

“(D) recommendations regarding—

“(i) appropriate levels of Federal and non-Federal participation in shore protection; and

“(ii) use of a systems approach to sand management.

“(3) USE OF SPECIFIC LOCATION DATA.—In developing the report, the Secretary shall use data from specific locations on the coasts of the Atlantic Ocean, Pacific Ocean, Great Lakes, and Gulf of Mexico.”

REPORT TO CONGRESS ON SHORELINE PROTECTION PROGRAMS

Pub. L. 101-640, title III, §309, Nov. 28, 1990, 104 Stat. 4638, provided that: “Not later than 1 year after the date of the enactment of this Act [Nov. 28, 1990], the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

“(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 30 times the annual erosion rate;

“(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

“(3) provisions for the relocation of structures in erosion-prone areas;

“(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

“(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.”

**§ 426e-1. Shore protection projects**

**(a) In general**

In accordance with the Act of July 3, 1930 (33 U.S.C. 426) of this title, and notwithstanding administrative actions, it is the policy of the United States to promote beach nourishment for the purposes of flood damage reduction and hurricane and storm damage reduction and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach renourishment for a period of 50 years, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises.

**(b) Preference**

In carrying out the policy under subsection (a), preference shall be given to—

(1) areas in which there has been a Federal investment of funds for the purposes described in subsection (a); and

(2) areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

**(c) Applicability**

The Secretary shall apply the policy under subsection (a) to each shore protection and beach renourishment project (including shore protection and beach renourishment projects constructed before November 8, 2007).

(Pub. L. 110-114, title II, §2018, Nov. 8, 2007, 121 Stat. 1077.)

REFERENCES IN TEXT

The Act of July 3, 1930, referred to in subsec. (a), is act July 3, 1930, ch. 847, 46 Stat. 918. For complete classification of this Act to the Code, see Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

**§ 426e-2. Clarification of munition disposal authorities**

**(a) In general**

The Secretary may implement any response action the Secretary determines to be necessary at a site where—

(1) the Secretary has carried out a project under civil works authority of the Secretary that includes placing sand on a beach; and

(2) as a result of the project described in paragraph (1), military munitions that were originally released as a result of Department of Defense activities are deposited on the beach, posing a threat to human health or the environment.

**(b) Response action funding**

A response action described in subsection (a) shall be funded from amounts made available to the agency within the Department of Defense responsible for the original release of the munitions.

(Pub. L. 113-121, title I, §1027, June 10, 2014, 128 Stat. 1230.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

**§ 426f. Reimbursements**

**(a) In general**

The Secretary is authorized to reimburse non-Federal interests for work done by them, after initiation of the survey studies which form the basis for the project or separable element of the project, on authorized projects or separable elements which individually do not exceed \$1,000,000 in total cost: *Provided*, That the work which may have been done on the projects or separable elements is approved by the Chief of Engineers as being in accordance with the authorized projects or separable elements: *Provided further*, That such reimbursement shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects or separable elements of higher priority for improvements.

**(b) Agreements**

**(1) Requirement**

After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

**(2) Terms**

The agreement shall—

(A) specify the life of the project; and

(B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

(Aug. 13, 1946, ch. 960, §2, 60 Stat. 1056; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; July 28, 1956, ch. 768, 70 Stat. 703; Pub. L. 87-874, title I, §103(a)(4), Oct. 23, 1962, 76 Stat. 1178; Pub. L. 104-303, title II, §227(c)(1), Oct. 12, 1996, 110 Stat. 3699.)

#### AMENDMENTS

1996—Pub. L. 104-303 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted “Secretary” for “Secretary of the Army” and “non-Federal interests” for “local interests”, inserted “or separable element of the project” after “project”, inserted “or separable elements” after “projects” wherever appearing, and added subsec. (b).

1962—Pub. L. 87-874 substituted provisions which authorize the Secretary of the Army to reimburse local interests for work done on authorized projects which individually do not exceed \$1,000,000 in cost, and provide that such reimbursement shall be subject to applicable appropriations or available funds and not take priority over pending projects of higher priority, for provisions which authorized the Chief of Engineers to cause to be paid to the political subdivision involved the amount authorized by Congress.

1956—Act July 28, 1956, substituted “or other political subdivision involved” for “or political subdivision”.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. 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. Storm and hurricane restoration and impact minimization program

#### (a) Construction of small shore and beach restoration and protection projects

##### (1) In general

The Secretary may carry out a program for the construction of small shore and beach restoration and protection projects not specifically authorized by Congress that otherwise comply with section 426e of this title if the Secretary determines that such construction is advisable.

##### (2) Local cooperation

The local cooperation requirement of section 426e of this title shall apply to a project under this section.

### (3) Completeness

A project under this subsection—

(A) shall be complete; and

(B) shall not commit the United States to any additional improvement to ensure the successful operation of the project; except for participation in periodic beach nourishment in accordance with—

(i) section 426e of this title; and

(ii) the procedure for projects authorized after submission of a survey report.

#### (b) National shoreline erosion control development and demonstration program

##### (1) In general

The Secretary shall conduct under the program authorized by subsection (a) a national shoreline erosion control development and demonstration program (referred to in this section as the “demonstration program”).

##### (2) Requirements

###### (A) In general

The demonstration program shall include provisions for—

(i) projects consisting of planning, design, construction, and monitoring of prototype engineered and native and naturalized vegetative shoreline erosion control devices and methods;

(ii) monitoring of the applicable prototypes;

(iii) detailed engineering and environmental reports on the results of each project carried out under the demonstration<sup>1</sup> program; and

(iv) technology transfers, as appropriate, to private property owners, State and local entities, nonprofit educational institutions, and nongovernmental organizations.

###### (B) Determination of feasibility

A project under the demonstration program shall not be carried out until the Secretary determines that the project is feasible.

###### (C) Emphasis

A project under the demonstration program shall emphasize, to the maximum extent practicable—

(i) the development and demonstration of innovative technologies;

(ii) efficient designs to prevent erosion at a shoreline site, taking into account the lifecycle cost of the design, including cleanup, maintenance, and amortization;

(iii) new and enhanced shore protection project design and project formulation tools the purposes of which are to improve the physical performance, and lower the lifecycle costs, of the projects;

(iv) natural designs, including the use of native and naturalized vegetation or temporary structures that minimize permanent structural alterations to the shoreline;

(v) the avoidance of negative impacts to adjacent shorefront communities;

<sup>1</sup> So in original. Probably should be “demonstration”.