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

CECW-CO

S: 30 July 2008
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MEMORANDUM FOR COMMANDER, NORTH ATLANTIC DIVISION

SUBJECT: Implementation Guidance for Section 2047(a), Federal Hopper Dredges, of the Water Resources Development Act of 2007 (WRDA 2007)

1. The purpose of this memorandum is to provide guidance on implementing Section 2047(a) of WRDA 2007, Federal Hopper Dredges, which amends Section 563, Hopper Dredge McFarland, of WRDA 1996 and directs the Secretary of the Army to place the U.S. Army Corps of Engineers Hopper Dredge McFarland in ready reserve status, not earlier than 1 October 2009, and not later than 31 Dec 2009, and to use the vessel solely for urgent and emergency purposes in accordance with existing emergency response protocols.

2. Background: Public Law 95-269 directed the Corps to use private industry when it has the capability to do dredging work at reasonable prices and in a timely manner, and to reduce the Corps dredge fleet to the minimum necessary to carry out emergency and national defense work and to ensure sufficient Federal and private dredge capacity to carry out the dredging workload. The Corps dredge fleet was reduced from 36 dredges to 11 dredges since enactment of PL 95-269. Section 237 of WRDA 1996 directed the Corps to place the hopper dredge Wheeler in ready reserve status. Section 563, Hopper Dredge McFarland, of WRDA 1996 directed the Secretary to determine whether to modernize and make efficiency improvements to the McFarland, and determine whether the dredge should be returned to active service or put in reserve fleet status after completing and paying for potential improvements.

3. In accordance with Section 2047(a) of WRDA 2007 you should begin making the necessary preparations to place the hopper dredge McFarland into the Ready Reserve status on or after 1 October 2009, but no later than 31 December 2009. Upon moving the dredge to a ready reserve status, the dredge will be limited to working a maximum of 70 days per year and only in the Delaware River and Bay, unless the dredge is called out to active status under the provisions of paragraph (c) of Section 563 of WRDA 1996, as amended, which states that the Secretary, in consultation with affected stakeholders, shall place the dredge in active status to perform work if the Secretary determines that private industry has failed to submit a responsive and responsible bid for work advertised by the Secretary, or industry has failed to carry out a project as required pursuant to a contract between industry and the Secretary.

4. Effective Fiscal Year 2010, funding for the dredge should be budgeted under the Delaware River, Philadelphia to the Sea project for the 70 days of work to be performed on the project. The Division should develop an estimate of the additional funds that will be required to cover the dredge costs for the remainder of the year while in ready reserve status. The Division shall also develop an estimate for the necessary repairs to be made to maintain the vessel in a ready reserve

fully operational condition. Funds for the dredge's Ready Reserve status should be budgeted as a Remaining Item under the Operation & Maintenance appropriation. Funds for the necessary repairs shall be requested from the Plant Replacement and Improvement Program (PRIP).

5. Please submit your plans for placing the McFarland in Ready Reserve status and making the necessary repairs, together with the estimated annual ready reserve and PRIP costs, with back-up documentation, no later than 30 July 2008. Questions regarding this matter should be directed to Mr. James E. Walker, Chief, Navigation Branch, at (202) 761-8648.

FOR THE COMMANDER:

STEVEN L. STOCKTON, P.E.
Director of Civil Works

(1) in the first sentence—

(A) by striking "two years" and inserting "year"; and

(B) by striking "7" and inserting "5";

(2) in the last sentence by striking "30 months after the date" and inserting "the last date of the fiscal year following the fiscal year in which"; and

(3) in the last sentence by striking "such 30 month period" and inserting "such period".

SEC. 2047. FEDERAL HOPPER DREDGES.

(a) HOPPER DREDGE MCFARLAND.—Section 563 of the Water Resources Development Act of 1996 (110 Stat. 3784) is amended to read as follows:

"SEC. 563. HOPPER DREDGE MCFARLAND.

"(a) PLACEMENT IN READY RESERVE STATUS.—Not before October 1, 2009, and not after December 31, 2009, the Secretary shall—

"(1) place the Federal hopper dredge McFarland (referred to in this section as the 'vessel') in a ready reserve status; and

"(2) use the vessel solely for urgent and emergency purposes in accordance with existing emergency response protocols.

"(b) ROUTINE TESTS AND MAINTENANCE.—

"(1) IN GENERAL.—The Secretary shall periodically perform routine underway dredging tests of the equipment (not to exceed 70 days per year) of the vessel in a ready reserve status to ensure the ability of the vessel to perform urgent and emergency work.

"(2) MAINTENANCE.—The Secretary—

"(A) shall not assign any scheduled hopper dredging work to the vessel other than dredging tests in the Delaware River and Bay; but

"(B) shall perform any repairs, including any asbestos abatement, necessary to maintain the vessel in a ready reserve fully operational condition.

"(c) ACTIVE STATUS FOR DREDGING.—The Secretary, in consultation with affected stakeholders, shall place the vessel in active status in order to perform dredging work if the Secretary determines that private industry has failed—

"(1) to submit a responsive and responsible bid for work advertised by the Secretary; or

"(2) to carry out a project as required pursuant to a contract between the industry and the Secretary.".

(b) HOPPER DREDGES ESSAYONS AND YAQUINA.—Section 3(c)(7)(B) of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following: "This subparagraph shall not apply to the Federal hopper dredges Essayons and Yaquina of the Corps of Engineers.".

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 3001. BLACK WARRIOR-TOMBIGBEE RIVERS, ALABAMA.

Section 111 of title I of division C of the Consolidated Appropriations Act, 2005 (118 Stat. 2944) is amended to read as follows: