

(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.

“(e) ANNUAL REVIEW.—The Secretary shall carry out an annual review of the commercial use of locks and make any necessary adjustments to lock operations based on that review.

“(f) TERMINATION.—The authority to accept funds under this section shall terminate 5 years after the date of enactment of this Act.”

### § 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—

(A) pay 5 percent of the cost of the project assigned to flood control during construction of the project;

(B) provide all lands, easements, rights-of-way, and dredged material disposal areas required only for flood control and perform all related necessary relocations; and

(C) provide that portion of the joint costs of lands, easements, rights-of-way, dredged material disposal areas, and relocations which is assigned to flood control.

##### (2) 35 percent minimum contribution

If the value of the contributions required under paragraph (1) of this subsection is less than 35 percent of the cost of the project assigned to flood control, the non-Federal interest shall pay during construction of the project such additional amounts as are necessary so that the total contribution of the non-Federal interests under this subsection is equal to 35 percent of the cost of the project assigned to flood control.

##### (3) 50 percent maximum

The non-Federal share under paragraph (1) shall not exceed 50 percent of the cost of the project assigned to flood control. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

##### (4) Deferred payment of amount exceeding 30 percent

If the total amount of the contribution required under paragraph (1) of this subsection exceeds 30 percent of the cost of the project assigned to flood control, the non-Federal interests may pay the amount of the excess to the Secretary over a 15-year period (or such shorter period as may be agreed to by the Secretary and the non-Federal interests) beginning on the date construction of the project or separable element is completed, at an interest rate determined pursuant to section 2216 of this title. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

#### (b) Nonstructural flood control projects

##### (1) In general

The non-Federal share of the cost of nonstructural flood control measures shall be 35 percent of the cost of such measures. The non-Federal interests for any such measures shall be required to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the project, but shall not be required to contribute any

amount in cash during construction of the project.

##### (2) Non-Federal contribution in excess of 35 percent

At any time during construction of a project, if the Secretary determines that the costs of land, easements, rights-of-way, dredged material disposal areas, and relocations for the project, in combination with other costs contributed by the non-Federal interests, will exceed 35 percent, any additional costs for the project (not to exceed 65 percent of the total costs of the project) shall be a Federal responsibility and shall be contributed during construction as part of the Federal share.

#### (c) Other purposes

The non-Federal share of the cost assigned to other project purposes shall be as follows:

(1) hydroelectric power: 100 percent, except that the marketing of such power and the recovery of costs of constructing, operating, maintaining, and rehabilitating such projects shall be in accordance with existing law: *Provided*, That after November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project that has a hydroelectric power component unless such proposal contains the comments of the appropriate Power Marketing Administrator designated pursuant to section 7152 of title 42 concerning the appropriate Power Marketing Administration's ability to market the hydroelectric power expected to be generated and not required in the operation of the project under the applicable Federal power marketing law, so that, 100 percent of operation, maintenance and replacement costs, 100 percent of the capital investment allocated to the purpose of hydroelectric power (with interest at rates established pursuant to or prescribed by applicable law), and any other costs assigned in accordance with law for return from power revenues can be returned within the period set for the return of such costs by or pursuant to such applicable Federal power marketing law;

(2) municipal and industrial water supply: 100 percent;

(3) agricultural water supply: 35 percent;

(4) recreation, including recreational navigation: 50 percent of separable costs and, in the case of any harbor or inland harbor or channel project, 50 percent of joint and separable costs allocated to recreational navigation;

(5) hurricane and storm damage reduction: 35 percent;

(6) aquatic plant control: 50 percent of control operations; and

(7) environmental protection and restoration: 35 percent; except that nothing in this paragraph shall affect or limit the applicability of section 2283 of this title.

#### (d) Certain other costs assigned to project purposes

##### (1) Construction

Costs of constructing projects or measures for beach erosion control and water quality enhancement shall be assigned to appropriate