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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 2007 AMENDMENT

Pub. L. 110-114, § 1(a), Nov. 8, 2007, 121 Stat. 1041, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2007.’”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-541, § 1(a), Dec. 11, 2000, 114 Stat. 2572, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2000.’”

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-53, § 1(a), Aug. 17, 1999, 113 Stat. 269, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 1999.’”

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, 59y, 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 former 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.’”

FUNDING TO PROCESS PERMITS

Pub. L. 106-541, title II, § 214, Dec. 11, 2000, 114 Stat. 2594, as amended by Pub. L. 108-137, title I, § 114, Dec. 1, 2003, 117 Stat. 1836; Pub. L. 109-99, § 1, Nov. 11, 2005, 119 Stat. 2169; Pub. L. 109-209, § 1, Mar. 24, 2006, 120 Stat. 318; Pub. L. 109-434, § 1, Dec. 20, 2006, 120 Stat. 3197; Pub. L. 110-114, title II, § 2002, Nov. 8, 2007, 121 Stat. 1067; Pub. L. 111-120, § 1, Dec. 22, 2009, 123 Stat. 3478; Pub. L. 111-315, § 1, Dec. 18, 2010, 124 Stat. 3450, provided that:

“(a) IN GENERAL.—The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.

“(b) EFFECT ON PERMITTING.—

“(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.

“(2) IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary shall ensure that the eval-

uation of permits carried out using funds accepted under this section shall—

“(A) be reviewed by—

“(i) the District Commander, or the Commander’s designee, of the Corps District in which the project or activity is located; or

“(ii) the Commander of the Corps Division in which the District is located if the evaluation of the permit is initially conducted by the District Commander; and

“(B) utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.

“(c) LIMITATION ON USE OF FUNDS.—None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A).

“(d) PUBLIC AVAILABILITY.—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public, including on the Internet.

“(e) DURATION OF AUTHORITY.—The authority provided under this section shall be in effect from October 1, 2000, through December 31, 2016.”

MONITORING

Pub. L. 106-541, title II, §223, Dec. 11, 2000, 114 Stat. 2597, provided that:

“(a) IN GENERAL.—The Secretary shall conduct a monitoring program of the economic and environmental results of up to 5 eligible projects selected by the Secretary.

“(b) DURATION.—The monitoring of a project selected by the Secretary under this section shall be for a period of not less than 12 years beginning on the date of its selection.

“(c) REPORTS.—The Secretary shall transmit to Congress every 3 years a report on the performance of each project selected under this section.

“(d) ELIGIBLE PROJECT DEFINED.—In this section, the term ‘eligible project’ means a water resources project, or separable element thereof—

“(1) for which a contract for physical construction has not been awarded before the date of enactment of this Act [Dec. 11, 2000];

“(2) that has a total cost of more than \$25,000,000; and

“(3)(A) that has as a benefit-to-cost ratio of less than 1.5 to 1; or

“(B) that has significant environmental benefits or significant environmental mitigation components.

“(e) COSTS.—The cost of conducting monitoring under this section shall be a Federal expense.”

WATER CONTROL MANAGEMENT

Pub. L. 106-53, title V, §511, Aug. 17, 1999, 113 Stat. 341, provided that:

“(a) IN GENERAL.—In evaluating potential improvements for water control management activities and consolidation of water control management centers, the Secretary may consider a regionalized water control management plan but may not implement such a plan until the date on which a report is submitted under subsection (b).

“(b) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 17, 1999], the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate a report containing—

“(1) a description of the primary objectives of streamlining water control management activities;

“(2) a description of the benefits provided by streamlining water control management activities through consolidation of centers for those activities;

“(3) a determination whether the benefits to users of establishing regional water control management

centers will be retained in each district office of the Corps of Engineers that does not have a regional center;

“(4) a determination whether users of regional centers will receive a higher level of benefits from streamlining water control management activities; and

“(5) a list of the members of Congress who represent a district that includes a water control management center that is to be eliminated under a proposed regionalized plan.”

BUY AMERICAN; SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Pub. L. 106-53, title II, §222, Aug. 17, 1999, 113 Stat. 295, provided that:

“(a) IN GENERAL.—It is the sense of Congress that, to the extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).”

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 purchased with funds made available under this Act [see Tables for classification] should be American-made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).”

BUDGET ACT REQUIREMENTS

Section 948 of Pub. L. 99-662 provided that: “Any spending authority under this Act [see Short Title note above] shall be effective only to such extent and in such amounts as are provided in appropriation Acts. For purposes of this Act, the term ‘spending authority’ has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)], except that such term does not include spending authority for which an exception is made under section 401(d) of such Act.”

“SECRETARY” DEFINED

Pub. L. 110-114, §2, Nov. 8, 2007, 121 Stat. 1049, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-541, §2, Dec. 11, 2000, 114 Stat. 2575, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-53, §2, Aug. 17, 1999, 113 Stat. 273, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 104-303, §2, Oct. 12, 1996, 110 Stat. 3662, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 102-580, §3, Oct. 31, 1992, 106 Stat. 4801, provided that: “For purposes of this Act [see Short Title of 1992 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 101-640, §2, Nov. 28, 1990, 104 Stat. 4605, provided that: “For purposes of this Act [see Short Title of 1990 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 100-676, §2, Nov. 17, 1988, 102 Stat. 4013, provided that: “For purposes of this Act [see Short Title of 1988 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

SUBCHAPTER I—COST SHARING

§ 2211. Harbors

(a) Construction

(1) Payments during construction

The non-Federal interests for a navigation project for a harbor or inland harbor, or any separable element thereof, on which a contract for physical construction has not been awarded before November 17, 1986, shall pay, during the period of construction of the project, the following costs associated with general navigation features:

(A) 10 percent of the cost of construction of the portion of the project which has a depth not in excess of 20 feet; plus

(B) 25 percent of the cost of construction of the portion of the project which has a depth in excess of 20 feet but not in excess of 45 feet; plus

(C) 50 percent of the cost of construction of the portion of the project which has a depth in excess of 45 feet.

(2) Additional 10 percent payment over 30 years

The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 2216 of this title. The value of lands, easements, rights-of-way, and relocations provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.

(3) Lands, easements, and rights-of-way

Except as provided under section 2283(c) of this title, the non-Federal interests for a project to which paragraph (1) applies shall provide the lands, easements, rights-of-way, and relocations (other than utility relocations under paragraph (4)) necessary for the project, including any lands, easements, rights-of-way, and relocations (other than utility relocations accomplished under paragraph (4)) that are necessary for dredged material disposal facilities.

(4) Utility relocations

The non-Federal interests for a project to which paragraph (1) applies shall perform or assure the performance of all relocations of utilities necessary to carry out the project, except that in the case of a project for a deep-draft harbor and in the case of a project constructed by non-Federal interests under section 2232 of this title, one-half of the cost of each such relocation shall be borne by the owner of the facility being relocated and one-half of the cost of each such relocation shall be borne by the non-Federal interests.

(5) Dredged material disposal facilities for project construction

In this subsection, the term "general navigation features" includes constructed land-based and aquatic dredged material disposal

facilities that are necessary for the disposal of dredged material required for project construction and for which a contract for construction has not been awarded on or before October 12, 1996.

(b) Operation and maintenance

(1) In general

The Federal share of the cost of operation and maintenance of each navigation project for a harbor or inland harbor constructed by the Secretary pursuant to this Act or any other law approved after November 17, 1986, shall be 100 percent, except that in the case of a deep-draft harbor, the non-Federal interests shall be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost which the Secretary determines would be incurred for operation and maintenance of such project if such project had a depth of 45 feet.

(2) Dredged material disposal facilities

The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before October 12, 1996, shall be determined in accordance with subsection (a) of this section. The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).

(c) Erosion or shoaling attributable to Federal navigation works

Costs of constructing projects or measures for the prevention or mitigation of erosion or shoaling damages attributable to Federal navigation works shall be shared in the same proportion as the cost sharing provisions applicable to the project causing such erosion or shoaling. The non-Federal interests for the project causing the erosion or shoaling shall agree to operate and maintain such measures.

(d) Non-Federal payments during construction

The amount of any non-Federal share of the cost of any navigation project for a harbor or inland harbor shall be paid to the Secretary. Amounts required to be paid during construction shall be paid on an annual basis during the period of construction, beginning not later than one year after construction is initiated.

(e) Agreement

Before initiation of construction of a project to which this section applies, the Secretary and the non-Federal interests shall enter into a cooperative agreement according to the provisions of section 1962d-5b of title 42. The non-Federal interests shall agree to—

(1) provide to the Federal Government lands, easements, and rights-of-way, including those necessary for dredged material disposal facilities, and perform the necessary relocations required for construction, operation, and maintenance of such project;

(2) hold and save the United States free from damages due to the construction or operation