

the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2025—Subsecs. (d), (e)(1)(B). Pub. L. 118-272 substituted “2030” for “2028”.

2022—Subsec. (a)(3). Pub. L. 117-263, § 8383(1), added par. (3).

Subsec. (b)(3). Pub. L. 117-263, § 8383(2), added par. (3).

Subsec. (d). Pub. L. 117-263, § 8383(3), substituted “on December 31, 2028” for “10 years after June 10, 2014”.

Subsec. (e)(1)(B). Pub. L. 117-263, § 8383(4), substituted “December 31, 2028” for “10 years after June 10, 2014”.

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).

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.

§ 2224. Crediting authority for federally authorized navigation projects

A non-Federal interest may carry out operation and maintenance activities for an authorized 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.)

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.

§ 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-13¹ 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

¹ See References in Text note below.

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.)

Editorial Notes

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.

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”.

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Statutory Notes and Related Subsidiaries

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§ 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.)

Editorial Notes

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§ 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.)

Editorial Notes

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SUBCHAPTER II—HARBOR DEVELOPMENT

§ 2231. Study of water resources development projects by non-Federal interests

(a) Submission to Secretary

(1) In general

A non-Federal interest may undertake and submit to the Secretary—

(A) a federally authorized feasibility study of a proposed water resources development project; or

(B) upon the determination of the Secretary that the modifications are consistent with the authorized purposes of the project, a feasibility study on modifications to a water resources development project constructed by the Corps of Engineers or con-

structed by a non-Federal interest pursuant to section 2232 of this title.

(2) Guidelines

To assist non-Federal interests, the Secretary shall issue guidelines for the formulation of feasibility studies of water resources development projects undertaken by non-Federal interests that—

(A) provide clear, concise, and transparent guidance for the non-Federal interest to use in developing a feasibility study that complies with requirements that would apply to a feasibility study undertaken by the Secretary;

(B) provide sufficient information for the formulation of the studies, including processes and procedures related to reviews and assistance under subsection (e);

(C) provide guidance to a non-Federal interest on obtaining support from the Secretary to complete elements of a feasibility study that may be considered inherently governmental and required to be done by a Federal agency; and

(D) provide contacts for employees of the Corps of Engineers that a non-Federal interest may use to initiate coordination with the Secretary and identify at what stages coordination may be beneficial.

(3) Determination

If a non-Federal interest requests to undertake a feasibility study on a modification to a constructed water resources development project under paragraph (1)(B), the Secretary shall expeditiously provide to the non-Federal interest the determination required under such paragraph with respect to whether conceptual modifications, as presented by the non-Federal interest, are consistent with the authorized purposes of the project.

(b) Review by Secretary

(1) In general

The Secretary shall review each feasibility study received under subsection (a)(1) for the purpose of determining whether or not the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water resources development projects.

(2) Timing

The Secretary may not submit to Congress an assessment of a feasibility study under this section until such time as the Secretary—

(A) determines that the feasibility study complies with all of the requirements that would apply to a feasibility study undertaken by the Secretary; and

(B) completes all of the Federal analyses, reviews, and compliance processes under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), that would be required with respect to the proposed project if the Secretary had undertaken the feasibility study.

(3) Initiation of review

(A) Request

(i) Submission

The non-Federal interest may submit to the Secretary a request that the Secretary