

this section and section 2241 of this title and enacting provisions set out above] (including the amendments made by this section) shall increase, or result in the increase of, the non-Federal share of the costs of—

“(1) expanding any confined dredged material disposal facility that is operated by the Secretary and that is authorized for cost recovery through the collection of tolls;

“(2) any confined dredged material disposal facility for which the invitation for bids for construction was issued before the date of the enactment of this Act [Oct. 12, 1996]; and

“(3) expanding any confined dredged material disposal facility constructed under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) if the capacity of the confined dredged material disposal facility was exceeded in less than 6 years.”

DREDGED MATERIAL DISPOSAL AREAS STUDY

Pub. L. 102-580, title II, §216, Oct. 31, 1992, 106 Stat. 4832, directed Secretary to conduct a study on the need for changes in Federal law and policy with respect to dredged material disposal areas for construction and maintenance of harbors and inland harbors by Secretary and, not later than 18 months after Oct. 31, 1992, to transmit to Congress a report on the results of the study, together with recommendations of the Secretary.

§ 2211a. Preserving United States harbors

(a) In general

Upon a request from a non-Federal interest, the Secretary shall review a report developed by the non-Federal interest that provides an economic justification for Federal investment in the operation and maintenance of a federally authorized harbor or inland harbor (referred to in this section as a “federally authorized harbor”).

(b) Justification of investment

A report submitted under subsection (a) may provide for an economic justification of Federal investment in the operation and maintenance of a federally authorized harbor based on—

(1) the projected economic benefits, including transportation savings and job creation; and

(2) other factors, including navigation safety, national security, and sustainability of subsistence harbors.

(c) Written response

Not later than 180 days after the date on which the Secretary receives a report under subsection (a), the Secretary shall provide to the non-Federal interest a written response to the report, including an assessment of the information provided by the non-Federal interest.

(d) Prioritization

As the Secretary determines to be appropriate, the Secretary may use the information provided in the report under subsection (a) to justify additional operation and maintenance funding for a federally authorized harbor in accordance with section 2211(b) of this title.

(e) Limitation on statutory construction

Nothing in this section may be construed to preclude the operation and maintenance of a federally authorized harbor under section 2211(b) of this title.

(Pub. L. 113-121, title II, §2107, June 10, 2014, 128 Stat. 1281.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

“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.

§ 2212. Inland waterway transportation

(a) Construction

One-half of the costs of construction—

(1) of each project authorized by title III of this Act,

(2) of the project authorized by section 652(j) of this title, and

(3) allocated to inland navigation for the project authorized by section 844 of this Act,

shall be paid only from amounts appropriated from the general fund of the Treasury. One-half of such costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund. For purposes of this subsection, the term “construction” shall include planning, designing, engineering, surveying, the acquisition of all lands, easements, and rights-of-way necessary for the project, including lands for disposal of dredged material, and relocations necessary for the project.

(b) Operation and maintenance

The Federal share of the cost of operation and maintenance of any project for navigation on the inland waterways is 100 percent.

(c) Floodgates on the Inland Waterways

(1) Operation and maintenance carried out by the Secretary

Notwithstanding any other provision of law, the Secretary shall be responsible for the operation and maintenance, including repair, of any flood gate, as well as any pumping station constructed within the channel as a single unit with that flood gate, that—

(A) was constructed as of June 10, 2014, as a feature of an authorized hurricane and storm damage reduction project; and

(B) crosses an inland or intracoastal waterway described in section 1804 of this title.

(2) Non-Federal cost share

The non-Federal share of the cost of operation, maintenance, repair, rehabilitation, and replacement of any structure under this subsection shall be 35 percent.

(d) Authorizations from general fund

Any Federal responsibility—

(1) with respect to a project authorized by title III or section 652(j) of this title, or

(2) with respect to the portion of the project authorized by section 844 allocated to inland navigation,

which responsibility is not provided for in subsection (a) of this section shall be paid only

from amounts appropriated from the general fund of the Treasury.

(Pub. L. 99-662, title I, §102, Nov. 17, 1986, 100 Stat. 4084; Pub. L. 113-121, title II, §2013, June 10, 2014, 128 Stat. 1271.)

Editorial Notes

REFERENCES IN TEXT

Title III of this Act, referred to in subsecs. (a)(1) and (d)(1), is title III of Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4109, consisting of sections 301 and 302. The projects authorized by title III probably mean the projects authorized by section 301 of Pub. L. 99-662, which is not classified to the Code. Section 302 of Pub. L. 99-662, which established the Inland Waterways Users Board, is classified to section 2251 of this title.

Section 844 of this Act, referred to in subsecs. (a)(3) and (d)(2), is section 844 of Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4177, which is not classified to the Code.

AMENDMENTS

2014—Subsecs. (c), (d). Pub. L. 113-121 added subsec. (c) and redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

INLAND WATERWAY PROJECTS

Pub. L. 116-260, div. AA, title I, §109, Dec. 27, 2020, 134 Stat. 2624, provided that: “Notwithstanding section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212), for a project for navigation on the inland waterways receiving a construction appropriation during any of fiscal years 2021 through 2031, 35 percent of the costs of construction of the project shall be paid from amounts appropriated from the Inland Waterways Trust Fund until such construction of the project is complete.”

ACCEPTANCE OF CONTRIBUTED FUNDS TO INCREASE LOCK OPERATIONS

Pub. L. 113-121, title I, §1017, June 10, 2014, 128 Stat. 1223, as amended by Pub. L. 115-270, title I, §1135, Oct. 23, 2018, 132 Stat. 3783, provided that:

“(a) **IN GENERAL.**—The Secretary [of the Army], after providing public notice, shall establish a pilot program for the acceptance and expenditure of funds contributed by non-Federal interests to increase the hours of operation of locks at water resources development projects.

“(b) **APPLICABILITY.**—The establishment of the pilot program under this section shall not affect the periodic review and adjustment of hours of operation of locks based on increases in commercial traffic carried out by the Secretary.

“(c) **PUBLIC COMMENT.**—Not later than 180 days before a proposed modification to the operation of a lock at a water resources development project will be carried out, the Secretary shall—

“(1) publish the proposed modification in the Federal Register; and

“(2) accept public comment on the proposed modification.

“(d) **REPORTS.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act [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 report that evaluates the cost-savings resulting from reduced lock hours and any economic impacts of modifying lock operations.

“(2) **REVIEW OF PILOT PROGRAM.**—Not later than September 30, 2017, and each year 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 a report that describes the effectiveness of the pilot program under this section.

“(e) **ANNUAL REVIEW.**—The Secretary shall carry out an annual review of the commercial use of locks and make any necessary adjustments to lock operations based on that review.

“(f) **TERMINATION.**—The authority to accept funds under this section shall terminate 10 years after the date of enactment of this Act.”

§ 2213. Flood control and other purposes

(a) Flood control

(1) General rule

The non-Federal interests for a project with costs assigned to flood control (other than a nonstructural project) shall—

(A) pay 5 percent of the cost of the project assigned to flood control during construction of the project;

(B) provide all lands, easements, rights-of-way, and dredged material disposal areas required only for flood control and perform all related necessary relocations; and

(C) provide that portion of the joint costs of lands, easements, rights-of-way, dredged material disposal areas, and relocations which is assigned to flood control.

(2) 35 percent minimum contribution

If the value of the contributions required under paragraph (1) of this subsection is less than 35 percent of the cost of the project assigned to flood control, the non-Federal interest shall pay during construction of the project such additional amounts as are necessary so that the total contribution of the non-Federal interests under this subsection is equal to 35 percent of the cost of the project assigned to flood control.

(3) 50 percent maximum

The non-Federal share under paragraph (1) shall not exceed 50 percent of the cost of the project assigned to flood control. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

(4) Deferred payment of amount exceeding 30 percent

If the total amount of the contribution required under paragraph (1) of this subsection exceeds 30 percent of the cost of the project assigned to flood control, the non-Federal interests may pay the amount of the excess to the Secretary over a 15-year period (or such shorter period as may be agreed to by the Secretary and the non-Federal interests) beginning on the date construction of the project or separable element is completed, at an interest rate determined pursuant to section 2216 of this title. The preceding sentence does not modify the requirement of paragraph (1)(A) of this subsection.

(b) Projects using nonstructural, natural, or nature-based features

(1) In general

The non-Federal share of the cost of a flood risk management or hurricane and storm damage risk reduction measure using a nonstructural feature, or a natural feature or nature-based feature (as those terms are defined