

**§ 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

and climatological characteristics of the shores of the United States.

**(2) Content**

To the extent practicable, the national coastal data bank shall include data regarding current and predicted shore positions, information on federally authorized shore protection projects, and data on the movement of sand along the shores of the United States, including impediments to such movement caused by natural and manmade features.

**(3) Access**

The national coastal data bank shall be made readily accessible to the public.

(Pub. L. 106-53, title II, §215(d), Aug. 17, 1999, 113 Stat. 293.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-53, set out as a note under section 2201 of this title.

**§ 426j. Repealed. Pub. L. 110-114, title II, § 2037(b)(1), Nov. 8, 2007, 121 Stat. 1096**

Section, Pub. L. 94-587, §145, Oct. 22, 1976, 90 Stat. 2931; Pub. L. 99-662, title IX, §933, Nov. 17, 1986, 100 Stat. 4197; Pub. L. 100-676, §35, Nov. 17, 1988, 102 Stat. 4031; Pub. L. 102-580, title II, §207, Oct. 31, 1992, 106 Stat. 4829; Pub. L. 106-53, title II, §217(a), Aug. 17, 1999, 113 Stat. 294, related to placement on State beaches of sand dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches.

EXISTING PROJECTS

Pub. L. 110-114, title II, §2037(b)(2), Nov. 8, 2007, 121 Stat. 1096, provided that: “The Secretary [of the Army] may complete any project being carried out under section 145 of the Water Resources Development Act of 1976 [this section] on the day before the date of enactment of this Act [Nov. 8, 2007].”

**§ 426k. Five year demonstration program to temporarily increase diversion of water from Lake Michigan at Chicago, Illinois**

**(a) Authorization of Secretary of the Army; purpose; amounts of increase; incremental accomplishment; effects on Illinois Waterway; responsibilities for development, implementation, and supervision**

In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the

effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

**(b) Establishment of monthly controllable diversion rates; average annual level of Lake Michigan and total diversion for succeeding accounting year**

During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

**(c) River stages approaching bankfull conditions on Illinois Waterway or Mississippi River or further increased diversion adversely affecting St. Lawrence Seaway water levels: limitation on diversion**

When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

**(d) Additional study and demonstration program: determination of effects on Great Lakes levels and Illinois Waterway water quality and susceptibility to additional flooding and investigation of other adverse or beneficial impacts; report and recommendations to Congress**

The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after October 22, 1976, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

**(e) “Controllable diversion” defined**

For purposes of this section, controllable diversion is defined as that diversion at Wilmette,