

and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established; and

(4) consider the plan developed under section 2103 of this title and notify the Secretary of Commerce of any need to deviate from that plan.

(b) Terms and conditions of permits

(1) Each permit issued by the Secretary subject to this section shall specify the design and location for construction of the artificial reef and the types and quantities of materials that may be used in constructing such artificial reef. In addition, each such permit shall specify such terms and conditions for the construction, operation, maintenance, monitoring, and managing the use of the artificial reef as are necessary for compliance with all applicable provisions of law and as are necessary to ensure the protection of the environment and human safety and property.

(2) Before issuing a permit under section 1342 of this title for any activity relating to the siting, design, construction, operation, maintenance, monitoring, or managing of an artificial reef, the Administrator of the Environmental Protection Agency shall consult with the Secretary to ensure that such permit is consistent with any permit issued by the Secretary subject to this section.

(c) Liability of permittee

(1) A person to whom a permit is issued in accordance with subsection (a) of this section and any insurer of that person shall not be liable for damages caused by activities required to be undertaken under any terms and conditions of the permit, if the permittee is in compliance with such terms and conditions.

(2) A person to whom a permit is issued in accordance with subsection (a) of this section and any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.

(3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with subsection (a) of this section shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 2103 of this title and are not otherwise defective at the time title is transferred.

(d) Liability of the United States

Nothing in this chapter creates any liability on the part of the United States.

(e) Civil penalty

Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) of this section shall be liable to the United States for a civil penalty, not to exceed \$10,000 for each violation. The amount of

the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

(Pub. L. 98-623, title II, § 205, Nov. 8, 1984, 98 Stat. 3396.)

§ 2105. Definitions

For purposes of this chapter—

(1) The term “artificial reef” means a structure which is constructed or placed in waters covered under this chapter for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term “waters covered under this chapter” means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 1331 of title 43, to the extent such waters exist in or are adjacent to any State.

(Pub. L. 98-623, title II, § 206, Nov. 8, 1984, 98 Stat. 3397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2103 of this title.

§ 2106. Savings clauses

(a) Tennessee Valley Authority jurisdiction

Nothing in this chapter shall be construed as replacing or superseding section 831y-1 of title 16.

(b) State jurisdiction

Nothing in this chapter shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, construction, monitoring, or managing of artificial reefs within its boundaries.

(Pub. L. 98-623, title II, § 208, Nov. 8, 1984, 98 Stat. 3398.)

CHAPTER 36—WATER RESOURCES DEVELOPMENT

Sec.
2201.

“Secretary” defined.

SUBCHAPTER I—COST SHARING

2211.

Harbors.

- (a) Construction.
- (b) Operation and maintenance.
- (c) Erosion or shoaling attributable to Federal navigation works.
- (d) Non-Federal payments during construction.
- (e) Agreement.
- (f) Consideration of funding requirements and equitable apportionment.

<p>Sec. 2212. Inland waterway transportation. (a) Construction. (b) Operation and maintenance. (c) Authorizations from general fund. 2213. Flood control and other purposes. (a) Flood control. (b) Nonstructural flood control projects. (c) Other purposes. (d) Certain other costs assigned to project purposes. (e) Applicability. (f) "Separable element" defined. (g) Deferral of payment. (h) Assigned joint and separable costs. (i) Lands, easements, rights-of-way, dredged material disposal areas, and relocations. (j) Agreement. (k) Payment options. (l) Delay of initial payment. (m) Ability to pay. 2214. General credit for flood control. (a) Guidelines. (b) Analysis of costs and benefits. (c) Crediting of non-Federal share. (d) Procedure for work done before November 17, 1986. (e) Procedure for work done after November 17, 1986. (f) Limitation not applicable. (g) Cash contribution not affected. 2215. Feasibility studies; planning, engineering, and design. (a) Feasibility studies. (b) Planning and engineering. (c) Design. 2216. Rate of interest. 2217. Limitation on applicability of certain provisions in reports. 2218. General applicability of cost sharing. 2219. Definitions. 2220. Rivers and harbors and other waterways projects for benefit of navigation, flood control, hurricane protection, beach erosion control, and other purposes. (a) Congressional declaration of policy; purchase of indebtedness and loans to local interests to meet contribution requirements. (b) Authorization of appropriations.</p> <p style="text-align: center;">SUBCHAPTER II—HARBOR DEVELOPMENT</p> <p>2231. Studies of projects by non-Federal interests. (a) Submission to Secretary. (b) Review by Secretary. (c) Submission to Congress. (d) Credit and reimbursement. 2232. Construction of projects by non-Federal interests. (a) Authority. (b) Studies and engineering. (c) Completion of studies. (d) Authority to carry out improvement. (e) Reimbursement. (f) Operation and maintenance. (g) Demonstration of non-Federal interests acting as agent of Secretary. 2233. Coordination and scheduling of Federal, State, and local actions. (a) Notice of intent. (b) Procedural requirements. (c) Scheduling agreement. (d) Contents of agreement. (e) Preliminary decision. (f) Revision of agreement. (g) Progress reports. (h) Final decision. (i) Report on timesavings methods. 2234. Nonapplicability to Saint Lawrence Seaway.</p>	<p>Sec. 2235. Construction in usable increments. 2236. Port or harbor dues. (a) Consent of Congress. (b) Jurisdiction. (c) Collection of duties. (d) Enforcement. (e) Maritime lien. 2237. Information for national security. 2238. Authorization of appropriations. (a) Trust fund. (b) General fund. 2239. Repealed. 2240. Emergency response services. (a) Grants. (b) Authorization of appropriations. 2241. Definitions.</p> <p style="text-align: center;">SUBCHAPTER III—INLAND WATERWAY TRANSPORTATION SYSTEM</p> <p>2251. Inland Waterways Users Board. (a) Establishment of Users Board. (b) Duties. (c) Administration.</p> <p style="text-align: center;">SUBCHAPTER IV—WATER RESOURCES STUDIES</p> <p>2261. Territories development study. 2262. Survey of potential for use of certain facilities as hydroelectric facilities. (a) Survey authority. (b) Authorization of appropriations. 2263. Study of Corps capability to conserve fish and wildlife. 2264. Deauthorization of studies. 2265. Columbia River/Arkansas River Basin transfers. 2266. Canadian tidal power study. (a) Study authority. (b) Study phases. (c) Authorization of appropriations. 2267. New York Bight study. (a) Study authority. (b) Study of physical hydraulic model. (c) Agency coordination; findings and recommendations. (d) Authorization of appropriations. 2268. Marine technology review. (a) Dredging needs. (b) Authorization of appropriations.</p> <p style="text-align: center;">SUBCHAPTER V—GENERAL PROVISIONS</p> <p>2280. Maximum cost of projects. 2281. Matters to be addressed in planning. 2282. Feasibility reports. (a) Report authority; contents; views of other agencies. (b) Reconnaissance studies. (c) Benefits to Indian tribes. (d) Use of standard and uniform procedures and practices. 2283. Fish and wildlife mitigation. (a) Steps to be taken prior to or concurrently with construction. (b) Acquisition of lands or interests in lands for mitigation. (c) Allocation of mitigation costs. (d) Mitigation plans as part of project proposals. (e) First enhancement costs as Federal costs. (f) National benefits from enhancement measures for Atchafalaya Floodway System and Mississippi Delta Region projects. (g) Fish and Wildlife Coordination Act supplementation. 2284. Benefits and costs attributable to environmental measures. 2284a. Benefits to navigation. 2284b. Scenic and aesthetic considerations.</p>
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2286.	Acceptance of certain funds for mitigation.		
2287.	Continued planning and investigations. (a) Pre-authorization planning and engineering. (b) Annual report. (c) Authorizations as additions to other authorizations.		
2288.	Review of cost effectiveness of design.	2310.	Cost sharing for Territories.
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2290.	Flood control in Trust Territory of the Pacific Islands.	2312.	Comments on certain changes in operations of reservoirs.
2291.	Federal Project Repayment District.	2313.	Collaborative research and development. (a) In general. (b) Pre-agreement temporary protection of technology. (c) Administrative provisions. (d) Applicability of other laws. (e) Authorization of appropriations. (f) Funding from other Federal sources.
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2293.	Reprogramming during national emergencies. (a) Termination or deferment of civil works projects; application of resources to national defense projects. (b) Termination of state of war or national emergency.	2313a.	Engineering and environmental innovations of national significance. (a) Surveys, plans, and studies. (b) Funding.
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2303.	Historical properties.	2321.	Operation and maintenance of hydroelectric facilities.
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 - (b) Consultation.
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2324. Reduced pricing for certain water supply storage.
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 - (b) Maximum amount of storage space.
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 - (f) Non-Federal responsibilities.
 - (g) "Low income community" defined.
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- (a) Acceptance.
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2326. Beneficial uses of dredged material.
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 - (c) Funding.
2330. Aquatic ecosystem restoration.
- (a) General authority.
 - (b) Cost sharing.
 - (c) Agreements.
 - (d) Cost limitation.
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§ 2201. "Secretary" defined

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

(Pub. L. 99-662, § 2, Nov. 17, 1986, 100 Stat. 4082.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Resources Development Act of 1986. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-303, §1(a), Oct. 12, 1996, 110 Stat. 3658, provided that: "This Act [see Tables for classification] may be cited as the 'Water Resources Development Act of 1996'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-580, §1(a), Oct. 31, 1992, 106 Stat. 4797, provided that: "This Act [enacting sections 59gg, 426i-1,

569d to 569f, 653, 1271, 2268, and 2325 to 2329 of this title, amending sections 426j, 467f, 467j to 467l, 562, 652, 1342, 1412, 1413, 1414, 1415, 1416, 1420, 1421, 2211, 2213, 2283, and 2309a of this title, section 3036 of Title 10, Armed Forces, sections 460tt, 4702, and 4711 of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 541, 1271, 2211, 2239, 2267, and 2281 of this title, section 9505 of Title 26, Internal Revenue Code, and sections 390h-4 and 390h-5 of Title 43, Public Lands] may be cited as the 'Water Resources Development Act of 1992'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-640, §1(a), Nov. 28, 1990, 104 Stat. 4604, provided that: "This Act [enacting sections 59bb and 2316 to 2324 of this title, amending sections 579a, 652, 701n, 709a, 2213, 2215, 2232, 2238, 2281, 2309a, and 2314a of this title, section 460tt of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, repealing sections 579 and 2239 of this title, enacting provisions set out as notes under this section, sections 426e, 1252, 1268, 2213, 2232, 2239, 2313, and 2317 of this title, and section 1405c of Title 48, Territories and Insular Possessions, and amending provisions set out as notes under sections 2294 and 2314 of this title and section 460d of Title 16] may be cited as the 'Water Resources Development Act of 1990'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-676, §1(a), Nov. 17, 1988, 102 Stat. 4012, provided that: "This Act [enacting sections 59j-1, 59v, 59z, and 2312 to 2315 of this title, amending sections 426j, 701b-12, 1293a, 2211, 2239, 2280, and 2291 of this title and section 1962d-5a of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 579a, 988, 2211, 2294, 2300, and 2314 of this title, and section 1962d-5g of Title 42, and amending provisions set out as a note under section 2294 of this title] may be cited as the 'Water Resources Development Act of 1988'."

SHORT TITLE

Section 1(a) of Pub. L. 99-662 provided that: "This Act [enacting this chapter and sections 59n-1, 59v, 59w, 403b, 426n, 426o, 467f to 467n, 555a, 579a, 652, 701b-12, 709b, 988a, and 1414a of this title, sections 460tt of Title 16, Conservation, sections 4461, 4462, 9505, and 9506 of Title 26, Internal Revenue Code, section 483d of Title 40, Public Buildings, Property, and Works, and sections 1962d-11b and 1962d-20 of Title 42, The Public Health and Welfare, amending sections 409, 414, 415, 426g, 426i, 426j, 426m, 467, 467b, 555, 557, 603a, 610, 701a-1, 701g, 701n, 701r, 701s, 984, and 1804 of this title, section 3036 of Title 10, Armed Forces, sections 460ee and 1002 of Title 16, section 4042 of Title 26, sections 1962d-5a, 1962d-5b, 1962d-5d, 1962d-5f, and 1962d-16 of Title 42, sections 390 and 390b of Title 43, Public Lands, and section 1121-1 of Title 46, Appendix, Shipping, repealing sections 1801 and 1802 of this title, enacting provisions set out as notes under this section, sections 426, 426g, 467, 661, 984, 988, 1414a, and 2294 of this title, sections 460d and 1004 of Title 16, sections 1, 4042, 4461, 9505, and 9506 of Title 26, sections 1962d-5b, 1962d-20, and 10301 of Title 42, and section 390b of Title 43, and amending provisions set out as a note under section 1962b-3 of Title 42] may be cited as the 'Water Resources Development Act of 1986'."

Section 215 of title II of Pub. L. 99-662 provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Harbor Development and Navigation Improvement Act of 1986'."

BUY AMERICAN; SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Pub. L. 104-303, title II, §235, Oct. 12, 1996, 110 Stat. 3704, provided that:

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products