

(E)(i) which is initially funded before October 1, 1994, and will require at least \$5,000,000 in capital outlays; or

(ii) which is initially funded on or after such date and will require at least \$20,000,000 in capital outlays; and

(2) structural modification of a major project component (not exhibiting reliability problems)—

(A) which will enhance the operational efficiency of such component or any other major component of the project by increasing benefits beyond the original project design; and

(B) which will require at least \$1,000,000 in capital outlays.

Such term does not include routine or deferred maintenance. The dollar amounts referred to in paragraphs (1) and (2) shall be adjusted annually according to the economic assumption published each year as guidance in the Annual Program and Budget Request for Civil Works Activities of the Corps of Engineers.

(Pub. L. 102-580, title II, §205, Oct. 31, 1992, 106 Stat. 4827; Pub. L. 113-121, title II, §2006(a)(4), June 10, 2014, 128 Stat. 1268.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2014—Par. (1)(E)(ii). Pub. L. 113-121 substituted “\$20,000,000” for “\$8,000,000”.

§ 2327a. Rehabilitation of Corps of Engineers constructed pump stations

(a) Definitions

In this section:

(1) Eligible pump station

The term “eligible pump station” means a pump station—

(A) that is a feature of—

(i) a federally authorized flood or coastal storm risk management project; or

(ii) an integrated flood risk reduction system that includes a federally authorized flood or coastal storm risk management project; and

(B) the failure of which the Secretary has determined would demonstrably impact the function of the federally authorized flood or coastal storm risk management project.

(2) Rehabilitation

(A) In general

The term “rehabilitation”, with respect to an eligible pump station, means to address a major deficiency of the eligible pump station caused by long-term degradation of the foundation, construction materials, or engineering systems or components of the eligible pump station.

(B) Inclusions

The term “rehabilitation”, with respect to an eligible pump station, includes—

(i) the incorporation into the eligible pump station of—

(I) current design standards;

(II) efficiency improvements; and

(III) associated drainage; and

(ii) increasing the capacity of the eligible pump station, subject to the condition that the increase shall—

(I) significantly decrease the risk of loss of life and property damage; or

(II) decrease total lifecycle rehabilitation costs for the eligible pump station.

(b) Authorization

The Secretary may carry out rehabilitation of an eligible pump station, if the Secretary determines that—

(1) the eligible pump station has a major deficiency; and

(2) the rehabilitation is feasible.

(c) Cost sharing

The non-Federal interest for the eligible pump station shall—

(1) provide 35 percent of the cost of rehabilitation of an eligible pump station carried out under this section; and

(2) provide all land, easements, rights-of-way, and necessary relocations associated with the rehabilitation described in subparagraph (A), at no cost to the Federal Government.

(d) Agreement required

The rehabilitation of an eligible pump station pursuant to this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary—

(1) to pay the non-Federal share of the costs of rehabilitation under subsection (c); and

(2) to pay 100 percent of the operation and maintenance costs of the rehabilitated eligible pump station, in accordance with regulations promulgated by the Secretary.

(e) Treatment

The rehabilitation of an eligible pump station pursuant to this section shall not be considered to be a separable element of the associated flood risk management project constructed by the Corps of Engineers.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$60,000,000, to remain available until expended.

(g) Prioritization

To the maximum extent practicable, the Secretary shall prioritize the rehabilitation of eligible pump stations under this section that benefit economically disadvantaged communities, as defined by the Secretary under section 160 of the Water Resources Development Act of 2020 (33 U.S.C. 2201 note), including economically disadvantaged communities located in urban and rural areas.

(Pub. L. 116-260, div. AA, title I, §133, Dec. 27, 2020, 134 Stat. 2647; Pub. L. 117-263, div. H, title LXXXI, §8152, Dec. 23, 2022, 136 Stat. 3733.)

Editorial Notes

REFERENCES IN TEXT

Section 160 of the Water Resources Development Act of 2020, referred to in subsec. (g), is section 160 of div. AA of Pub. L. 116-260, which is set out as a note under section 2201 of this title.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2020, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-263, §8152(1), added par. (1) and struck out former par. (1) which defined eligible pump station.

Subsec. (b). Pub. L. 117-263, §8152(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “The Secretary may carry out rehabilitation of an eligible pump station, if the Secretary determines that the rehabilitation is feasible.”

Subsec. (g). Pub. L. 117-263, §8152(3), added subsec. (g).

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

§ 2328. Challenge cost-sharing program for management of recreation facilities**(a) In general**

The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary’s jurisdiction.

(b) Cooperative agreements**(1) In general**

To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public entities and private nonprofit entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary’s jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(2) Requirements

Before entering into an agreement under paragraph (1), the Secretary shall ensure that the non-Federal public entity or private nonprofit entity has the authority and capability—

(A) to carry out the terms of the agreement; and

(B) to pay damages, if necessary, in the event of a failure to perform.

(c) User fees**(1) Collection of fees****(A) In general**

The Secretary may allow a non-Federal public entity or private nonprofit entity that has entered into an agreement pursuant to subsection (b) to collect user fees for the use of developed recreation sites and facili-

ties, whether developed or constructed by the non-Federal public entity or private nonprofit entity or the Department of the Army.

(B) Use of visitor reservation services**(i) In general**

A non-Federal public entity or a private nonprofit entity described in subparagraph (A) may use, to manage fee collections and reservations under this section, any visitor reservation service that the Secretary has provided for by contract or interagency agreement, subject to such terms and conditions as the Secretary determines to be appropriate.

(ii) Transfer

The Secretary may transfer, or cause to be transferred by another Federal agency, to a non-Federal public entity or a private nonprofit entity described in subparagraph (A) user fees received by the Secretary or other Federal agency under a visitor reservation service described in clause (i) for recreation facilities and natural resources managed by the non-Federal public entity or private nonprofit entity pursuant to a cooperative agreement entered into under subsection (b).

(2) Use of fees**(A) In general**

A non-Federal public entity or private nonprofit entity that collects a user fee under paragraph (1)—

(i) may retain up to 100 percent of the fees collected, as determined by the Secretary; and

(ii) notwithstanding section 460d-3(b)(4) of title 16, shall use any retained amounts for operation, maintenance, and management activities relating to recreation and natural resources at recreation site at which the fee is collected.

(B) Requirements

The use by a non-Federal public entity or private nonprofit entity of user fees collected under paragraph (1)—

(i) shall remain subject to the direction and oversight of the Secretary; and

(ii) shall not affect any existing third-party property interest, lease, or agreement with the Secretary.

(3) Terms and conditions

The authority of a non-Federal public entity or private nonprofit entity under this subsection shall be subject to such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States.

(d) Contributions**(1) In general**

For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public entities, private nonprofit entities, and other private entities.

(2) Deposit of funds

Any funds received by the Secretary under this subsection shall be deposited into the ac-