

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

Pub. L. 99-662, title IX, §948, Nov. 17, 1986, 100 Stat. 4201, 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

and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors;

(3) provide to the Federal Government the non-Federal share of all other costs of construction of such project; and

(4) in the case of a deep-draft harbor, be responsible for the non-Federal share of operation and maintenance required by subsection (b) of this section.

**(f) Consideration of funding requirements and equitable apportionment**

The Secretary shall ensure, to the extent practicable, that—

(1) funding requirements for operation and maintenance dredging of commercial navigation harbors are considered before Federal funds are obligated for payment of the Federal share of costs associated with the construction of dredged material disposal facilities in accordance with subsections (a) and (b) of this section;

(2) funds expended for such construction are apportioned equitably in accordance with regional needs; and

(3) use of a dredged material disposal facility designed, constructed, managed, or operated by a private entity is not precluded if, consistent with economic and environmental considerations, the facility is the least-cost alternative.

(Pub. L. 99-662, title I, §101, Nov. 17, 1986, 100 Stat. 4082; Pub. L. 100-676, §13(a), Nov. 17, 1988, 102 Stat. 4025; Pub. L. 102-580, title III, §333(b)(1), Oct. 31, 1992, 106 Stat. 4852; Pub. L. 104-303, title II, §201(a)-(d), Oct. 12, 1996, 110 Stat. 3671, 3672.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), 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 under section 2201 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-303, §201(a)(1), inserted last sentence and struck out former last sentence which read as follows: “The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas 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.”

Subsec. (a)(3). Pub. L. 104-303, §201(a)(2), inserted “and” after “rights-of-way,” struck out “, and dredged material disposal areas” after “relocations under paragraph (4)”, and inserted before period at end “, 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”.

Subsec. (a)(5). Pub. L. 104-303, §201(a)(3), added par. (5).

Subsec. (b). Pub. L. 104-303, §201(b), designated existing provisions as par. (1), inserted heading, realigned margins, and substituted “by the Secretary pursuant to this Act or any other law approved after November 17, 1986” for “pursuant to this Act”, and added par. (2).

Subsec. (e)(1). Pub. L. 104-303, §201(c), substituted “including those necessary for dredged material disposal facilities,” for “and to provide dredged material disposal areas”.

Subsec. (f). Pub. L. 104-303, §201(d), added subsec. (f).

1992—Subsec. (a)(3). Pub. L. 102-580 substituted “Except as provided under section 906(c), the non-Federal” for “The non-Federal”.

1988—Subsec. (a)(2). Pub. L. 100-676 added par. (2) and struck out former par. (2) which read as follows: “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, relocations, and dredged material disposal areas provided under paragraph (3) shall be credited toward the payment required under this paragraph.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-676, §13(b), Nov. 17, 1988, 102 Stat. 4026, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on November 17, 1986.”

#### DEEP DRAFT HARBOR COST SHARING

Pub. L. 106-53, title IV, §401, Aug. 17, 1999, 113 Stat. 322, provided that:

“(a) IN GENERAL.—The Secretary shall undertake a study of non-Federal cost-sharing requirements for the construction and operation and maintenance of deep draft harbor projects to determine whether—

“(1) cost sharing adversely affects United States port development or domestic and international trade; and

“(2) any revision of the cost-sharing requirements would benefit United States domestic and international trade.

“(b) RECOMMENDATIONS.—

“(1) IN GENERAL.—Not later than May 30, 2001, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations that the Secretary may have in light of the study under subsection (a).

“(2) CONSIDERATIONS.—In making recommendations, the Secretary shall consider—

“(A) the potential economic, environmental, and budgetary impacts of any proposed revision of the cost-sharing requirements; and

“(B) the effect that any such revision would have on regional port competition.”

#### AMENDMENT OF COOPERATION AGREEMENT

Pub. L. 104-303, title II, §201(f), Oct. 12, 1996, 110 Stat. 3673, provided that: “If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act [Oct. 12, 1996] to reflect the application of the amendments made by this section [amending this section and section 2241 of this title] to any project for which a contract for construction has not been awarded on or before that date.”

#### INCREASES IN NON-FEDERAL SHARE OF COSTS

Pub. L. 104-303, title II, §201(g), Oct. 12, 1996, 110 Stat. 3673, provided that: “Nothing in this section [amending this section and section 2241 of this title and enacting provisions set out above] (including the amendments made by this section) shall increase, or result in the increase of, the non-Federal share of the costs of—

“(1) expanding any confined dredged material disposal facility that is operated by the Secretary and that is authorized for cost recovery through the collection of tolls;

“(2) any confined dredged material disposal facility for which the invitation for bids for construction was issued before the date of the enactment of this Act [Oct. 12, 1996]; and

“(3) expanding any confined dredged material disposal facility constructed under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) if the

capacity of the confined dredged material disposal facility was exceeded in less than 6 years.”

#### DREDGED MATERIAL DISPOSAL AREAS STUDY

Pub. L. 102-580, title II, §216, Oct. 31, 1992, 106 Stat. 4832, directed Secretary to conduct a study on the need for changes in Federal law and policy with respect to dredged material disposal areas for construction and maintenance of harbors and inland harbors by Secretary and, not later than 18 months after Oct. 31, 1992, to transmit to Congress a report on the results of the study, together with recommendations of the Secretary.

### § 2212. Inland waterway transportation

#### (a) Construction

One-half of the costs of construction—

(1) of each project authorized by title III of this Act,

(2) of the project authorized by section 652(j) of this title, and

(3) allocated to inland navigation for the project authorized by section 844 of this Act,

shall be paid only from amounts appropriated from the general fund of the Treasury. One-half of such costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund. For purposes of this subsection, the term “construction” shall include planning, designing, engineering, surveying, the acquisition of all lands, easements, and rights-of-way necessary for the project, including lands for disposal of dredged material, and relocations necessary for the project.

#### (b) Operation and maintenance

The Federal share of the cost of operation and maintenance of any project for navigation on the inland waterways is 100 percent.

#### (c) Authorizations from general fund

Any Federal responsibility—

(1) with respect to a project authorized by title III or section 652(j) of this title, or

(2) with respect to the portion of the project authorized by section 844 allocated to inland navigation,

which responsibility is not provided for in subsection (a) of this section shall be paid only from amounts appropriated from the general fund of the Treasury.

(Pub. L. 99-662, title I, §102, Nov. 17, 1986, 100 Stat. 4084.)

#### REFERENCES IN TEXT

Title III of this Act, referred to in subsecs. (a)(1) and (c)(1), is title III of Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4109, consisting of sections 301 and 302. The projects authorized by title III probably mean the projects authorized by section 301 of Pub. L. 99-662, which is not classified to the Code. Section 302 of Pub. L. 99-662, which established the Inland Waterways Users Board, is classified to section 2251 of this title.

Section 844 of this Act, referred to in subsecs. (a)(3) and (c)(2), is section 844 of Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4177, which is not classified to the Code.

### § 2213. Flood control and other purposes

#### (a) Flood control

##### (1) General rule

The non-Federal interests for a project with costs assigned to flood control (other than a nonstructural project) shall—