

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

2014—Subsec. (b)(1). Pub. L. 113-121 substituted “50 feet” for “45 feet”.

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. (c)(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.

§ 2211a. Preserving United States harbors**(a) In general**

Upon a request from a non-Federal interest, the Secretary shall review a report developed by the non-Federal interest that provides an economic justification for Federal investment in the operation and maintenance of a federally authorized harbor or inland harbor (referred to in this section as a “federally authorized harbor”).

(b) Justification of investment

A report submitted under subsection (a) may provide for an economic justification of Federal investment in the operation and maintenance of a federally authorized harbor based on—

(1) the projected economic benefits, including transportation savings and job creation; and

(2) other factors, including navigation safety, national security, and sustainability of subsistence harbors.

(c) Written response

Not later than 180 days after the date on which the Secretary receives a report under subsection

(a), the Secretary shall provide to the non-Federal interest a written response to the report, including an assessment of the information provided by the non-Federal interest.

(d) Prioritization

As the Secretary determines to be appropriate, the Secretary may use the information provided in the report under subsection (a) to justify additional operation and maintenance funding for a federally authorized harbor in accordance with section 2211(b) of this title.

(e) Limitation on statutory construction

Nothing in this section may be construed to preclude the operation and maintenance of a federally authorized harbor under section 2211(b) of this title.

(Pub. L. 113–121, title II, §2107, June 10, 2014, 128 Stat. 1281.)

CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

“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.

§ 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) Floodgates on the Inland Waterways

(1) Operation and maintenance carried out by the Secretary

Notwithstanding any other provision of law, the Secretary shall be responsible for the operation and maintenance, including repair, of any flood gate, as well as any pumping station constructed within the channel as a single unit with that flood gate, that—

- (A) was constructed as of June 10, 2014, as a feature of an authorized hurricane and storm damage reduction project; and
- (B) crosses an inland or intracoastal waterway described in section 1804 of this title.

(2) Non-Federal cost share

The non-Federal share of the cost of operation, maintenance, repair, rehabilitation, and replacement of any structure under this subsection shall be 35 percent.

(d) 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; Pub. L. 113–121, title II, §2013, June 10, 2014, 128 Stat. 1271.)

REFERENCES IN TEXT

Title III of this Act, referred to in subsecs. (a)(1) and (d)(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 (d)(2), is section 844 of Pub. L. 99–662, Nov. 17, 1986, 100 Stat. 4177, which is not classified to the Code.

AMENDMENTS

2014—Subsecs. (c), (d). Pub. L. 113–121 added subsec. (c) and redesignated former subsec. (c) as (d).

ACCEPTANCE OF CONTRIBUTED FUNDS TO INCREASE LOCK OPERATIONS

Pub. L. 113–121, title I, §1017, June 10, 2014, 128 Stat. 1223, provided that:

“(a) IN GENERAL.—The Secretary [of the Army], after providing public notice, shall establish a pilot program for the acceptance and expenditure of funds contributed by non-Federal interests to increase the hours of operation of locks at water resources development projects.

“(b) APPLICABILITY.—The establishment of the pilot program under this section shall not affect the periodic review and adjustment of hours of operation of locks based on increases in commercial traffic carried out by the Secretary.

“(c) PUBLIC COMMENT.—Not later than 180 days before a proposed modification to the operation of a lock at a water resources development project will be carried out, the Secretary shall—

“(1) publish the proposed modification in the Federal Register; and

“(2) accept public comment on the proposed modification.

“(d) REPORTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [June 10, 2014], 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 and make publicly available a report that evaluates the cost-savings resulting from reduced lock hours and any economic impacts of modifying lock operations.

“(2) REVIEW OF PILOT PROGRAM.—Not later than September 30, 2017, and each year thereafter, 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 a report that describes the effectiveness of the pilot program under this section.