

**§ 426b. Applicability of existing laws; projects referred to Board of Engineers for Rivers and Harbors**

All provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, insofar as practicable, to examinations and surveys and to works of improvement relating to shore protection; except that all projects having to do with shore protection shall be referred for consideration and recommendation to the Board of Engineers for Rivers and Harbors.

(July 31, 1945, ch. 334, § 2, 59 Stat. 508; Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304.)

CODIFICATION

Provision for the referral of projects having to do with shore protection for consideration and recommendation to the Beach Erosion Board have been omitted as obsolete in view of the abolition of the Beach Erosion Board and the transfer of its review function to the Board of Engineers for Rivers and Harbors by Pub. L. 88-172, § 1. See section 426-3 of this title.

TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

**§ 426c. Report by Coastal Engineering Research Center**

The Coastal Engineering Research Center, in making its report on any cooperative investigation and studies under the provisions of section 426 of this title, relating to shore protection work shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) the advisability of adopting the project; (b) what public interest, if any, is involved in the proposed improvement; and (c) what share of the expense, if any, should be borne by the United States.

(July 31, 1945, ch. 334, § 3, 59 Stat. 508; Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304.)

CODIFICATION

Coastal Engineering Research Center has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, § 1, providing in part for the abolition of the Beach Erosion Board, which is set out as a note under section 426 of this title. For transfer of investigatory functions of the Beach Erosion Board to the Coastal Engineering Research Center see section 426-1 of this title.

**§ 426d. Payment of expenses**

Any expenses incident and necessary in the undertaking of the general investigations authorized by sections 426a to 426d of this title may be paid from funds appropriated prior to or after July 31, 1945, for examinations, surveys, and contingencies for rivers and harbors.

(July 31, 1945, ch. 334, § 4, 59 Stat. 508.)

**§ 426e. Federal aid in protection of shores**

**(a) Declaration of policy**

With the purpose of preventing damage to the shores and beaches of the United States, its Ter-

ritories and possessions and promoting and encouraging the healthful recreation of the people, it is declared to be the policy of the United States, subject to sections 426e to 426h-1 of this title, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

**(b) Federal contribution; maximum amount; exceptions**

The Federal contribution in the case of any project referred to in subsection (a) shall not exceed one-half of the cost of the project, and the remainder shall be paid by the State, municipality, or other political subdivision in which the project is located, except that (1) the costs allocated to the restoration and protection of Federal property shall be borne fully by the Federal Government, (2) Federal participation in the cost of a project for restoration and protection of State, county, and other publicly owned shore parks and conservation areas may be, in the discretion of the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs, when such areas: Include a zone which excludes permanent human habitation; include but are not limited to recreational beaches; satisfy adequate criteria for conservation and development of the natural resources of the environment; extend landward a sufficient distance to include, where appropriate, protective dunes, bluffs, or other natural features which serve to protect the uplands from damage; and provide essentially full park facilities for appropriate public use, all of which shall meet with the approval of the Chief of Engineers, and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary<sup>1</sup> not more than 70 per centum of the total cost exclusive of land costs.

**(c) Periodic beach nourishment; "construction" defined**

When in the opinion of the Chief of Engineers the most suitable and economical remedial measures would be provided by periodic beach nourishment, the term "construction" may be construed for the purposes of sections 426e to 426h-1 of this title to include the deposit of sand fill at suitable intervals of time to furnish sand supply to project shores for a length of time specified by the Chief of Engineers.

**(d) Shores other than public**

Shores other than public will be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be

<sup>1</sup> So in original. Probably should be followed by a comma.

adjusted in accordance with the degree of such benefits.

**(e) Authorization of projects**

**(1) In general**

No Federal contributions shall be made with respect to a project under sections 426e to 426h-1 of this title unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Coastal Engineering Research Center under the provisions of section 426 of this title as amended and supplemented, or, in the case of a small project under section 426g or 426h<sup>2</sup> of this title, unless the plan therefor has been approved by the Chief of Engineers.

**(2) Studies**

**(A) In general**

The Secretary shall—

(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under sections 426e to 426h-1 of this title (including subparagraph (B)(iii)) and other applicable law;

(ii) conduct such studies as Congress requires under applicable laws; and

(iii) report the results of the studies to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**(B) Recommendations for shore protection projects**

**(i) In general**

The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

**(ii) Considerations**

In making recommendations, the Secretary shall consider the economic and ecological benefits of the shore protection project.

**(C) Coordination of projects**

In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

**(3) Shore protection projects**

**(A) In general**

The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

**(B) Agreements**

**(i) Requirement**

After authorization by Congress, and before commencement of construction, of a

shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

**(ii) Terms**

The agreement shall—

(I) specify the life of the project; and

(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

**(C) Coordination of projects**

In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).

(Aug. 13, 1946, ch. 960, § 1, 60 Stat. 1056; July 28, 1956, ch. 768, 70 Stat. 702; Pub. L. 87-874, title I, § 103(a)(1)-(3), Oct. 23, 1962, 76 Stat. 1178; Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304; Pub. L. 91-611, title II, § 208, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104-303, title II, § 227(a), (b), (e)(2)(A), (B), Oct. 12, 1996, 110 Stat. 3698, 3703.)

REFERENCES IN TEXT

Section 426h of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 110-114, title II, § 2038(b), Nov. 8, 2007, 121 Stat. 1100.

CODIFICATION

Coastal Engineering Research Center, referred to in subsec. (e), has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, § 1, providing in part for the abolition of the Beach Erosion Board and for transfer of functions of the Beach Erosion Board to the Coastal Engineering Research Center. See section 426-1 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-303, § 227(a), inserted “and beaches” after “damage to the shores” and substituted “sections 426e to 426h-1 of this title, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.” for “the following provisions of sections 426e to 426h of this title to assist in the construction, but not the maintenance, of works for the restoration and protection against erosion, by waves and currents, of the shores of the United States, its Territories and possessions.”

Subsec. (b)(3). Pub. L. 104-303, § 227(e)(2), substituted “Secretary” for “Secretary of the Army, acting through the Chief of Engineers,” and struck out second period at end.

Subsec. (e). Pub. L. 104-303, § 227(b), (e)(2)(B), inserted subsec. heading, designated existing provisions as par. (1) and inserted heading, realigned margin, inserted “or 426h” after “under section 426g”, and added pars. (2) and (3).

1970—Subsec. (b). Pub. L. 91-611 provided for designation of existing provisions as cls. (1) and (2) by insertion of “(1)” after “except that” and substitution of “(2)” for “and, further, that” and added cl. (3).

<sup>2</sup> See References in Text note below.

1962—Subsec. (b). Pub. L. 87-874, §103(a)(1), (2), increased maximum limit on amount of Federal contributions from one-third to one-half of project cost, provided that costs for restoration and protection of Federal property shall be borne fully by the Federal Government, and that costs for restoration and protection of State, county and other publicly owned shore parks and conservation areas may be borne by Federal Government up to not more than 70 per centum, exclusive of land costs, when such areas include a zone which excludes permanent human habitation, include recreational beaches, satisfy criteria for conservation and development of natural resources, extend landward enough to include natural features to protect uplands, and provide essentially full park facilities for public use, all of which meet with approval of Chief of Engineers.

Subsec. (e). Pub. L. 87-874, §103(a)(3), required approval of plans by Chief of Engineers in case of a small project under section 426g of this title.

1956—Act July 28, 1956, extended assistance to privately owned shores, to include shores of Territories and possessions, substituted “restoration” for “improvement”, defined “construction”, and struck out provisions which authorized Federal aid toward the repair and protection of seawalls constructed by political subdivisions to protect important public highways.

#### BEACH RECREATION

Pub. L. 106-541, title II, §220, Dec. 11, 2000, 114 Stat. 2596, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 11, 2000], the Secretary shall develop and implement procedures to ensure that all of the benefits of a beach restoration project, including those benefits attributable to recreation, hurricane and storm damage reduction, and environmental protection and restoration, are displayed in reports for such projects.”

#### SHORE MANAGEMENT PROGRAM

Pub. L. 106-53, title II, §213, Aug. 17, 1999, 113 Stat. 291, required the Secretary to review the implementation of the Corps of Engineers shore management program, with particular attention to inconsistencies in implementation among the divisions and districts of the Corps of Engineers and complaints by or potential inequities regarding property owners in the Savannah District during the 5-year period preceding Aug. 17, 1999, and directed the Secretary to submit to Congress a report of the review by Aug. 17, 1999.

#### REPORT ON SHORES OF THE UNITED STATES

Pub. L. 106-53, title II, §215(c), Aug. 17, 1999, 113 Stat. 293, required the Secretary to report to Congress, not later than 3 years after Aug. 17, 1999, on the state of the shores of the United States and specified the contents of such report and the use of specific location data.

#### REPORT TO CONGRESS ON SHORELINE PROTECTION PROGRAMS

Pub. L. 101-640, title III, §309, Nov. 28, 1990, 104 Stat. 4638, provided that not later than 1 year after Nov. 28, 1990, the Secretary was to transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project would be located had established or committed to establish a beach front management program, which included specified restrictions and other regulatory provisions.

### § 426e-1. Shore protection projects

#### (a) In general

In accordance with the Act of July 3, 1930 (33 U.S.C. 426) of this title, and notwithstanding administrative actions, it is the policy of the

United States to promote beach nourishment for the purposes of flood damage reduction and hurricane and storm damage reduction and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach renourishment for a period of 50 years, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises.

#### (b) Preference

In carrying out the policy under subsection (a), preference shall be given to—

(1) areas in which there has been a Federal investment of funds for the purposes described in subsection (a); and

(2) areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

#### (c) Applicability

The Secretary shall apply the policy under subsection (a) to each shore protection and beach renourishment project (including shore protection and beach renourishment projects constructed before November 8, 2007).

(Pub. L. 110-114, title II, §2018, Nov. 8, 2007, 121 Stat. 1077.)

#### REFERENCES IN TEXT

The Act of July 3, 1930, referred to in subsec. (a), is act July 3, 1930, ch. 847, 46 Stat. 918. For complete classification of this Act to the Code, see Tables.

#### “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.

### § 426e-2. Clarification of munition disposal authorities

#### (a) In general

The Secretary may, at full Federal expense, implement any response action the Secretary determines to be necessary at a site where—

(1) the Secretary has carried out a project under civil works authority of the Secretary that includes placing sand on a beach; and

(2) as a result of the project described in paragraph (1), military munitions that were originally released as a result of Department of Defense activities are deposited on the beach, posing a threat to human health or the environment.

#### (b) Response action funding

A response action described in subsection (a) shall be reimbursed from amounts made available to the agency within the Department of Defense responsible for the original release of the munitions.

(Pub. L. 113-121, title I, §1027, June 10, 2014, 128 Stat. 1230; Pub. L. 114-322, title I, §1154, Dec. 16, 2016, 130 Stat. 1663.)

#### AMENDMENTS

2016—Subsec. (a). Pub. L. 114-322, §1154(1), inserted “, at full Federal expense,” after “The Secretary may” in introductory provisions.