



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-CO

SEP 29 2017

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 2102(b) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), Harbor and Channel Operation and Maintenance

1. Section 2102(b) of WRRDA 2014 amends Section 101(b)(1) of the Water Resources Development Act (WRDA) of 1986 to provide that the federal share of the costs for operation and maintenance of a navigation project for a harbor or inland harbor is 100 percent, except that in the case of a deep-draft harbor, the non-federal interests shall be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost which the Secretary determines would be incurred for operation and maintenance of such project if such project had a depth of 50 feet. Section 101(b) of WRDA 1986, as amended (33 U.S.C. 2211(b)), and Section 2102(b) of WRRDA 2014 are enclosed.
2. Section 214(1) of WRDA 1986 defines a "deep-draft harbor" as a harbor which is authorized to be constructed to a depth of more than 45 feet. Therefore, for a harbor authorized with a depth in excess of 45 feet, 100 percent of the operation and maintenance costs of that project up to 50 feet, including the associated justified advanced maintenance and allowable overdepth, is a federal expense; and for a harbor with an authorized depth in excess of 50 feet, the non-federal sponsor is required to pay 50 percent of the costs that the Corps of Engineers determines are in excess of the costs it would incur for operation and maintenance of the project to a depth of 50 feet, including the associated justified advanced maintenance and allowable overdepth. The excess costs that would be incurred for operation and maintenance of the project to a depth greater than 50 feet should be developed as part of the feasibility study through appropriate hydrodynamic modeling, other state of the art methodology, and historical information. This new cost sharing applies to operation and maintenance contracts awarded after 9 June 9 2014 for deep draft harbors constructed after 16 November 1986. Coastal Navigation Projects. Designed, constructed, dredged, and maintained navigation project grades in coastal areas shall be directly referenced to a local Mean Lower Low Water (MLLW) datum modeled on the latest NTDE as defined by NOAA for the project area. Reference ER-1110-2-8160.
3. The model project partnership agreement (PPA) for navigation is currently under revision, and the revised model will reflect the new cost sharing for operation and maintenance. In the case of previously executed PPAs involving deep draft harbors constructed pursuant to WRDA 1986 or any other law approved after 17 November 1986,

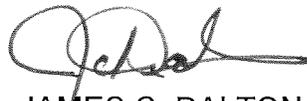
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SUBJECT: Implementation Guidance for Harbor Deepening, Section 2102(b) of the Water Resources Reform Development Act of 2014 (WRRDA 2014)

the PPA will be amended to reflect the new cost sharing for the portion of a project with depths between 45 feet and 50 feet for operation and maintenance contracts awarded after 9 June 9 2014. The district should submit the amendment through the MSC to the appropriate HQUSACE RIT for HQUSACE review and approval.

4. Future budgetary data and documents, as well as any other project documents should reflect the appropriate cost sharing. Project specific questions will be directed from the district through their MSC to the appropriate HQUSACE RIT.

5. Any questions regarding this implementation guidance may be directed to Jeffrey McKee, Chief, Navigation and Operations Branch, at 202-761-8648 or jeffrey.a.mckee@usace.army.mil.



JAMES C. DALTON, P.E.
Director of Civil Works

Encl

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Section 101(b) of WRDA 1986, as amended (33 U.S.C. 2211(b). Operation and Maintenance.

(1) In general. The Federal share of the cost of operation and maintenance of each navigation project for a harbor or inland harbor constructed by the Secretary pursuant to this Act or any other law approved after the date of the enactment of this Act [enacted Nov. 17, 1986] shall be 100 percent, except that in the case of a deep-draft harbor, the non-Federal interests shall be responsible for an amount equal to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost which the Secretary determines would be incurred for operation and maintenance of such project if such project had a depth of 50 feet.

(2) Dredged material disposal facilities. The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph shall be determined in accordance with subsection (a). The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).

SEC. 2102. OPERATION AND MAINTENANCE.

Section 101(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)(1)) is amended by striking "45 feet" and inserting "50 feet"