

(Pub. L. 110–114, title II, §2007, Nov. 8, 2007, 121 Stat. 1073.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, 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. 110–114, set out as a note under section 2201 of this title.

**§ 2223. Transfer of excess credit**

**(a) Application of credit**

**(1) In general**

Subject to subsection (b), the Secretary may apply credit for in-kind contributions provided by a non-Federal interest that are in excess of the required non-Federal cost share for a water resources development study or project toward the required non-Federal cost share for a different water resources development study or project.

**(2) Application prior to completion of project**

On request of a non-Federal interest, the credit described in paragraph (1) may be applied prior to completion of a study or project, if the credit amount is verified by the Secretary.

**(b) Restrictions**

**(1) In general**

Except for subsection (a)(4)(D)(i) of that section, the requirements of section 1962d–5b of title 42 (as amended by section 1018(a)) shall apply to any credit under this section.

**(2) Conditions**

Credit in excess of the non-Federal share for a study or project may be approved under this section only if—

(A) the non-Federal interest submits a comprehensive plan to the Secretary that identifies—

(i) the studies and projects for which the non-Federal interest intends to provide in-kind contributions for credit that are in excess of the non-Federal cost share for the study or project; and

(ii) the authorized studies and projects to which that excess credit would be applied;

(B) the Secretary approves the comprehensive plan; and

(C) the total amount of credit does not exceed the total non-Federal share for the studies and projects in the approved comprehensive plan.

**(c) Additional criteria**

In evaluating a request to apply credit in excess of the non-Federal share for a study or project toward a different study or project, the Secretary shall consider whether applying that credit will—

(1) help to expedite the completion of a project or group of projects;

(2) reduce costs to the Federal Government; and

(3) aid the completion of a project that provides significant flood risk reduction or environmental benefits.

**(d) Termination of authority**

The authority provided in this section shall terminate 10 years after June 10, 2014.

**(e) Report**

**(1) Deadlines**

**(A) In general**

Not later than 2 years after June 10, 2014, and once every 2 years 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 and make publicly available an interim report on the use of the authority under this section.

**(B) Final report**

Not later than 10 years after 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 final report on the use of the authority under this section.

**(2) Inclusions**

The reports described in paragraph (1) shall include—

(A) a description of the use of the authority under this section during the reporting period;

(B) an assessment of the impact of the authority under this section on the time required to complete projects; and

(C) an assessment of the impact of the authority under this section on other water resources projects.

(Pub. L. 113–121, title I, §1020, June 10, 2014, 128 Stat. 1227; Pub. L. 114–322, title I, §1166, Dec. 16, 2016, 130 Stat. 1670.)

REFERENCES IN TEXT

Section 1018(a), referred to in subsec. (b)(1), means section 1018(a) of Pub. L. 113–121.

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.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–322 substituted “Application of credit” for “In general” in subsec. heading, designated existing provisions as par. (1) and inserted par. (1) heading, and added par. (2).

“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.

**§ 2224. Crediting authority for federally authorized navigation projects**

A non-Federal interest may carry out operation and maintenance activities for an author-

ized navigation project, subject to the condition that the non-Federal interest complies with all Federal laws and regulations applicable to such operation and maintenance activities, and may receive credit for the costs incurred by the non-Federal interest in carrying out such activities towards the share of construction costs of that non-Federal interest for another element of the same project or another authorized navigation project, except that in no instance may such credit exceed 20 percent of the total costs associated with construction of the general navigation features of the project for which such credit may be applied pursuant to this section.

(Pub. L. 113-121, title I, §1021, June 10, 2014, 128 Stat. 1228.)

#### 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.

### § 2225. Credit or reimbursement

#### (a) Requests for credits

With respect to an authorized flood damage reduction project, or separable element thereof, that has been constructed by a non-Federal interest under section 701b-13<sup>1</sup> of this title, or an authorized coastal navigation project that has been constructed by the Corps of Engineers pursuant to section 561 of this title before October 23, 2018, the Secretary may provide to the non-Federal interest, at the request of the non-Federal interest, a credit in an amount equal to the estimated Federal share of the cost of the project or separable element, in lieu of providing to the non-Federal interest a reimbursement in that amount or reimbursement of funds of an equivalent amount, subject to the availability of appropriations.

#### (b) Application of credits

At the request of the non-Federal interest, the Secretary may apply all or a portion of such credit to the share of the cost of the non-Federal interest of carrying out other flood damage reduction and coastal navigation projects or studies.

#### (c) Application of reimbursement

At the request of the non-Federal interest, the Secretary may apply such funds, subject to the availability of appropriations, equal to the share of the cost of the non-Federal interest of carrying out other flood damage reduction and coastal navigation projects or studies.

(Pub. L. 113-121, title I, §1022, June 10, 2014, 128 Stat. 1228; Pub. L. 114-322, title I, §1171, Dec. 16, 2016, 130 Stat. 1671; Pub. L. 115-270, title I, §1136(a), Oct. 23, 2018, 132 Stat. 3783.)

#### REFERENCES IN TEXT

Section 701b-13 of this title, referred to in subsec. (a), was repealed by Pub. L. 113-121, title I, §1014(c)(3), June 10, 2014, 128 Stat. 1222.

#### AMENDMENTS

2018—Pub. L. 115-270 amended section generally. Prior to amendment, section related to credit in lieu of reimbursement.

<sup>1</sup> See References in Text note below.

2016—Subsec. (a). Pub. L. 114-322, §1171(1), substituted “for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 701b-13 of this title (as it existed before the repeal made by section 1014(c)(3))” for “that has been constructed by a non-Federal interest under section 701b-13 of this title before June 10, 2014”.

Subsec. (b). Pub. L. 114-322, §1171(2), substituted “non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest” for “share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies”.

#### 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.

### § 2226. Water resources projects on Federal land

#### (a) In general

Subject to subsection (b), the Secretary may carry out an authorized water resources development project on Federal land that is under the administrative jurisdiction of another Federal agency where the cost of the acquisition of such Federal land has been paid for by the non-Federal interest for the project.

#### (b) MOU required

The Secretary may carry out a project pursuant to subsection (a) only after the non-Federal interest has entered into a memorandum of understanding with the Federal agency that includes such terms and conditions as the Secretary determines to be necessary.

#### (c) Applicability

Nothing in this section alters any non-Federal cost-sharing requirements for the project.

(Pub. L. 113-121, title I, §1025, June 10, 2014, 128 Stat. 1229.)

#### 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.

### § 2227. Clarification of impacts to other Federal facilities

In any case where the modification or construction of a water resources development project carried out by the Secretary adversely impacts other Federal facilities, the Secretary may accept from other Federal agencies such funds as may be necessary to address the adverse impact, including by removing, relocating, or reconstructing those facilities.

(Pub. L. 113-121, title I, §1026, June 10, 2014, 128 Stat. 1229.)