

and upon completion of the services, to conduct sediment surveys to determine the pre- and post-services sediment profile and sediment quality.

(c) Limitation

(1) In general

The Secretary may not accept services under subsection (a) if the Secretary, after consultation with the Chief of Engineers, determines that accepting the services is not advantageous to the United States.

(2) Report to Congress

If the Secretary makes a determination under paragraph (1), the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice describing the reasoning for the determination.

(d) Disposition of removed sediment

In exchange for providing services under subsection (a), a non-Federal interest or commercial entity is authorized to retain, use, recycle, sell, or otherwise dispose of any sediment removed in connection with the services and the Corps of Engineers may not seek any compensation for the value of the sediment.

(e) Congressional notification

Prior to accepting services provided by a non-Federal interest or commercial entity under this section, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the acceptance of the services.

(f) Report to Congress

Not later than 3 years after October 23, 2018, 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 describing the results of the program under this section.

(Pub. L. 106-541, title II, §215, Dec. 11, 2000, 114 Stat. 2594; Pub. L. 114-322, title I, §1115(a), Dec. 16, 2016, 130 Stat. 1638; Pub. L. 115-270, title I, §1146, Oct. 23, 2018, 132 Stat. 3786.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2000, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-270, §1146(1), substituted “October 23, 2018” for “December 16, 2016” and “shall, using available funds, accept” for “shall establish, using available funds, a pilot program to accept”.

Subsec. (b)(4). Pub. L. 115-270, §1146(2), struck out par. (4) which read as follows: “limit the number of dams for which services are accepted to 10.”

Subsec. (f). Pub. L. 115-270, §1146(3), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “Upon completion of services at

the 10 dams allowed under subsection (b)(4), the Secretary shall make publicly available and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report documenting the results of the services.”

2016—Pub. L. 114-322 amended section generally. Prior to amendment, section related to a program for direct marketing of dredged material and a pilot program for dredged material recycling.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-541, set out as a note under section 2201 of this title.

§ 2326d. Alternative projects to maintenance dredging

The Secretary may enter into agreements to assume the operation and maintenance costs of an alternative project to maintenance dredging for a Federal navigation channel if the costs of the operation and maintenance of the alternative project, and any remaining costs necessary for maintaining the Federal navigation channel, are less than the costs of maintaining such channel without the alternative project.

(Pub. L. 114-322, title I, §1106, Dec. 16, 2016, 130 Stat. 1634.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, 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 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 2326e. Non-Federal interest dredging authority

(a) In general

The Secretary may permit a non-Federal interest to carry out, for an authorized navigation project (or a separable element of an authorized navigation project), such maintenance activities as are necessary to ensure that the project is maintained to not less than the minimum project dimensions.

(b) Cost limitations

Except as provided in this section and subject to the availability of appropriations, the costs incurred by a non-Federal interest in performing the maintenance activities described in subsection (a) shall be eligible for reimbursement, not to exceed an amount that is equal to the estimated Federal cost for the performance of the maintenance activities, with any reimbursement subject to the non-Federal interest complying with all Federal laws and regulations that would apply to such maintenance activities if carried out by the Secretary.

(c) Agreement

Before initiating maintenance activities under this section, a non-Federal interest shall enter into an agreement with the Secretary that specifies, for the performance of the maintenance activities, the terms and conditions that are acceptable to the non-Federal interest and the Secretary.

(d) Provision of equipment

In carrying out maintenance activities under this section, a non-Federal interest shall—

- (1) provide equipment at no cost to the Federal Government; and
- (2) hold and save the United States free from any and all damage that arises from the use of the equipment of the non-Federal interest, except for damage due to the fault or negligence of a contractor of the Federal Government.

(e) Reimbursement eligibility limitations

Costs that are eligible for reimbursement under this section are the costs of maintenance activities directly related to the costs associated with operation and maintenance of a dredge based on the lesser of—

- (1) the costs associated with operation and maintenance of the dredge during the period of time that the dredge is being used in the performance of work for the Federal Government during a given fiscal year; or
- (2) the actual fiscal year Federal appropriations that are made available for the portion of the maintenance activities for which the dredge was used.

(f) Audit

Not earlier than 5 years after December 16, 2016, the Secretary may conduct an audit on any maintenance activities for an authorized navigation project (or a separable element of an authorized navigation project) carried out under this section to determine if permitting a non-Federal interest to carry out maintenance activities under this section has resulted in—

- (1) improved reliability and safety for navigation; and
- (2) cost savings to the Federal Government.

(g) Termination of authority

The authority of the Secretary under this section terminates on the date that is 10 years after December 16, 2016.

(Pub. L. 114-322, title I, §1113, Dec. 16, 2016, 130 Stat. 1637.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, 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 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 2326f. Maintenance dredging data**(a) In general**

The Secretary shall establish, maintain, and make publicly available a database on maintenance dredging carried out by the Secretary, which shall include information on maintenance dredging carried out by Federal and non-Federal vessels.

(b) Scope

The Secretary shall include in the database maintained under subsection (a), for each maintenance dredging project and contract, estimated and actual data on—

- (1) the volume of dredged material removed;
- (2) the initial cost estimate of the Corps of Engineers;
- (3) the total cost, including a separate line item for all Federal costs associated with the disposal of dredged material;
- (4) the party and vessel carrying out the work; and
- (5) the number of private contractor bids received and the bid amounts, including bids that did not win the final contract award.

(Pub. L. 114-322, title I, §1133, Dec. 16, 2016, 130 Stat. 1654; Pub. L. 117-263, div. H, title LXXXI, §8207, Dec. 23, 2022, 136 Stat. 3756.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2022—Subsec. (b)(3). Pub. L. 117-263 inserted “, including a separate line item for all Federal costs associated with the disposal of dredged material” before semicolon at end.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114-322, set out as a note under section 2201 of this title.

§ 2326g. Beneficial use of dredged material; dredged material management plans**(a) National policy on the beneficial use of dredged material****(1) In general****(A) Policy**

It is the policy of the United States for the Corps of Engineers to maximize the beneficial use, in an environmentally acceptable manner, of suitable dredged material obtained from the construction or operation and maintenance of water resources development projects.

(B) National goal

To the greatest extent practicable, the Secretary shall ensure that not less than 70 percent by volume (as measured in cubic