

Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 426g-1. State and regional plans

The Secretary may—

- (1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;
- (2) encourage State participation in the implementation of the plan; and
- (3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.

(Aug. 13, 1946, ch. 960, §4, as added Pub. L. 104-303, title II, §227(d)(2), Oct. 12, 1996, 110 Stat. 3700.)

PRIOR PROVISIONS

A prior section 4 of act Aug. 13, 1946, was renumbered section 5 of that act, and was classified to section 426h of this title prior to repeal by Pub. L. 104-303.

§ 426h. Repealed. Pub. L. 110-114, title II, § 2038(b), Nov. 8, 2007, 121 Stat. 1100

Section, act Aug. 13, 1946, ch. 960, §5, as added Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3700; amended Pub. L. 106-53, title V, §581, Aug. 17, 1999, 113 Stat. 375; Pub. L. 109-234, title II, §2305, June 15, 2006, 120 Stat. 456; Pub. L. 110-161, div. C, title I, §113, Dec. 26, 2007, 121 Stat. 1944, related to national shoreline erosion control development and demonstration program.

A prior section 426h, acts Aug. 13, 1946, ch. 960, §5, formerly §4, 60 Stat. 1057; July 28, 1956, ch. 768, 70 Stat. 703; renumbered §5, Oct. 12, 1996, Pub. L. 104-303, title II, §227(d)(1), 110 Stat. 3700, defined the word “shores” as used in sections 426e to 426h of this title, prior to repeal by Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3700.

§ 426h-1. Definitions

In sections 426e to 426h-1 of this title, the following definitions apply:

(1) Erosion control program

The term “erosion control program” means the national shoreline erosion control development and demonstration program established under this section.

(2) Secretary

The term “Secretary” means the Secretary of the Army.

(3) Separable element

The term “separable element” has the meaning provided by section 2213(f) of this title.

(4) Shore

The term “shore” includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

(5) Shore protection project

The term “shore protection project” includes a project for beach nourishment, including the replacement of sand.

(Aug. 13, 1946, ch. 960, §6, as added Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3702.)

§ 426i. Shore damage prevention or mitigation

(a) In general

The Secretary of the Army is authorized to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway, if a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary.

(b) Cost sharing

The costs of implementing measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project causing the shore damage.

(c) Requirement for specific authorization

No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds \$5,000,000.

(d) Coordination

The Secretary shall—

- (1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and
- (2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.

(Pub. L. 90-483, title I, §111, Aug. 13, 1968, 82 Stat. 735; Pub. L. 99-662, title IX, §§915(f), 940, Nov. 17, 1986, 100 Stat. 4191, 4199; Pub. L. 106-53, title II, §214, Aug. 17, 1999, 113 Stat. 291.)

AMENDMENTS

1999—Pub. L. 106-53 designated first sentence as subsec. (a), inserted heading, and inserted “and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway” after “navigation works”, designated second sentence as subsec. (b) and inserted heading, and designated third sentence as subsec. (c), inserted heading, and substituted “\$5,000,000” for “\$2,000,000”, and added subsec. (d).

1986—Pub. L. 99-662, §940, amended section generally. Prior to amendment, section read as follows: “The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The cost of installing, operating, and maintaining such projects shall be borne entirely by the United States. No such project shall be constructed without specific authorization by Congress if the estimated first cost exceeds \$2,000,000.”

Pub. L. 99-662, §915(f), substituted “\$2,000,000” for “\$1,000,000”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 915(f) of Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

§ 426i-1. Construction of shoreline protection projects by non-Federal interests

(a) Authority

Non-Federal interests are authorized to undertake shoreline protection projects on the coastline of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) Studies and engineering

(1) By non-Federal interests

A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken under subsection (a) of this section.

(2) By Secretary

Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.

(c) Completion of studies

The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for shoreline protection which was initiated before October 31, 1992, or, upon the request of such non-Federal interest, to terminate the study and transmit the partially completed study to the non-Federal interest for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b) of this section.

(d) Authority to carry out improvement

(1) In general

Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) of this section a favorable recommendation to carry out a shoreline protection project or separable element thereof, based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) Permits

Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) Monitoring

The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is

constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.

(e) Reimbursement

(1) General rule

Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized shoreline protection project, or separable element thereof, constructed under this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by such non-Federal interest and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation); and

(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) Matters to be considered in reviewing plans

In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(3) Monitoring

The Secretary shall regularly monitor and audit any project for shore protection constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(4) Limitation on reimbursements

No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits or approved plans.

(Pub. L. 102-580, title II, §206, Oct. 31, 1992, 106 Stat. 4828; Pub. L. 104-303, title II, §227(c)(2), Oct. 12, 1996, 110 Stat. 3700.)

AMENDMENTS

1996—Subsec. (e)(1)(A). Pub. L. 104-303 inserted before semicolon “and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)”.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

§ 426i-2. National coastal data bank

(1) Establishment of data bank

Not later than 2 years after August 17, 1999, the Secretary shall establish a national coastal data bank containing data on the geophysical