

§ 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:

“(a) IN GENERAL.—The Secretary shall promote Federal, non-Federal, and private sector cooperation in creating public recreation opportunities and developing the necessary supporting infrastructure at water resources projects of the Corps of Engineers.

“(b) INFRASTRUCTURE IMPROVEMENTS.—

“(1) RECREATION INFRASTRUCTURE IMPROVEMENTS.—In determining the feasibility of the public-private cooperative under subsection (a), the Secretary shall provide such infrastructure improvements as are necessary to support a potential private recreational development at the Raystown Lake Project, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the project.

“(2) AGREEMENT.—The Secretary shall enter into an agreement with an appropriate non-Federal public entity to ensure that the infrastructure improvements constructed by the Secretary on non-project lands pursuant to paragraph (1) are transferred to and operated and maintained by the non-Federal public entity.

“(3) ENGINEERING AND DESIGN SERVICES.—The Secretary may perform engineering and design services for project infrastructure expected to be associated with the development of the site at Raystown Lake, Hesston, Pennsylvania.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$3,000,000.

“(c) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the cooperative efforts carried out under this section, including the improvements required by subsection (b).”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

§ 2328a. Special use permits

(a) Special use permits

(1) In general

The Secretary may issue special permits for uses such as group activities, recreation events, motorized recreation vehicles, and such other specialized recreation uses as the Secretary determines to be appropriate, subject to such terms and conditions as the Secretary determines to be in the best interest of the Federal Government.

(2) Fees

(A) In general

In carrying out this subsection, the Secretary may—

- (i) establish and collect fees associated with the issuance of the permits described in paragraph (1); or
- (ii) accept in-kind services in lieu of those fees.

(B) Outdoor recreation equipment

The Secretary may establish and collect fees for the provision of outdoor recreation equipment and services for activities described in paragraph (1) at public recreation areas located at lakes and reservoirs operated by the Corps of Engineers.

(C) Use of fees

Any fees generated pursuant to this subsection shall be—

- (i) retained at the site collected; and
- (ii) available for use, without further appropriation, solely for administering the

special permits under this subsection and carrying out related operation and maintenance activities at the site at which the fees are collected.

(b) Cooperative management

(1) Program

(A) In general

Subject to subparagraph (B), the Secretary may enter into an agreement with a State or local government to provide for the cooperative management of a public recreation area if—

- (i) the public recreation area is located—
 - (I) at a lake or reservoir operated by the Corps of Engineers; and
 - (II) adjacent to or near a State or local park or recreation area; and

(ii) the Secretary determines that cooperative management between the Corps of Engineers and a State or local government agency of a portion of the Corps of Engineers recreation area or State or local park or recreation area will allow for more effective and efficient management of those areas.

(B) Restriction

The Secretary may not transfer administration responsibilities for any public recreation area operated by the Corps of Engineers.

(2) Acquisition of goods and services

The Secretary may acquire from or provide to a State or local government with which the Secretary has entered into a cooperative agreement under paragraph (1) goods and services to be used by the Secretary and the State or local government in the cooperative management of the areas covered by the agreement.

(3) Administration

The Secretary may enter into 1 or more cooperative management agreements or such other arrangements as the Secretary determines to be appropriate, including leases or licenses, with non-Federal interests to share the costs of operation, maintenance, and management of recreation facilities and natural resources at recreation areas that are jointly managed and funded under this subsection.

(c) Use of funds

(1) In general

If the Secretary determines that it is in the public interest for purposes of enhancing recreation opportunities at Corps of Engineers water resources development projects, the Secretary may use funds made available to the Secretary to support activities carried out by State, local, and tribal governments and such other public or private nonprofit entities as the Secretary determines to be appropriate.

(2) Cooperative agreements

Any use of funds pursuant to this subsection shall be carried out through the execution of a cooperative agreement, which shall contain such terms and conditions as the Secretary determines to be necessary in the public interest.