ 1962d-8. Reports on Delmarva Peninsula hydrologic study**

During the course of the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary may submit to the President for transmission to the Congress such interim

reports as the Secretary may consider desirable. The Secretary shall submit a final report to the President for transmission to the Congress not more than six years after October 4, 1966.

(Pub. L. 89-618, § 2, Oct. 4, 1966, 80 Stat. 870.)

**Codification**

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

.....

**§ 1962d-9. Information from Federal agencies for Delmarva Peninsula study**

The Secretary is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purpose of sections 1962d-7 to 1962d-11 of this title, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics, to the Secretary upon his or his designee's request.

(Pub. L. 89-618, § 3, Oct. 4, 1966, 80 Stat. 870.)

**Codification**

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

.....

**§ 1962d-10. Cooperation with agencies on Delmarva Peninsula study**

In carrying out the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary is authorized to cooperate with other Federal, State, and local agencies now engaged in comprehensive planning for water resource use and development in the Delmarva Peninsula area by making available to those agencies his findings and to cooperate with those agencies in the Northeastern United States Water Supply Study as authorized by section 1962d-4 of this title.

(Pub. L. 89-618, § 4, Oct. 4, 1966, 80 Stat. 871.)

**Codification**

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

.....

**§ 1962d-11. Authorization of appropriation for Delmarva Peninsula study**

There is hereby authorized to be appropriated the sum of \$500,000 to carry out the provisions of sections 1962d-7 to 1962d-11 of this title: Provided, That nothing in such sections shall prevent the expenditure of other funds appropriated to the United States Geological Survey for studies and activities performed under its general authority.

(Pub. L. 89-618, § 5, Oct. 4, 1966, 80 Stat. 871; Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000.)

**Codification**

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

## Change of Name

“United States Geological Survey” substituted in text for “Geological Survey” pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

## § 1962d–11a. Potomac River water diversion structure

### (a) Consent of Congress for construction; written agreement providing schedule for allocation among parties for withdrawal of waters

(1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 401 of title 33 to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river.

### (b) Authorization of Secretary of the Army to enter written agreement; amendments or revisions

The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a)(2) of this section and any amendment to or revision of such agreement.

### (c) Riparian rights or other authority of Maryland, Virginia, political subdivisions; authority of District of Columbia

Except as may be provided in the agreement referred to in subsection (a)(2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on October 22, 1976, relative to the appropriation of water from, or the use of, the Potomac River.

(Pub. L. 94–587, § 181, Oct. 22, 1976, 90 Stat. 2939; Pub. L. 96–292, § 2, June 28, 1980, 94 Stat. 609.)

## Codification

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

## Amendments

1980—Subsec. (a)(2). Pub. L. 96–292 struck out cl. “(A)” designation and cl. (B) which prohibited construction of the Potomac River water diversion structure should such structure be in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, issued in connection with a study of water resources development.

.....

**§ 1962d–11b. Dalecarlia Reservoir; delivery of water to metropolitan Maryland; expenses; payments; purchase of water from State or local authorities in Maryland or Virginia**

(a) The Secretary, on the recommendation of the Chief of Engineers, is authorized to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at other points on the system, to any competent State or local authority in the Washington, District of Columbia, metropolitan area in Maryland. All of the expense of installing the connection or connections and appurtenances between the water supply systems and any subsequent changes therein shall be paid by the requesting entity, which shall also pay such charges for the use of the water as the Secretary may, from time to time in advance of delivery, determine to be reasonable. Payments shall be made at such time, and pursuant to such regulations, as the Secretary prescribes. The Secretary may revoke any permit for the use of water at any time.

(b) The Secretary is authorized to purchase water from any State or local authority in Maryland or Virginia that has, at the time of purchase, completed a connection with the District of Columbia water system. The Secretary is authorized to pay such charges for the use of the water as the Secretary has agreed upon in advance of delivery.

(Pub. L. 99–662, title XI, § 1111, Nov. 17, 1986, 100 Stat. 4231.)

**Codification**

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

**Definitions**

Secretary means the Secretary of the Army, see section 2201 of Title 33, Navigation and Navigable Waters.

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**§§ 1962d–12 to 1962d–14. Repealed. Pub. L. 104–58, title I, § 104(g)(3), Nov. 28, 1995, 109 Stat. 560**

Section 1962d–12, act Aug. 9, 1955, ch. 682, § 1, 69 Stat. 618, authorized Secretary of the Interior to make investigations of projects for conservation, development, and utilization of Alaskan water resources and to report findings, with recommendations, to President and Congress.

Section 1962d–13, act Aug. 9, 1955, ch. 682, § 2, 69 Stat. 618, directed Secretary of the Interior, prior to transmission of report on Alaskan water resource projects to Congress, to transmit copies thereof for information and comment to Governor of Alaska and to heads of interested Federal departments and agencies, and to include copies of views of such officials along with transmission of Secretary’s report to Congress.

Section 1962d–14, act Aug. 9, 1955, ch. 682, § 3, 69 Stat. 618, authorized to be appropriated not more than \$250,000 in any one fiscal year for Alaskan water resources investigation.

.....

**§ 1962d–14a. Alaska hydroelectric power development**

**(a) Congressional findings and declaration**

(1) The Congress finds that the expeditious development of hydroelectric power generating facilities in Alaska that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.

(2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.

**(b) Establishment of fund; composition**

To meet the goals of this section, there is hereby established in the Treasury of the United States an Alaska Hydroelectric Power Development Fund (hereafter referred to as the “fund”) to be and remain available for use by the Secretary of the Army (hereinafter referred to as the “Secretary”) to make expenditures authorized by this section. The fund shall consist of

- (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and
- (2) any appropriations made by the Congress to the fund.

**(c) Authorization of appropriation**

There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of \$25,000,000.

**(d) Investments; deposits**

- (1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.
- (2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.

**(e) Expenditures for phase I design memorandum stage of advanced engineering and design; withholding of favorable report to Congress prior to repayment; expenditures from non-Federal funds**

The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project in Alaska that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

**(f) Authorization to construct projects; expenditures**

In connection with water resources development projects which meet the criteria established by subsection (a)(2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g)(1) of this section occurring on or subsequent to October 22, 1976, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from

- (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and
- (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

**(g) Agreement with non-Federal public authorities and submittal to Congressional committees, payment of total non-Federal obligations; conditions of United States assumption of excess over costs fixed in agreement, payment subject to appropriations acts**

(1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: Provided, That payments by the Secretary of such costs shall be subject to appropriations acts.

**(h) Conveyance of title, rights, and interests of United States; Federal requirements, reservations, and provisions**

The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

**(i) Short title**

This section shall be cited as the "Alaska Hydroelectric Power Development Act".

(Pub. L. 94-587, § 203, Oct. 22, 1976, 90 Stat. 2946; Pub. L. 103-437, § 15(e)(2), Nov. 2, 1994, 108 Stat. 4592.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

1994—Subsec. (g)(1). Pub. L. 103–437 substituted “Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House” for “Committees on Public Works and Appropriations of the Senate and House”.

**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.

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**§ 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.)

**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.

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**§ 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 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 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, at Federal expense, 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.

**(b) Fees**

**(1) Establishment and collection**

For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to subsection (a)(1), 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)(1).

**(2) 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.

**(3) 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 \$10,000,000 annually to carry out subsection (a)(1), except that not more than \$2,000,000 shall be expended in any one year in any one State.

**(2) Technical assistance**

There is authorized to be appropriated \$5,000,000 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.

(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.)

**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**

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 1/2 of the”.

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).*

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.

### **Effective Date of 1980 Amendment**

Section 605 of Pub. L. 96–597 provided that the amendment made by that section is effective Oct. 1, 1981.

### **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

*NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscpint.html>).*

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.)

**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.

**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."

.....

**§ 1962d-18. Study of depletion of natural resources of regions of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska utilizing Ogallala aquifer; plans; reports to Congress; authorization of appropriation**

In order to assure an adequate supply of food to the Nation and to promote the economic vitality of the High Plains Region, the Secretary of Commerce (hereinafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and appropriate Federal, State, and local agencies, and the private sector, is authorized and directed to study the depletion of the natural resources of those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the declining water resources of the Ogallala aquifer,<sup>1</sup> and to develop plans to increase water supplies in the area and report thereon to Congress, together with any recommendations for further congressional action. In formulating these plans, the Secretary is directed to consider all past and ongoing studies, plans, and work on depleted water resources in the region, and to examine the feasibility of various alternatives to provide adequate water supplies in the area including, but not limited to, the transfer of water from adjacent areas, such portion to be conducted by the Chief of Engineers to assure the continued economic growth and vitality of the region. The Secretary shall report on the costs of reasonably available options, the benefits of various options, and the costs of inaction. If water transfer is found to be a part of a reasonable solution, the Secretary, as part of his study, shall include a recommended plan for allocating and

distributing water in an equitable fashion, taking into account existing water rights and the needs for future growth of all affected areas. An interim report, with recommendations, shall be transmitted to the Congress no later than October 1, 1978, and a final report, with recommendations, shall be transmitted to Congress not later than July 1, 1980. A sum of \$6,000,000 is authorized to be appropriated for the purposes of carrying out this section.

**Footnotes**

<sup>1</sup> So in original. Probably should be "aquifer."

(Pub. L. 94-587, § 193, Oct. 22, 1976, 90 Stat. 2943.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

.....

**§ 1962d-19. Cooperation of Secretary of the Interior with State and local regulatory and law enforcement officials in enforcement of laws or ordinances in connection with Federal resource protection, etc., within Federal water resource development project; funding**

The Secretary of the Interior, in connection with Federal resource protection and the Federal administration of the use and occupancy of lands and waters within a water resource development project under his jurisdiction, is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or political subdivision. Such cooperation may include the reimbursement of a State or its political subdivision for expenditures incurred in connection with such resource protection and administration. For purposes of complying with section 651 of title 2, the authorization provided under this section is subject to the availability of appropriations.

(Pub. L. 98-552, § 3, Oct. 30, 1984, 98 Stat. 2823.)

**Codification**

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

.....

**§ 1962d-20. Prohibition on Great Lakes diversions**

**(a) Congressional findings and declarations**

The Congress finds and declares that—

- (1) the Great Lakes are a most important natural resource to the eight Great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the Great Lakes region, and recreational uses for millions of United States and Canadian citizens;
- (2) the Great Lakes need to be carefully managed and protected to meet current and future needs within the Great Lakes basin and Canadian provinces;
- (3) any new diversions of Great Lakes water for use outside of the Great Lakes basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes States and Canadian provinces; and
- (4) four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada, and as such any new

diversion of Great Lakes water in the United States would affect the relations of the Government of the United States with the Government of Canada.

**(b) Congressional declaration of purpose and policy**

It is therefore declared to be the purpose and policy of the Congress in this section—

- (1) to take immediate action to protect the limited quantity of water available from the Great Lakes system for use by the Great Lakes States and in accordance with the Boundary Waters Treaty of 1909;
- (2) to encourage the Great Lakes States, in consultation with the Provinces of Ontario and Quebec, to develop and implement a mechanism that provides a common conservation standard embodying the principles of water conservation and resource improvement for making decisions concerning the withdrawal and use of water from the Great Lakes Basin;
- (3) to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States; and
- (4) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin.

**(c) “Great Lakes State” defined**

As used in this section, the term “Great Lakes State” means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

**(d) Approval by Governors for diversion of water**

No water shall be diverted or exported from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin unless such diversion or export is approved by the Governor of each of the Great Lake<sup>1</sup> States.

**(e) Approval of Governors for diversion studies**

No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.

**(f) Previously authorized diversions**

This section shall not apply to any diversion of water from any of the Great Lakes which is authorized on November 17, 1986.

**Footnotes**

<sup>1</sup> So in original. Probably should be “Lakes”.

(Pub. L. 99–662, title XI, § 1109, Nov. 17, 1986, 100 Stat. 4230; Pub. L. 106–541, title V, § 504(a), (b), Dec. 11, 2000, 114 Stat. 2644.)

**Codification**

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

**Amendments**

2000—Subsec. (b)(2) to (4). Pub. L. 106–541, § 504(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.html>).

Subsec. (d). Pub. L. 106-541, § 504(b), inserted “or exported” after “diverted” and “or export” after “diversion”.

### **Great Lakes Consumptive Use Study**

Pub. L. 100-4, title V, § 521, Feb. 4, 1987, 101 Stat. 88, provided that in recognition of the serious impacts on the Great Lakes environment that could occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, was authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that could be implemented to reduce the quantity of water consumed, and further provided an appropriation of \$750,000 for fiscal years beginning after Sept. 30, 1986, to carry out such study.

Similar provisions were contained in Pub. L. 99-662, title XI, § 1147, Nov. 17, 1986, 100 Stat. 4253.

### **Measurements of Lake Michigan Diversions**

Section 1142 of Pub. L. 99-662, as amended by Pub. L. 106-53, title V, § 508, Aug. 17, 1999, 113 Stat. 339; Pub. L. 106-541, title V, § 518, Dec. 11, 2000, 114 Stat. 2653, provided that:

“(a) Beginning October 1, 1987, the Secretary, in cooperation with the State of Illinois, shall carry out measurements and make necessary computations required by the decree of the United States Supreme Court (388 U.S. 426) relating to the diversion of water from Lake Michigan and shall coordinate the results with downstate interests. The measurements and computations shall consist of all flow measurements, gauge records, hydraulic and hydrologic computations, including periodic field investigations and measuring device calibrations, necessary to compute the amount of water diverted from Lake Michigan by the State of Illinois and its municipalities, political subdivisions, agencies, and instrumentalities, not including water diverted or used by Federal installations.

“(b) There are authorized to be appropriated \$1,250,000 for each of fiscal years 1999 through 2003 and \$800,000 for each fiscal year beginning after September 30, 2003, to carry out this section, including those funds necessary to maintain the measurements and computations, as well as necessary capital construction costs associated with the installation of new flow measurement devices or structures declared necessary and appropriate by the Secretary.”

.....

## **§ 1962d-21. John Glenn Great Lakes basin program**

### **(a) Strategic plans**

#### **(1) Study**

The Secretary shall conduct a comprehensive study of the Great Lakes region to ensure the future use, management, and protection of water resources and related resources of the Great Lakes basin.

#### **(2) Report**

##### **(A) In general**

As expeditiously as possible, but not later than 3 years after August 17, 1999, and every 2 years 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 outlining a strategic plan for Corps of Engineers programs and proposed Corps of Engineers projects in the Great Lakes basin.

##### **(B) Contents**

The plan shall include—

##### **(i) details of projects in the Great Lakes region relating to—**

**(I)** navigation improvements, maintenance, and operations for commercial and recreational vessels;

**(II)** environmental restoration activities;

**(III)** water level maintenance activities;

**(IV)** technical and planning assistance to States and remedial action planning committees;

(V) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(VI) flood damage reduction and shoreline erosion prevention; and

(VII) all other relevant activities of the Corps of Engineers; and

(ii) an analysis of factors limiting use of programs and authorities of the Corps of Engineers in existence on August 17, 1999, in the Great Lakes basin, including the need for new or modified authorities.

**(3) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$1,000,000 for the period of fiscal years 2000 through 2003.

**(b) Great Lakes biohydrological information**

**(1) Inventory**

**(A) In general**

Not later than 90 days after August 17, 1999, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

**(B) Relevant information**

For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and the impacts of weather conditions on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

**(2) Report**

**(A) In general**

Not later than 18 months after August 17, 1999, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

**(B) Recommendations**

The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

**(C) Considerations**

In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and the heads of other agencies

as appropriate, shall consider and report on the status of the issues described and recommendations made in—

- (i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and
- (ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

**(c) Great Lakes recreational boating**

Not later than 18 months after August 17, 1999, the Secretary, using information and studies in existence on August 17, 1999, to the extent practicable, and in cooperation with the Great Lakes States, shall submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Corps of Engineers.

**(d) Cooperation**

In undertaking activities under this section, the Secretary shall—

- (1) encourage public participation; and
- (2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, and tribal governments.

**(e) Water use activities and policies**

The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

**(f) Cost sharing**

The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e) of this section.

**(g) In-kind contributions for study**

The non-Federal interest may provide up to 100 percent of the non-Federal share required under subsection (f) in the form of in-kind services and materials.

(Pub. L. 106–53, title IV, § 455, Aug. 17, 1999, 113 Stat. 330; Pub. L. 110–114, title IV, § 4001, Nov. 8, 2007, 121 Stat. 1173.)

**Codification**

Section was enacted as part of the Water Resources Development Act of 1999, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

2007—Subsec. (g). Pub. L. 110–114 added subsec. (g).

**Definitions**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–53, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

.....

**§ 1962d–22. Great Lakes fishery and ecosystem restoration**

**(a) Findings**

Congress finds that—

- (1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;
- (2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and
- (3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

**(b) Definitions**

In this section, the following definitions apply:

**(1) Great Lake**

**(A) In general**

The term “Great Lake” means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

**(B) Inclusions**

The term “Great Lake” includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

**(2) Great Lakes Commission**

The term “Great Lakes Commission” means the Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

**(3) Great Lakes Fishery Commission**

The term “Great Lakes Fishery Commission” has the meaning given the term “Commission” in section 931 of title 16.

**(4) Great Lakes State**

The term “Great Lakes State” means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

**(c) Great Lakes fishery and ecosystem restoration**

**(1) Support plan**

**(A) In general**

Not later than 1 year after December 11, 2000, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

**(B) Use of existing documents**

To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on December 11, 2000, such as lakewide management plans and remedial action plans.

**(C) Cooperation**

The Secretary shall develop the plan in cooperation with—

- (i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and
- (ii) other affected interests.

**(2) Reconnaissance studies**

Before planning, designing, or constructing a project under paragraph (3), the Secretary shall carry out a reconnaissance study—

- (A) to identify methods of restoring the fishery, ecosystem, and beneficial uses of the Great Lakes; and
- (B) to determine whether planning of a project under paragraph (3) should proceed.

**(3) Projects**

The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

**(4) Evaluation program**

**(A) In general**

The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (3) in meeting fishery and ecosystem restoration goals.

**(B) Studies**

Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

**(d) Cooperative agreements**

In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

**(e) Relationship to other Great Lakes activities**

No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

**(f) Cost sharing**

**(1) Development of plan**

The Federal share of the cost of development of the plan under subsection (c)(1) of this section shall be 65 percent.

**(2) Project planning, design, construction, and evaluation**

Except for reconnaissance studies, the Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (3) or (4) of subsection (c) of this section shall be 65 percent.

**(3) Non-Federal share**

**(A) Credit for land, easements, and rights-of-way**

The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out a project under subsection (c)(3).

**(B) Form**

The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

**(4) Operation and maintenance**

The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

**(5) Non-Federal interests**

In accordance with section 1962d-5b of this title, for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

**(g) Authorization of appropriations**

**(1) Development of plan**

There is authorized to be appropriated for development of the plan under subsection (c)(1) of this section \$300,000.

**(2) Other activities**

There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (c) of this section \$100,000,000.

(Pub. L. 106–541, title V, § 506, Dec. 11, 2000, 114 Stat. 2645; Pub. L. 110–114, title V, § 5011, Nov. 8, 2007, 121 Stat. 1194.)

**References in Text**

The Great Lakes Basin Compact, referred to in subsec. (b)(2), is not classified to the Code.

**Codification**

Section was enacted as part of the Water Resources Development Act of 2000, and not as part of the Water Resources Planning Act which comprises this chapter.

**Amendments**

2007—Subsec. (c)(2) to (4). Pub. L. 110–114, § 5011(a), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted “paragraph (3)” for “paragraph (2)” in subpar. (A) of par. (4).

Subsec. (f)(2). Pub. L. 110–114, § 5011(b)(1), substituted “Except for reconnaissance studies, the Federal share” for “The Federal share” and “(3) or (4)” for “(2) or (3)”.

Subsec. (f)(3). Pub. L. 110–114, § 5011(b)(2), substituted “subsection (c)(3)” for “subsection (c)(2)” in subpar. (A) and “100 percent” for “50 percent” in subpar. (B).

Subsec. (f)(5). Pub. L. 110–114, § 5011(b)(3), substituted “In accordance with” for “Notwithstanding”.

**Definitions**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–541, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.