

Subject: Legislative changes related to navigation

1. Non-Federal Sponsor. Port of Houston Authority of Harris County, Texas
2. Description of Requests. The following are requested changes to law with regard to navigation projects. Requested changes include those developed by the AAPA-Corps Quality Partnership Initiative committee.
 - a. Revise 50/50 cost-share percentage threshold for new work construction from a depth of 45' to 50'. (Section 101 (a) (C) of the WRDA of 1986)
 - b. Change the "donor" port designation with regard to HMTF excess funds returned to a port or harbor from the limit of 25% of O&M compared to gross HMTF receipts to a more equitable 35% level of return. (Section 2106 (a)(2)(C) of the WRRDA of 2014)
 - c. Direct that user fees collected for federal disposal facilities shall be retained by the Corps District for use on subsequent O&M projects. (Section 217 of the WRDA of 1996)
 - d. Allow the Assistant Secretary of the Army for Civil Works to delegate to the District Engineer the authority to receive funds for non-federal use of federal placement areas, when such use does restrict use of placement areas for federal use, material to be placed is determined to be suitable and acceptable for placement. (Section 217 of the WRDA of 1996)
 - e. Authorize a non-federal interest, at its request, to assume responsibility for O&M of placement areas for work in accordance with Federal standards, on a reimbursable basis.
 - f. Authorize a non-federal interest, at its request, to perform O&M of authorized navigation projects and be eligible for reimbursement of the federal share of the cost subject to appropriations.
 - g. For navigation projects, authorize the District Engineer to include Section 14 (33 U.S.C. 408) considerations together with Section 10 (33 U.S.C. 403) determinations and the issuance of permits.
3. Purpose. Renormalize cost sharing provisions established by WRDA 1986 and WRRDA 2014; enable funds collected to offset Corps costs for O&M improvements at projects to be retained at the district level and used for those same projects; and enable greater flexibility for non-federal sponsor performance of projects with reimbursement of federal share. Requested changes also provide more realistic designation of donor ports for possible HMTF revenue return and distribution at the port or harbor level.
4. Estimates of Cost. Cost of initiatives varies.
 - a. Raising the 50/50 cost share has the potential to increase federal project cost, but maintains the same relative burden for the maritime community as existed when the cost share requirements were introduced.
 - b. Donor Port definition—no net increase, as a port can only be an energy transfer or donor port; some current energy transfer ports could become donor ports, which could provide for a more equitable distribution of funds returned to the port.

- c. Direct user fees are used on local projects—no cost increase.
 - d. Delegation of authority – no cost increase.
 - e. (and f) Authority for performance of work, with reimbursement of the federal cost – no cost increase.
 - g. Combining 408 with Section 10 permits – no cost increase.
5. Description of Anticipated Benefits, by request:
- a. Extending the 50/50 cost share threshold from 45' to 50' for new work is consistent with WRRDA 2014's threshold modification for O&M costs to the similar 50' depth. This modification does not impact the benefit cost ratio, but better enables non-federal interests to pay for complementary and necessary industrial and transportation infrastructure that remains the non-federal interest's responsibility.
 - b. Provide for a more equitable distribution of excess HMTF revenues to the strongest donor ports and industries.
 - c. This request proposes to update and improve legislation to reflect the significant changes in maritime transportation operations (including increasing size of vessels); changes will facilitate modernization of infrastructure and keep America internationally competitive.
 - d. The changes streamline administration of placement area use by delegating to the District Commander decisions related to and the authority to collect fees and apply funds received for O&M purposes to the general navigation feature impacted.
 - e. (and f) Provides for greater responsiveness to urgent requirements for O&M of navigation features by enabling qualified non-federal interests to contract for requirements with an opportunity for partial reimbursement.
 - g. Including consideration of Sections 10 and 14 of RHA 1899 and allowing for concurrent permit decisions at the district level will streamline administration and accelerating processing times for permits and permissions and reduce both federal and non-federal costs.
6. Description of Local Support. This request is expected to have strong support by the navigation district, port authority community, and maritime industry support.
7. NFS Statement of Financial Capability. The Port of Houston Authority is the non-federal sponsor of the Houston Ship Channel (part of the Houston-Galveston Navigation Channels project) and its tributary channels, and has the financial capability for continued support of the waterways as described by the existing project agreements for each channel and the Project Cooperation Agreement for the Houston-Galveston Navigation Channels project.
8. Statement of Support. The Port of Houston Authority fully supports modifications to federal law that result in improvements to navigability of ports and channels, facilitate growth in trade, and increase national economic development benefits. The Port of Houston Authority intends to support its projects as required by law and understands the cost-sharing implications of the recommended changes to law.