

account with the Secretary of the Treasury for such purposes by any cooperating entity or organization according to cost-sharing agreements proscribed by the Secretary. Reimbursement for services provided under this section shall be credited to the appropriation concerned.

(Pub. L. 102-580, title IV, §401, Oct. 31, 1992, 106 Stat. 4862.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

§ 2330. Aquatic ecosystem restoration

(a) General authority

(1) In general

The Secretary may carry out a project to restore and protect an aquatic ecosystem or estuary if the Secretary determines that the project—

- (A)(i) will improve the quality of the environment and is in the public interest; or
- (ii) will improve the elements and features of an estuary (as defined in section 2902 of this title); and
- (B) is cost-effective.

(2) Dam removal

A project under this section may include removal of a dam.

(b) Cost sharing

(1) In general

Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all lands, easements, rights-of-way, and necessary relocations.

(2) Form

Before October 1, 2003, the Federal share of the cost of a project under this section may be provided in the form of reimbursements of project costs.

(c) Agreements

(1) In general

Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay the non-Federal share of the costs of construction required by this section and to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(2) Nonprofit entities

Notwithstanding section 1962d-5b of title 42, for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.

(d) Cost limitation

Not more than \$5,000,000 in Federal funds may be allotted under this section for a project at any single locality.

(e) Funding

There is authorized to be appropriated to carry out this section \$50,000,000 for each fiscal year.

(Pub. L. 104-303, title II, §206, Oct. 12, 1996, 110 Stat. 3679; Pub. L. 106-53, title II, §210, Aug. 17, 1999, 113 Stat. 287; Pub. L. 110-114, title II, §2020, Nov. 8, 2007, 121 Stat. 1078.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1996, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-114, §2020(1), added subsec. (a) and struck out former subsec. (a), which read as follows:

“(a) GENERAL AUTHORITY.—The Secretary may carry out an aquatic ecosystem restoration and protection project if the Secretary determines that the project—

- “(1) will improve the quality of the environment and is in the public interest; and
- “(2) is cost-effective.”

Subsec. (e). Pub. L. 110-114, §2020(2), substituted “\$50,000,000” for “\$25,000,000”.

1999—Subsec. (b). Pub. L. 106-53, §210(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c). Pub. L. 106-53, §210(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 104-303, set out as a note under section 2201 of this title.

§ 2330a. Monitoring ecosystem restoration

(a) In general

In conducting a feasibility study for a project (or a component of a project) for ecosystem restoration, the Secretary shall ensure that the recommended project includes, as an integral part of the project, a plan for monitoring the success of the ecosystem restoration.

(b) Monitoring plan

The monitoring plan shall—

- (1) include a description of the monitoring activities to be carried out, the criteria for ecosystem restoration success, and the estimated cost and duration of the monitoring; and
- (2) specify that the monitoring shall continue until such time as the Secretary determines that the criteria for ecosystem restoration success will be met.

(c) Cost share

For a period of 10 years from completion of construction of a project (or a component of a project) for ecosystem restoration, the Secretary shall consider the cost of carrying out the monitoring as a project cost. If the monitoring plan under subsection (b) requires monitoring beyond the 10-year period, the cost of monitoring shall be a non-Federal responsibility.

(Pub. L. 110–114, title II, §2039, Nov. 8, 2007, 121 Stat. 1100.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110–114, set out as a note under section 2201 of this title.

§ 2331. Use of continuing contracts for construction of certain projects

(a) In general

Notwithstanding any other provision of law, the Secretary shall not implement a fully allocated funding policy with respect to a water resource project if initiation of construction has occurred but sufficient funds are not available to complete the project.

(b) Continuing contracts

The Secretary shall enter into a continuing contract for a project described in subsection (a) of this section.

(c) Initiation of construction clarified

For the purposes of this section, initiation of construction for a project occurs on the date of enactment of an Act that appropriates funds for the project from 1 of the following appropriation accounts:

- (1) Construction, General.
- (2) Operation and Maintenance, General.
- (3) Flood Control, Mississippi River and Tributaries.

(Pub. L. 106–53, title II, §206, Aug. 17, 1999, 113 Stat. 286.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1999, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–53, set out as a note under section 2201 of this title.

§ 2332. Flood mitigation and riverine restoration program

(a) In general

The Secretary may undertake a program for the purpose of conducting projects to reduce flood hazards and restore the natural functions and values of rivers throughout the United States.

(b) Studies and projects

(1) Authority

In carrying out the program, the Secretary may conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement projects described in subsection (a) of this section.

(2) Consultation and coordination

The studies and projects carried out under this section shall be conducted, to the maxi-

imum extent practicable, in consultation and coordination with the Federal Emergency Management Agency and other appropriate Federal agencies, and in consultation and coordination with appropriate State and local agencies and tribes.

(3) Nonstructural approaches

The studies and projects shall emphasize, to the maximum extent practicable and appropriate, nonstructural approaches to preventing or reducing flood damages.

(4) Participation

The studies and projects shall be conducted, to the maximum extent practicable, in cooperation with State and local agencies and tribes to ensure the coordination of local flood damage reduction or riverine and wetland restoration studies with projects that conserve, restore, and manage hydrologic and hydraulic regimes and restore the natural functions and values of floodplains.

(c) Cost-sharing requirements

(1) Studies

Studies conducted under this section shall be subject to cost sharing in accordance with section 2215 of this title.

(2) Environmental restoration and non-structural flood control projects

(A) In general

The non-Federal interests shall pay 35 percent of the cost of any environmental restoration or nonstructural flood control project carried out under this section.

(B) Items provided by non-Federal interests

The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for such projects.

(C) Credit

The value of such land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this paragraph.

(3) Structural flood control projects

Any structural flood control projects carried out under this section shall be subject to cost sharing in accordance with section 2213(a) of this title.

(4) Operation and maintenance

The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(d) Project justification

(1) In general

Notwithstanding any other provision of law or requirement for economic justification established under section 1962–2 of title 42, the Secretary may implement a project under this section if the Secretary determines that the project—

- (A) will significantly reduce potential flood damages;