
SECTION 214, WATER RESOURCE DEVELOPMENT ACT

Background

Section 214 of the Water Resources Development Act (WRDA) of 2000 (P.L. 106-541) allows the Secretary of the Army for Civil Works (Corps) to accept and expend funds contributed by non-Federal public entities, like ports, to expedite the processing of permits. Others eligible include public-utilities, natural gas companies, and railroad carriers. In addition, title 23 U.S.C. Section 139(j) (Section 139(j)) and title 49 U.S.C. Section 307 (Section 307) allows the Corps to accept and expend funds from public entities to expedite permit reviews for projects which received grant funding from the U.S. Department of Transportation (USDOT) for transportation projects. The Corps Regulatory Program uses funds contributed through Section 214, 139(j), and 307 to expedite Section 404 Clean Water Act (CWA), Section 10 Rivers and Harbors Act (RHA), and Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) permit reviews. Typically, the public entities and the Corps execute a memorandum of agreement (MOA) or funding agreement stipulating the terms and conditions.

Section 214 Permanence Water Resources Reform and Development Act (WRRDA) of 2014

- PNWA led a coalition of supporters to make Section 214 permanent in WRRDA 2014 since it was first authorized as a temporary authority in WRDA 2000. Several temporary extensions of Section 214 were necessary to avoid a sunset of the authority.
- Section 214 permanence was also supported by the U.S. Chamber of Commerce, American Association of Port Authorities (AAPA), American Association of State Highway and Transportation Officials (AASHTO), American Public Works Association (APWA), National Waterways Conference (NWC), and the National Association of Flood and Stormwater Management Agencies (NAFSMA).
- PNWA led a coalition that succeeded in expanding Section 214 authority to be used to process mitigation bank permits in WRDA 2022.
- As of 2022, there were 98 active Section 214 agreements in place spanning 29 of the 38 Corps Districts.

Benefits of Section 214 Permanence

- Section 214 allows local governments to move forward with vital infrastructure and ecosystem restoration projects.
- By funding additional staff to work on specific, time-intensive permits, existing Corps staffers can process other permit backlogs more quickly, resulting in a reduction of wait times not only for the funding entity, but others too.
- Lapses and short-term extensions of the authority were detrimental to the planning and predictability necessary for contracting. When the authority approached sunset, Corps districts were unable to enter into new Section 214 contracts. In addition, if the future of the authority was uncertain, districts made term appointments rather than full-time hires for Section 214 agreements. The shorter the term appointment, the fewer qualified candidates applied.
- Rapidly growing cargo volumes require infrastructure investment in the nation's ports. Permit backlogs impact the timeliness and cost of these investments - costs eventually borne by U.S. consumers and shippers.
- Section 214 agreements between Corps districts and non-federal entities are subject to public review and comment, and Corps decisions on these permit applications are subject to increased scrutiny to assure impartiality and transparency.
- The Corps has updated their guidelines for Section 214, improving oversight, reporting requirements, consistency and transparency regarding the authority.