

fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Corporation into the Treasury as miscellaneous receipts.

(May 13, 1954, ch. 201, § 8, 68 Stat. 95; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" and "Commission" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 988. Rates of charges or tolls

(a) Negotiation with Canadian authorities; revenue sharing formula; consideration of American financing costs, including interest and debt principal; rules of measurement; hearings and rehearings; approval by President; court review

The Corporation is further authorized and directed to negotiate with the Saint Lawrence Seaway Authority of Canada, or such other agency as may be designated by the Government of Canada, an agreement as to the rules for the measurement of vessels and cargoes and the rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway, and for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada. Any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this chapter, whether or not reimbursable by the Corporation. Such rules for the measurement of vessels and cargoes and rates of charges or tolls shall, to the extent practicable, be established or changed only after giving due notice and holding a public hearing. In the event that such negotiations shall not result in agreement, the Corporation is authorized and directed to establish unilaterally such rules of measurement and rates of charges or tolls for the use of the works under its administration: *Provided, however,* That the Corporation shall give three months' notice, by publication in the Federal Register, of any proposals to establish or change unilaterally the basic rules of measurement and of any proposals to establish or change unilaterally the rates of charges or tolls, during which period a public hearing shall be conducted. Any such establishment of or changes in basic rules of measurement or rates of charges or tolls shall be subject to and shall take effect thirty days following the date of approval thereof by the President, and shall be final and conclusive, subject to review as herein-after provided. Any person aggrieved by an order of the Corporation establishing or changing such

rules or rates may, within such thirty-day period, apply to the Corporation for a rehearing of the matter upon the basis of which the order was entered. The Corporation shall have power to grant or deny the application for rehearing and upon such rehearing or without further hearing to abrogate or modify its order. The action of the Corporation in denying an application for rehearing or in abrogating or modifying its order shall be final and conclusive thirty days after its approval by the President unless within such thirty-day period a petition for review is filed by a person aggrieved by such action in the United States Court of Appeals for the circuit in which the works to which the order applies are located or in the United States Court of Appeals for the District of Columbia. The court in which such petition is filed shall have the same jurisdiction and powers as in the case of petitions to review orders of the Federal Energy Regulatory Commission filed under section 8257 of title 16. The judgment of the court shall be final subject to review by the Supreme Court upon certiorari or certification as provided in sections 1254(1) and 1254(2) of title 28. The filing of an application for rehearing shall not, unless specifically ordered by the Corporation, operate as a stay of the Corporation's order. The filing of a petition for review shall not, unless specifically ordered by the court, operate as a stay of the Corporation's order.

(b) Principles governing establishment of rates

In the course of its negotiations, or in the establishment, unilaterally, of the rates of charges or tolls as provided in subsection (a), the Corporation shall be guided by the following principles:

(1) That the rates shall be fair and equitable and shall give due consideration to encouragement of increased utilization of the navigation facilities, and to the special character of bulk agricultural, mineral, and other raw materials.

(2) That rates shall vary according to the character of cargo with the view that each classification of cargo shall so far as practicable derive relative benefits from the use of these facilities.

(3) That the rates on vessels in ballast without passengers or cargo may be less than the rates for vessels with passengers or cargo.

(4) That the rates prescribed shall be calculated to cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, including depreciation and payments in lieu of taxes.

(May 13, 1954, ch. 201, § 12, 68 Stat. 96; Pub. L. 91-469, § 43(b), Oct. 21, 1970, 84 Stat. 1038; Pub. L. 95-91, title IV, § 402(a)(1)(B), Aug. 4, 1977, 91 Stat. 583; Pub. L. 97-369, title III, § 311, Dec. 18, 1982, 96 Stat. 1782; Pub. L. 100-352, § 6(h), June 27, 1988, 102 Stat. 664.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-352 substituted "1254(2)" for "1254(3)".

1982—Subsec. (b)(5). Pub. L. 97-369 struck out par. (5) which directed that the rates provide for revenues sufficient to amortize the principal of the debts and obliga-

tions of the Corporation over a period of not to exceed 50 years.

1970—Subsec. (a). Pub. L. 91-469, §43(b)(1), inserted requirement that any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this chapter, whether or not reimbursable by the Corporation.

Subsec. (b)(4). Pub. L. 91-469, §43(b)(2), struck out “, payment of interest on the obligations of the Corporation,” after “depreciation”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

“Federal Energy Regulatory Commission” substituted for “Federal Power Commission” in subsec. (a) on authority of Pub. L. 95-91, title IV, §402(a)(1)(B), Aug. 4, 1977, 91 Stat. 583, which is classified to section 7172(a)(1)(B) of Title 42, The Public Health and Welfare.

GREAT LAKES AND SAINT LAWRENCE SEAWAY

Pub. L. 101-101, title I, Sept. 29, 1989, 103 Stat. 642, provided: “That within available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete a reconnaissance study for the Saint Lawrence Seaway and Great Lakes-Financing Navigational Improvements Study, as authorized in section 47(d) of Public Law 100-676 [set out below], in accordance with the cost sharing provisions of Public Law 99-662 [Nov. 17, 1986, 100 Stat. 4082].”

Pub. L. 100-676, §47(d), Nov. 17, 1988, 102 Stat. 4042, provided that:

“(1) STUDY OF FINANCING NAVIGATIONAL IMPROVEMENTS.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

“(2) REPORT.—Not later than 18 months after the date of the enactment of this Act [Nov. 17, 1988], the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

“(3) COST SHARING.—The non-Federal share of the cost of the study under this subsection shall be 50 percent; except that not more than 1/2 of such non-Federal share may be made by the provision of services, materials, supplies, or other in-kind services necessary to carry out the study.”

REPORT ON REDUCTION OR ELIMINATION OF TOLLS ON GREAT LAKES AND SAINT LAWRENCE SEAWAY

Pub. L. 99-662, title XIV, §1406, Nov. 17, 1986, 100 Stat. 4272, provided that: “Not later than 2 years after the date of enactment of this Act [Nov. 17, 1986], the Secretary of State, in consultation with the Secretary of Transportation, shall initiate discussions with the Government of Canada with the objective of reducing or eliminating all tolls on the international Great Lakes and the Saint Lawrence Seaway, and the Secretary of Transportation shall report to the Congress on the progress of such discussions and on the economic effects upon waterborne commerce in the United States of any proposed reduction or elimination in tolls.”

§ 988a. Waiver of collection of charges or tolls

(a) Notwithstanding section 988 of this title or any other provision of law, the Corporation shall

not collect any charge or toll established pursuant to section 988 of this title with respect to a commercial vessel (as defined in section 4462(a)(4) of title 26).

(b) The Corporation will maintain a record of the annual amount of each charge or toll that would have been collected with respect to each such commercial vessel if it were not for paragraph (a) of this section.

(May 13, 1954, ch. 201, §13, as added Pub. L. 99-662, title XIV, §805(a)(4), Nov. 17, 1986, 100 Stat. 4272; amended Pub. L. 103-331, title III, §339, Sept. 30, 1994, 108 Stat. 2496.)

AMENDMENTS

1994—Pub. L. 103-331 substituted “Waiver of collection” for “Rebate of” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) The Corporation shall transfer to the Harbor Maintenance Trust Fund, at such times and under such terms and conditions as the Secretary of the Treasury may prescribe, all revenues derived from the collection of charges or tolls established under section 988 of this title.

“(b)(1) The Corporation shall certify to the Secretary of the Treasury, in such form and at such times as the Secretary of the Treasury shall prescribe—

“(A) the identity of any person who pays a charge or toll to the Corporation pursuant to section 988 of this title with respect to a commercial vessel (as defined in section 4462(a)(4) of title 26),

“(B) the amount of the toll or charge paid by such person with respect to such vessel.

“(2) Within 30 days of the receipt of a certification described in paragraph (1), the Secretary of the Treasury shall rebate, out of the Harbor Maintenance Trust Fund, to the person described in paragraph (1) the amount of the charge or toll paid pursuant to section 988 of this title.”

EFFECTIVE DATE

Section effective April 1, 1987, see section 805(b) of Pub. L. 99-662, set out as an Effective Date of 1986 Amendment note under section 984 of this title.

§ 989. Special reports

(a) Repealed. Pub. L. 104-66, title I, §1121(j), Dec. 21, 1995, 109 Stat. 724.

(b) The Corporation, after July 17, 1957, shall submit special reports to the Congress whenever there is proposed a new feature, design, or phase of the seaway project, not heretofore included in estimates, or whenever there is proposed an abandonment of any feature, design, or phase, heretofore included in estimates, involving an estimated value exceeding one million dollars, and such special reports shall include justification for the modifications.

(May 13, 1954, ch. 201, §10, 68 Stat. 96; Pub. L. 85-108, §1(5), July 17, 1957, 71 Stat. 308; Pub. L. 104-66, title I, §1121(j), Dec. 21, 1995, 109 Stat. 724.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-66 struck out subsec. (a) which read as follows: “The Corporation shall submit to the President for transmission to the Congress at the beginning of each regular session an annual report of its operations under this chapter.”

1957—Pub. L. 85-108 designated existing provisions as subsec. (a) and added subsec. (b).