

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, 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 1002 of Pub. L. 114–322, set out as a note under section 2201 of this title.

§ 2326e. Non-Federal interest dredging authority**(a) In general**

The Secretary may permit a non-Federal interest to carry out, for an authorized navigation project (or a separable element of an authorized navigation project), such maintenance activities as are necessary to ensure that the project is maintained to not less than the minimum project dimensions.

(b) Cost limitations

Except as provided in this section and subject to the availability of appropriations, the costs incurred by a non-Federal interest in performing the maintenance activities described in subsection (a) shall be eligible for reimbursement, not to exceed an amount that is equal to the estimated Federal cost for the performance of the maintenance activities, with any reimbursement subject to the non-Federal interest complying with all Federal laws and regulations that would apply to such maintenance activities if carried out by the Secretary.

(c) Agreement

Before initiating maintenance activities under this section, a non-Federal interest shall enter into an agreement with the Secretary that specifies, for the performance of the maintenance activities, the terms and conditions that are acceptable to the non-Federal interest and the Secretary.

(d) Provision of equipment

In carrying out maintenance activities under this section, a non-Federal interest shall—

- (1) provide equipment at no cost to the Federal Government; and
- (2) hold and save the United States free from any and all damage that arises from the use of the equipment of the non-Federal interest, except for damage due to the fault or negligence of a contractor of the Federal Government.

(e) Reimbursement eligibility limitations

Costs that are eligible for reimbursement under this section are the costs of maintenance activities directly related to the costs associated with operation and maintenance of a dredge based on the lesser of—

- (1) the costs associated with operation and maintenance of the dredge during the period of time that the dredge is being used in the performance of work for the Federal Government during a given fiscal year; or
- (2) the actual fiscal year Federal appropriations that are made available for the portion of the maintenance activities for which the dredge was used.

(f) Audit

Not earlier than 5 years after December 16, 2016, the Secretary may conduct an audit on any maintenance activities for an authorized navigation project (or a separable element of an authorized navigation project) carried out under this section to determine if permitting a non-Federal interest to carry out maintenance activities under this section has resulted in—

- (1) improved reliability and safety for navigation; and
- (2) cost savings to the Federal Government.

(g) Termination of authority

The authority of the Secretary under this section terminates on the date that is 10 years after December 16, 2016.

(Pub. L. 114–322, title I, § 1113, Dec. 16, 2016, 130 Stat. 1637.)

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Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114–322, set out as a note under section 2201 of this title.

§ 2326f. Maintenance dredging data**(a) In general**

The Secretary shall establish, maintain, and make publicly available a database on maintenance dredging carried out by the Secretary, which shall include information on maintenance dredging carried out by Federal and non-Federal vessels.

(b) Scope

The Secretary shall include in the database maintained under subsection (a), for each maintenance dredging project and contract, estimated and actual data on—

- (1) the volume of dredged material removed;
- (2) the initial cost estimate of the Corps of Engineers;
- (3) the total cost;
- (4) the party and vessel carrying out the work; and
- (5) the number of private contractor bids received and the bid amounts, including bids that did not win the final contract award.

(Pub. L. 114–322, title I, § 1133, Dec. 16, 2016, 130 Stat. 1654.)

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“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114–322, set out as a note under section 2201 of this title.

§ 2327. Definition of rehabilitation for inland waterway projects

For purposes of laws relating to navigation on inland and intracoastal waterways of the United States, the term “rehabilitation” means—

- (1) major project feature restoration—
 - (A) which consists of structural work on an inland navigation facility operated and maintained by the Corps of Engineers;
 - (B) which will significantly extend the physical life of the feature;
 - (C) which is economically justified by a benefit-cost analysis;
 - (D) which will take at least 2 years to complete; and
 - (E)(i) which is initially funded before October 1, 1994, and will require at least \$5,000,000 in capital outlays; or
 - (ii) which is initially funded on or after such date and will require at least \$20,000,000 in capital outlays; and
- (2) structural modification of a major project component (not exhibiting reliability problems)—
 - (A) which will enhance the operational efficiency of such component or any other major component of the project by increasing benefits beyond the original project design; and
 - (B) which will require at least \$1,000,000 in capital outlays.

Such term does not include routine or deferred maintenance. The dollar amounts referred to in paragraphs (1) and (2) shall be adjusted annually according to the economic assumption published each year as guidance in the Annual Program and Budget Request for Civil Works Activities of the Corps of Engineers.

(Pub. L. 102-580, title II, §205, Oct. 31, 1992, 106 Stat. 4827; Pub. L. 113-121, title II, §2006(a)(4), June 10, 2014, 128 Stat. 1268.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2014—Par. (1)(E)(ii). Pub. L. 113-121 substituted “\$20,000,000” for “\$8,000,000”.

§ 2328. Challenge cost-sharing program for management of recreation facilities

(a) In general

The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary’s jurisdiction.

(b) Cooperative agreements

To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary’s jurisdiction where such facilities and

resources are being maintained at complete Federal expense.

(c) User fees

(1) Collection of fees

(A) In general

The Secretary may allow a non-Federal public entity that has entered into an agreement pursuant to subsection (b) to collect user fees for the use of developed recreation sites and facilities, whether developed or constructed by that entity or the Department of the Army.

(B) Use of visitor reservation services

A non-Federal public entity described in subparagraph (A) may use, to manage fee collections and reservations under this section, any visitor reservation service that the Secretary has provided for by contract or interagency agreement, subject to such terms and conditions as the Secretary determines to be appropriate.

(2) Use of fees

A non-Federal public entity that collects user fees under paragraph (1)—

- (A) may retain up to 100 percent of the fees collected, as determined by the Secretary; and
- (B) notwithstanding section 460d-3(b)(4) of title 16, shall use any retained amount for operation, maintenance, and management activities at the recreation site at which the fee is collected.

(3) Terms and conditions

The authority of a non-Federal public entity under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to protect the interests of the United States.

(d) Contributions

For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)” and shall be available until expended to carry out the purposes of this section.

(Pub. L. 102-580, title II, §225, Oct. 31, 1992, 106 Stat. 4838; Pub. L. 104-303, title II, §236(b), Oct. 12, 1996, 110 Stat. 3705; Pub. L. 114-322, title I, §1155, Dec. 16, 2016, 130 Stat. 1663.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2016—Subsecs. (c), (d). Pub. L. 114-322 added subsec. (c) and redesignated former subsec. (c) as (d).
1996—Subsec. (c). Pub. L. 104-303 substituted “(8862)” for “(8662)”.

RECREATION PARTNERSHIP INITIATIVE

Pub. L. 104-303, title V, §519, Oct. 12, 1996, 110 Stat. 3765, as amended by Pub. L. 106-53, title III, §350(a), Aug. 17, 1999, 113 Stat. 310, provided that: