

tember 30, 1988, through September 30, 1992, such sums to remain available until expended.

(Pub. L. 99-662, title VII, §703, Nov. 17, 1986, 100 Stat. 4156.)

§ 2263. Study of Corps capability to conserve fish and wildlife

(a) Investigation and study

The Secretary shall investigate and study the feasibility of utilizing the capabilities of the United States Army Corps of Engineers to conserve fish and wildlife (including their habitats) where such fish and wildlife are indigenous to the United States, its possessions, or its territories. The scope of such study shall include the use of engineering or construction capabilities to create alternative habitats, or to improve, enlarge, develop, or otherwise beneficially modify existing habitats of such fish and wildlife. The study shall be conducted in consultation with the Director of the Fish and Wildlife Service of the Department of the Interior, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, and shall be transmitted within the 30-month period beginning on November 17, 1986, by the Secretary to Congress, together with the findings, conclusions, and recommendations of the Chief of Engineers. The Secretary, in consultation with the Federal officers referred to in the preceding sentence, shall undertake a continuing review of the matters covered in the study and shall transmit to Congress, on a biennial basis, any revisions to the study that may be required as a result of the review, together with the findings, conclusions, and recommendations of the Chief of Engineers.

(b) Projects

(1) In general

The Secretary is further authorized to conduct projects of alternative or beneficially modified habitats for fish and wildlife, including but not limited to man-made reefs for fish. There is authorized to be appropriated not to exceed \$100,000,000 to carry out such projects.

(2) Inclusions

Such projects shall be developed, and their effectiveness evaluated, in consultation with the Director of the Fish and Wildlife Service and the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration. Such projects shall include—

- (A) the construction of a reef for fish habitat in Lake Erie in the vicinity of Buffalo, New York;
- (B) the construction of a reef for fish habitat in the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida;
- (C) the construction of a reef for fish habitat in Lake Ontario in the vicinity of the town of Newfane, New York; and
- (D) the restoration and rehabilitation of habitat for fish, including native oysters, in the Chesapeake Bay and its tributaries in Virginia and Maryland, including—
 - (i) the construction of oyster bars and reefs;

- (ii) the rehabilitation of existing marginal habitat;
- (iii) the use of appropriate alternative substrate material in oyster bar and reef construction;
- (iv) the construction and upgrading of oyster hatcheries; and
- (v) activities relating to increasing the output of native oyster broodstock for seeding and monitoring of restored sites to ensure ecological success.

(3) Restoration and rehabilitation activities

The restoration and rehabilitation activities described in paragraph (2)(D) shall be—

- (A) for the purpose of establishing permanent sanctuaries and harvest management areas; and
- (B) consistent with plans and strategies for guiding the restoration of the Chesapeake Bay oyster resource and fishery.

(4) Cost sharing

(A) In general

The non-Federal share of the cost of any project under this subsection shall be 25 percent.

(B) Form

The non-Federal share may be provided through in-kind services, including—

- (i) the provision by the non-Federal interest of shell stock material that is determined by the Secretary to be suitable for use in carrying out the project; and
- (ii) in the case of a project carried out under paragraph (2)(D) after June 10, 2014, land conservation or restoration efforts undertaken by the non-Federal interest that the Secretary determines provide water quality benefits that—
 - (I) enhance the viability of oyster restoration efforts;
 - (II) are integral to the project; and
 - (III) are cost effective.

(C) Applicability

The non-Federal interest shall be credited with the value of in-kind services provided on or after October 1, 2000, for a project described in paragraph (1) completed on or after that date, if the Secretary determines that the work is integral to the project.

(5) Definition of ecological success

In this subsection, the term “ecological success” means—

- (A) achieving a tenfold increase in native oyster biomass by the year 2010, from a 1994 baseline; and
- (B) the establishment of a sustainable fishery as determined by a broad scientific and economic consensus.

In carrying out paragraph (4),¹ the Chief of Engineers may solicit participation by and the services of commercial watermen in the construction of the reefs.

(Pub. L. 99-662, title VII, §704, Nov. 17, 1986, 100 Stat. 4157; Pub. L. 104-303, title V, §505, Oct. 12,

¹ See References in Text note below.

1996, 110 Stat. 3757; Pub. L. 106-541, title III, § 342, Dec. 11, 2000, 114 Stat. 2612; Pub. L. 107-66, title I, § 113, Nov. 12, 2001, 115 Stat. 496; Pub. L. 109-103, title I, § 126, Nov. 19, 2005, 119 Stat. 2259; Pub. L. 110-114, title V, § 5021, Nov. 8, 2007, 121 Stat. 1202; Pub. L. 113-121, title IV, § 4010(b), June 10, 2014, 128 Stat. 1318; Pub. L. 114-322, title I, § 1180, Dec. 16, 2016, 130 Stat. 1677.)

REFERENCES IN TEXT

Paragraph (4), referred to in concluding provisions of subsec. (b), meaning subsec. (b)(4) of this section, was redesignated subsec. (b)(1)(D) by Pub. L. 107-66, title I, § 113(1), (2), Nov. 12, 2001, 115 Stat. 496. Subsequently, Pub. L. 110-114, title V, § 5021(1), (2)(B), (3), Nov. 8, 2007, 121 Stat. 1202, redesignated subsec. (b)(1)(D) as (b)(2)(D), struck it out, added a new subsec. (b)(2)(D), and redesignated former subsec. (b)(2) as (b)(4).

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114-322 substituted “\$100,000,000” for “\$60,000,000”.

2014—Subsec. (b)(1). Pub. L. 113-121, § 4010(b)(1), substituted “\$60,000,000” for “\$50,000,000”.

Subsec. (b)(4)(B). Pub. L. 113-121, § 4010(b)(2), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: “The non-Federal share may be provided through in-kind services, including the provision by the non-Federal interest of shell stock material that is determined by the Chief of Engineers to be suitable for use in carrying out the project.”

2007—Subsec. (b)(1). Pub. L. 110-114, § 5021(2), substituted “\$50,000,000” for “\$30,000,000” in second sentence and designated last sentence as par. (2).

Subsec. (b)(2). Pub. L. 110-114, § 5021(2)(B), designated last sentence of par. (1) as (2) and inserted heading. Former par. (2) redesignated (4).

Subsec. (b)(2)(D). Pub. L. 110-114, § 5021(3), added subpar. (D) and struck out former subpar. (D) which read as follows: “the construction of reefs and related clean shell substrate for fish habitat, including manmade 3-dimensional oyster reefs, in the Chesapeake Bay and its tributaries in Maryland and Virginia if the reefs are preserved as permanent sanctuaries by the non-Federal interests, consistent with the recommendations of the scientific consensus document on Chesapeake Bay oyster restoration dated June 1999.”

Subsec. (b)(3), (4). Pub. L. 110-114, § 5021(1), (3), added par. (3) and redesignated par. (2) as (4).

Subsec. (b)(5). Pub. L. 110-114, § 5021(4), which directed addition of par. (5) at end of subsec. (b), was executed by adding par. (5) after par. (4) to reflect the probable intent of Congress.

2005—Subsec. (b)(1). Pub. L. 109-103 substituted “\$30,000,000” for “\$20,000,000” in introductory provisions.

2001—Subsec. (b). Pub. L. 107-66 inserted subsec. heading, designated introductory provisions as par. (1), inserted par. (1) heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and substituted par. (2) for first sentence of concluding provisions which read “The non-Federal share of the cost of any project under this section shall be 25 percent.”

2000—Subsec. (b). Pub. L. 106-541, § 342(1), (3), substituted “\$20,000,000” for “\$7,000,000” in second sentence of introductory provisions and inserted at end of concluding provisions “In carrying out paragraph (4), the Chief of Engineers may solicit participation by and the services of commercial watermen in the construction of the reefs.”

Subsec. (b)(4). Pub. L. 106-541, § 342(2), added par. (4) and struck out former par. (4) which read as follows: “the construction of a reef for fish habitat in the Chesapeake Bay in Maryland and Virginia.”

1996—Subsec. (b). Pub. L. 104-303 substituted “\$7,000,000” for “\$5,000,000” in introductory provisions and inserted “and Virginia” after “Maryland” in par. (4).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under subsec. (a) of this section is listed on page 68), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 2264. Deauthorization of studies

(a) Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), not later than one year after November 17, 1986, and annually thereafter, the Secretary shall submit to Congress a list of incomplete water resources studies which have been authorized, but for which no funds have been appropriated during the 5 full fiscal years preceding the submission of such list. For each such study the Secretary shall include the following information:

- (1) the date of authorization and the manner in which the study was authorized;
- (2) a description of the purposes of the study;
- (3) a description of funding that has been made available for the study;
- (4) a description of any work that has been performed in carrying out the study and the results and conclusions, if any, of such work; and
- (5) a description of any work that remains to be done in carrying out the study and the time necessary for and estimated cost of completing such work.

(b) Each study included in a list under subsection (a) is not authorized on and after the 90th day following the submission to Congress of such list if no funds have been appropriated for such study after the list is submitted and before such 90th day.

(Pub. L. 99-662, title VII, § 710, Nov. 17, 1986, 100 Stat. 4160; Pub. L. 106-109, § 8(b), Nov. 24, 1999, 113 Stat. 1495.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-109, in first sentence, substituted “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), not” for “Not”.

§ 2265. Columbia River/Arkansas River Basin transfers

(a) No Federal agency shall study or participate in the study of any regional or river basin plan or any plan for any Federal water and related land resource project which has as its objective the transfer of water from the Columbia River Basin to any other region or any other major river basin of the United States, unless such study is approved by the Governors of all affected States.

(b) For a period of 5 years after November 17, 1986, no Federal agency shall study or participate in the study of any regional or river basin plan or any plan for any Federal water and related land resource project which has as its objective the transfer of water from the Arkansas River Basin to any other region or any other major river basin of the United States, unless such study is approved by the Governors of all affected States.