

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS
CHAPTER 26 - WATER POLLUTION PREVENTION AND CONTROL
SUBCHAPTER I - RESEARCH AND RELATED PROGRAMS

§ 1272. Environmental dredging

(a) Operation and maintenance of navigation projects

Whenever necessary to meet the requirements of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove and remediate, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) Nonproject specific

(1) In general

The Secretary may remove and remediate contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal and remediation is requested by a non-Federal sponsor and the sponsor agrees to pay 35 percent of the cost of such removal and remediation.

(2) Maximum amount

The Secretary may not expend more than \$50,000,000 in a fiscal year to carry out this subsection.

(c) Joint plan requirement

The Secretary may only remove and remediate contaminated sediments under subsection (b) of this section in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(d) Disposal costs

Costs of disposal of contaminated sediments removed under this section shall be a¹ shared as a cost of construction.

(e) Limitation on statutory construction

Nothing in this section shall be construed to affect the rights and responsibilities of any person under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9601 et seq.].

(f) Priority work

In carrying out this section, the Secretary shall give priority to work in the following areas:

- (1) Brooklyn Waterfront, New York.
- (2) Buffalo Harbor and River, New York.
- (3) Ashtabula River, Ohio.
- (4) Mahoning River, Ohio.
- (5) Lower Fox River, Wisconsin.
- (6) Passaic River and Newark Bay, New Jersey.
- (7) Snake Creek, Bixby, Oklahoma.
- (8) Willamette River, Oregon.

(g) Nonprofit entities

Notwithstanding section 1962d–5b of title 42, for any project carried out under this section, a non-Federal sponsor may include a nonprofit entity, with the consent of the affected local government.

Footnotes

¹ So in original. The word “a” probably should not appear.

(Pub. L. 101–640, title III, § 312, Nov. 28, 1990, 104 Stat. 4639; Pub. L. 104–303, title II, § 205, Oct. 12, 1996, 110 Stat. 3679; Pub. L. 106–53, title II, § 224, Aug. 17, 1999, 113 Stat. 297; Pub. L. 106–541, title II, § 210(a), Dec. 11, 2000, 114 Stat. 2592.)

References in Text

The Federal Water Pollution Control Act, referred to in subsec. (a), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to this chapter (§ 1251 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (e), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Codification

Section was formerly set out as a note under section 1252 of this title.

Section was enacted as part of the Water Resources Development Act of 1990, and not as part of the Federal Water Pollution Control Act which comprises this chapter.

Amendments

2000—Subsec. (g). Pub. L. 106–541 added subsec. (g).

1999—Subsec. (b)(1). Pub. L. 106–53, § 224(1)(A), substituted “35 percent” for “50 percent”.

Subsec. (b)(2). Pub. L. 106–53, § 224(1)(B), substituted “\$50,000,000” for “\$20,000,000”.

Subsec. (d). Pub. L. 106–53, § 224(2), substituted “shared as a cost of construction” for “non-Federal responsibility”.

Subsec. (f)(6) to (8). Pub. L. 106–53, § 224(3), added pars. (6) to (8).

1996—Subsec. (a). Pub. L. 104–303, § 205(1), inserted “and remediate” after “remove”.

Subsec. (b)(1). Pub. L. 104–303, § 205(1), (2)(A), inserted “and remediate” after “remove” and inserted “and remediation” after “removal” in two places.

Subsec. (b)(2). Pub. L. 104–303, § 205(2)(B), substituted “\$20,000,000” for “\$10,000,000”.

Subsec. (c). Pub. L. 104–303, § 205(1), inserted “and remediate” after “remove”.

Subsec. (f). Pub. L. 104–303, § 205(3), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “This section shall not be effective after the last day of the 5-year period beginning on November 28, 1990; except that the Secretary may complete any project commenced under this section on or before such last day.”