section (a)) that are in existence on the date of enactment of this Act or issue new guidelines, as determined to be appropriate by the Secretary.

''(2) INCLUSIONS.—Any guidance, regulations, or guidelines updated or issued under paragraph (1) shall include, at a minimum—

''(A) the milestone for executing an in-kind memorandum of understanding for construction by a non-Federal interest;

''(B) criteria and procedures for evaluating a request to execute an in-kind memorandum of understanding for construction by a non-Federal interest that is earlier than the milestone under subparagraph (A) for that execution; and

''(C) criteria and procedures for determining whether work carried out by a non-Federal interest is integral to a project.

''(3) PUBLIC AND STAKEHOLDER PARTICIPATION.—Before issuing any new or revised guidance, regulations, or guidelines or any subsequent updates to those documents, the Secretary shall—

''(A) consult with affected non-Federal interests;

''(B) publish the proposed guidelines developed under this subsection in the Federal Register; and

''(C) provide the public with an opportunity to comment on the proposed guidelines.''

OTHER CREDIT

Pub. L. 113–121, title I, § 1018(e), June 10, 2014, 128 Stat. 1226, provided that: ''Nothing in section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) (as amended by subsection (a)) affects any eligibility for credit under section 104 of the Water Resources Development [Act] of 1986 (33 U.S.C. 2214) that was approved by the Secretary [of the Army] prior to the date of enactment of this Act [June 10, 2014].''

PARTNERSHIP AND COOPERATION AGREEMENTS; REFERENCES

Pub. L. 110–114, title II, § 2003(f), Nov. 8, 2007, 121 Stat. 1070, provided that:

''(1) IN GENERAL.—A goal of agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) shall be to further partnership and cooperation, and the agreements shall be referred to as 'partnership agreements'.

''(2) REFERENCES TO COOPERATION AGREEMENTS.—Any reference in a law, regulation, document, or other paper of the United States to a 'cooperation agreement' or 'project cooperation agreement' shall be deemed to be a reference to a 'partnership agreement' or a 'project partnership agreement', respectively.

''(3) REFERENCES TO PARTNERSHIP AGREEMENTS.—Any reference to a 'partnership agreement' or 'project partnership agreement' in this Act [see Short Title of 2007 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters] (other than this section) shall be deemed to be a reference to a 'cooperation agreement' or a 'project cooperation agreement', respectively.''

COMPLIANCE WITH COOPERATION REQUIREMENTS FOR NON-FEDERAL INTERESTS IN WATER RESOURCES PROJECTS

Pub. L. 99–662, title IX, § 912(b), Nov. 17, 1986, 100 Stat. 4190, as amended by Pub. L. 110–114, title II, § 2003(d), Nov. 8, 2007, 121 Stat. 1070, provided that:

''(1) The Secretary may require compliance with any requirements pertaining to cooperation by non-Federal interests in carrying out any water resources project authorized before, on, or after the date of enactment of this Act [Nov. 17, 1986].

''(2) Whenever on the basis of any information available to the Secretary, the Secretary finds that any non-Federal interest is not providing cooperation required under subsection (a) [amending this section], the Secretary may issue an order requiring such non-Federal interest to provide such cooperation.

''(3) Non-Federal interests shall be liable for interest on any payments required pursuant to section 221 of the Flood Control Act of 1970 [this section] that may fall delinquent. The interest rate to be charged on any such delinquent payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 percent of the average bond equivalent rate of the thirteen-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional three-month period if the period of delinquency exceeds three months.

''(4) The Secretary may request the Attorney General to bring a civil action for appropriate relief, including permanent or temporary injunction, for payment of damages or, for any violation of an order issued under this section, to recover any cost incurred by the Secretary in undertaking performance of any item of cooperation under section 221(d) of the Flood Control Act of 1970 [subsec. (d) of this section], or to collect interest for which a non-Federal interest is liable under paragraph (3). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides, or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, to require payment of any damages, and to require payment of any costs incurred by the Secretary in undertaking performance of any such item.

''(5) The Secretary is authorized to determine that no funds appropriated for operation and maintenance, including operation and maintenance of the project for flood control, Mississippi River and Tributaries, are to be used for the particular benefit of projects within the jurisdiction of any non-Federal interest when such non-Federal interest is in arrears for more than twenty-four months in the payment of charges due under an agreement entered into with the United States pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) [this section].''

§ 1962d–5c. Non-Federal public bodies, installment construction payments

(a) Annual installments during period of construction in absence of other provision for extended repayment

In connection with any water resource development project, heretofore, herein, or hereafter authorized to be undertaken by the Secretary of the Army, the construction of which has not been initiated as of March 7, 1974, where authorization requires that non-Federal public bodies make an agreed-upon cash contribution as part of their reimbursement to the Federal Government for construction costs, or a specific portion of the construction costs, and where there exists no other provision of law which would permit extended repayment for the construction costs or such specific portion of the construction costs involved, such non-Federal public bodies may make such repayment in annual installments during the period of construction.

(b) Cost sharing; modification

Upon the request of affected non-Federal public bodies, the Secretary of the Army is authorized to modify existing cost sharing agreements in order to effectuate the provisions of subsection (a) of this section.

(Pub. L. 93–251, title I, § 40, Mar. 7, 1974, 88 Stat. 23.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

§ 1962d–5d. Authorization of Secretary of the Army to contract with States and political subdivisions for increased law enforcement services during peak visitation periods; authorization of appropriations

(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) There is authorized to be appropriated $10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section.

(Pub. L. 94–587, § 120, Oct. 22, 1976, 90 Stat. 2924; Pub. L. 99–662, title IX, § 920, Nov. 17, 1986, 100 Stat. 4193.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–662 amended subsec. (b) generally, substituting ''$10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986'' for ''$6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979''.

§ 1962d–5e. Wetland areas

(a) Authorization of Secretary of the Army to plan and establish wetland areas; criteria for establishment

The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

(1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed $400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) Reports to Congress

Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after October 22, 1976, such report shall include, where appropriate, consideration of the establishment of wetland areas.

(c) Cost

In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

(Pub. L. 94–587, § 150, Oct. 22, 1976, 90 Stat. 2931.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

§ 1962d–5f. Beach nourishment

(a) In general

The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fiftieth year which begins after the date of initiation of construction of such project.

(b) Review

(1) In general

Notwithstanding subsection (a), the Secretary shall, at the request of the non-Federal interest, carry out a study to determine the feasibility of extending the period of nourishment described in subsection (a) for a period not to exceed 50 additional years beyond the maximum period described in subsection (a).

(2) Timing

The additional years provided under paragraph (1) shall begin on the date of initiation of construction of congressionally authorized nourishment.

(c) Plan for reducing risk to people and property

(1) In general

As part of the review described in subsection (b), the non-Federal interest shall submit to the Secretary a plan for reducing risk to people and property during the life of the project.

(2) Inclusion of plan in recommendation to Congress

The Secretary shall include the plan described in subsection (a) in the recommendations to Congress described in subsection (d).

(d) Report to Congress

Upon completion of the review described in subsection (b), the Secretary shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations of the Secretary related to the review; and

(2) include in the subsequent annual report to Congress required under section 2282d of title 33, any recommendations that require specific congressional authorization.

(e) Special rule

Notwithstanding any other provision of this section, for any existing authorized water re-