2015—Pub. L. 114–94, §1446(d)(3), amended directory language of Pub. L. 112–141, §1313(a)(1). See 2012 Amendment note below.

Subsec. (a)(2)(B)(iii). Pub. L. 114–94, §1308(1), substituted ''(42 U.S.C. 4321 et seq.)'' for ''(42 U.S.C. 13 4321 et seq.)''.

Subsec. (c)(4). Pub. L. 114–94, §1308(2), inserted ''reasonably'' before ''considers necessary''.

Subsec. (e). Pub. L. 114–94, §1308(3), inserted ''and without further approval of'' after ''in lieu of''.

Subsec. (g)(1). Pub. L. 114–94, §1308(4)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

''(A) semiannual audits during each of the first 2 years of State participation; and

''(B) annual audits during each of the third and fourth years of State participation.''

Subsec. (g)(3). Pub. L. 114–94, §1308(4)(B), added par. (3).

Subsec. (j)(1). Pub. L. 114–94, §1308(5), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The Secretary may terminate the participation of any State in the program if—

''(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

''(B) the Secretary provides to the State—

''(i) notification of the determination of noncompliance; and

''(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

''(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary.''

Subsecs. (k), (*l*). Pub. L. 114–94, §1308(6), added subsecs. (k) and (*l*).

2012—Pub. L. 112–141, §1313(a)(1), as amended by Pub. L. 114–94, §1446(d)(3), struck out ''pilot'' before ''program'' in section catchline.

Subsec. (a)(1). Pub. L. 112–141, §1313(a)(2), struck out ''pilot'' before ''program (referred to''.

Subsec. (a)(2)(B)(ii) to (iv). Pub. L. 112–141, §1313(b)(1), added cls. (ii) to (iv) and struck out former cl. (ii) which read as follows: ''the Secretary may not assign—

''(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

''(II) any responsibility imposed on the Secretary by section 134 or 135.''

Subsec. (a)(2)(F), (G). Pub. L. 112–141, §1313(b)(2), added subpars. (F) and (G).

Subsec. (b)(1). Pub. L. 112–141, §1313(c)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.''

Subsec. (b)(2). Pub. L. 112–141, §1313(c)(2), substituted ''date on which amendments to this section by the MAP-21 take effect, the Secretary shall amend, as appropriate,'' for ''date of enactment of this section, the Secretary shall promulgate'' in introductory provisions.

Subsec. (c)(4) to (6). Pub. L. 112–141, §1313(d), added pars. (4) to (6).

Subsec. (e). Pub. L. 112–141, §1313(e), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (g)(1)(B). Pub. L. 112–141, §1313(f), substituted ''of the third and fourth years'' for ''subsequent year''.

Subsec. (h). Pub. L. 112–141, §1313(g)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112–141, §1313(g)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 112–140 substituted ''September 30, 2012'' for ''the date that is 7 years after the date of enactment of this section''.

Subsec. (j). Pub. L. 112–141, §1313(h), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to termination of the original pilot program on Sept. 30, 2012, and termination of State participation by the Secretary.

Pub. L. 112–141, §1313(g)(1), redesignated subsec. (i) as (j).

2010—Subsec. (i)(1). Pub. L. 111–322 substituted ''7 years after'' for ''6 years after''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114–94, div. A, title I, §1446(d), Dec. 4, 2015, 129 Stat. 1438, provided that the amendment made by section 1446(d)(3) is effective as of July 6, 2012, and as if included in Pub. L. 112–141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

Pub. L. 112–140, title I, §101(e)(2), June 29, 2012, 126 Stat. 392, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if included in section 101 of the Surface Transportation Extension Act of 2012 [Pub. L. 112–102] and shall not be subject to the special rule in section 1(c) of this Act [set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title].''

§ 328. Eligibility for environmental restoration and pollution abatement

(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

(Added Pub. L. 109–59, title VI, §6006(b), Aug. 10, 2005, 119 Stat. 1872.)

§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds

made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:

(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, provision of habitat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees, and aesthetic enhancement.

(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—

(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

(3) control or elimination of plants as defined in subsection (a)(2);

(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and

(5) training.

(c) CONTRIBUTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

(Added Pub. L. 109–59, title VI, § 6006(b), Aug. 10, 2005, 119 Stat. 1872; amended Pub. L. 114–94, div. A, title I, § 1415(b), Dec. 4, 2015, 129 Stat. 1421.)

Editorial Notes

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (b)(1), is title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, which is classified principally to chapter 104 (§ 7701 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of Title 7 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–94 inserted ''provision of habitat, forage, and migratory way stations for Monarch butterflies, other native pollinators, and honey bees,'' before ''and aesthetic enhancement''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

INVASIVE PLANT ELIMINATION PROGRAM

Pub. L. 117–58, div. A, title I, § 11522, Nov. 15, 2021, 135 Stat. 604, provided that:

''(a) DEFINITIONS.—In this section:

''(1) INVASIVE PLANT.—The term 'invasive plant' means a nonnative plant, tree, grass, or weed species, including, at a minimum, cheatgrass, Ventenata dubia, medusahead, bulbous bluegrass, Japanese brome, rattail fescue, Japanese honeysuckle, phragmites, autumn olive, Bradford pear, wild parsnip, sericea lespedeza, spotted knapweed, garlic mustard, and palmer amaranth.

''(2) PROGRAM.—The term 'program' means the grant program established under subsection (b).

''(3) TRANSPORTATION CORRIDOR.—The term 'transportation corridor' means a road, highway, railroad, or other surface transportation route.

''(b) ESTABLISHMENT.—The Secretary [of Transportation] shall carry out a program to provide grants to States to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way.

''(c) APPLICATION.—To be eligible to receive a grant under the program, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(d) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—Subject to this subsection, a State that receives a grant under the program may use the grant funds to carry out activities to eliminate or control existing invasive plants or prevent introduction of or encroachment by new invasive plants along and in areas adjacent to transportation corridor rights-of-way.

''(2) PRIORITIZATION OF PROJECTS.—In carrying out the program, the Secretary shall give priority to projects that utilize revegetation with native plants and wildflowers, including those that are pollinator-friendly.

''(3) PROHIBITION ON CERTAIN USES OF FUNDS.—Amounts provided to a State under the program may not be used for costs relating to mowing a transportation corridor right-of-way or the adjacent area unless—

''(A) mowing is identified as the best means of treatment according to best management practices; or

''(B) mowing is used in conjunction with another treatment.

''(4) LIMITATION.—Not more than 10 percent of the amounts provided to a State under the program may be used for the purchase of equipment.

''(5) ADMINISTRATIVE AND INDIRECT COSTS.—Not more than 5 percent of the amounts provided to a State under the program may be used for the administrative and other indirect costs (such as full time employee salaries, rent, insurance, subscriptions, utilities, and office supplies) of carrying out eligible activities.

''(e) REQUIREMENTS.—

''(1) COORDINATION.—In carrying out eligible activities with a grant under the program, a State shall coordinate with—

''(A) units of local government, political subdivisions of the State, and Tribal authorities that are carrying out eligible activities in the areas to be treated;

''(B) local regulatory authorities, in the case of a treatment along or adjacent to a railroad right-of-way; and

''(C) with respect to the most effective roadside control methods, State and Federal land management agencies and any relevant Tribal authorities.

''(2) ANNUAL REPORT.—Not later than 1 year after the date on which a State receives a grant under the program, and annually thereafter, that State shall provide to the Secretary an annual report on the treatments carried out using funds from the grant.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost of an eligible activity carried out using funds from a grant under the program shall be—

''(A) in the case of a project that utilizes revegetation with native plants and wildflowers, including those that are pollinator-friendly, 75 percent; and

''(B) in the case of any other project not described in subparagraph (A), 50 percent.

''(2) CERTAIN FUNDS COUNTED TOWARD NON-FEDERAL SHARE.—A State may include amounts expended by the State or a unit of local government in the State to address current invasive plant populations and prevent future infestation along or in areas adjacent to transportation corridor rights-of-way in calculating the non-Federal share required under the program.

''(g) FUNDING.—There is authorized to be appropriated to carry out the program $50,000,000 for each of fiscal years 2022 through 2026.''

§ 330. Program for eliminating duplication of environmental reviews

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to authorize States that have assumed responsibilities of the Secretary under section 327 and are approved to participate in the program under this section to conduct environmental reviews and make approvals for projects under State environmental laws and regulations instead of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), consistent with the requirements of this section.

(2) PARTICIPATING STATES.—The Secretary may select not more than 2 States to participate in the program.

(3) ALTERNATIVE ENVIRONMENTAL REVIEW AND APPROVAL PROCEDURES DEFINED.—In this section, the term ''alternative environmental review and approval procedures'' means—

(A) substitution of 1 or more State environmental laws for—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) any provisions of section 139 establishing procedures for the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders; and

(B) substitution of 1 or more State environmental regulations for—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) any provisions of section 139 establishing procedures for the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that are under the authority of the Secretary, as the Secretary, in consultation with the State, considers appropriate; and

(iii) related regulations and Executive orders.

(b) APPLICATION.—To be eligible to participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State, including—

(A) the procedures the State uses to engage the public and consider alternatives to the proposed action; and

(B) the extent to which the State considers environmental consequences or impacts on resources potentially impacted by the proposed action (such as air, water, or species);

(2) each Federal requirement described in subsection (a)(3) that the State is seeking to substitute;

(3) each State law or regulation that the State intends to substitute for such Federal requirement;

(4) an explanation of the basis for concluding that the State law or regulation is at least as stringent as the Federal requirement described in subsection (a)(3);

(5) a description of the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(6) verification that the State has the financial resources necessary to carry out the authority that may be granted under the program;

(7) evidence of having sought, received, and addressed comments on the proposed application from the public; and

(8) any such additional information as the Secretary, or, with respect to section (d)(1)(A), the Secretary in consultation with the Chair, may require.

(c) REVIEW OF APPLICATION.—In accordance with subsection (d), the Secretary shall—

(1) review and accept public comments on an application submitted under subsection (b);

(2) approve or disapprove the application not later than 120 days after the date of receipt of an application that the Secretary determines is complete; and

(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

(d) APPROVAL OF APPLICATION.—

(1) IN GENERAL.—The Secretary shall approve an application submitted under subsection (b) only if—

(A) the Secretary, with the concurrence of the Chair and after considering any public comments received pursuant to subsection (c), determines that the laws and regulations of the State described in the application are at least as stringent as the Federal requirements described in subsection (a)(3);

(B) the Secretary, after considering any public comments received pursuant to subsection (c), determines that the State has the capacity, including financial and personnel, to assume the responsibility;