

ing for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

(A) a trust fund from which the principal is not spent; or

(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees.

(2) Form of State share

The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) In-kind contributions

In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) Partial payments

(1) The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

(f) Wetlands assessment

The Director shall, with the funds made available in accordance with section 3955 of this title, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

(Pub. L. 101-646, title III, §305, Nov. 29, 1990, 104 Stat. 4785; Pub. L. 102-212, title III, §302(a), Dec. 11, 1991, 105 Stat. 1660.)

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102-212 substituted “has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

“(A) a trust fund from which the principal is not spent; or

“(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees”

for “has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces”.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-212, title III, §302(b), Dec. 11, 1991, 105 Stat. 1661, provided that: “This section [amending this section] shall apply to grants awarded in fiscal year 1992 and each fiscal year thereafter.”

§ 3955. Distribution of appropriations

(a) Priority project and conservation planning expenditures

Of the total amount appropriated during a given fiscal year to carry out this chapter, 70 percent shall be available, and shall remain available until expended, for the purposes of making expenditures—

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under this chapter and the plan required under this chapter, including preparation of—

(A) preliminary assessments;

(B) general or site-specific inventories;

(C) reconnaissance, engineering or other studies;

(D) preliminary design work; and

(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetland restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this chapter;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this chapter;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this chapter.

(b) Coastal wetlands conservation grants

Of the total amount appropriated during a given fiscal year to carry out this chapter, 15 percent shall be available, and shall remain available to the Director, for purposes of making grants—

(1) to any coastal State, except States eligible to receive funding under subsection (a), to carry out coastal wetlands conservation projects in accordance with section 3954 of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) North American wetlands conservation

Of the total amount appropriated during a given fiscal year to carry out this chapter, 15 percent shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in coastal wetlands ecosystems in any coastal State under section 4407 of this title.

(Pub. L. 101-646, title III, §306, Nov. 29, 1990, 104 Stat. 4786; Pub. L. 103-375, §5, Oct. 19, 1994, 108 Stat. 3495; Pub. L. 108-447, div. C, title I, §114(a), Dec. 8, 2004, 118 Stat. 2944.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-447, §114(a)(1), struck out “, not to exceed \$70,000,000,” before “shall be available” in introductory provisions.

Subsec. (b). Pub. L. 108-447, §114(a)(2), struck out “, not to exceed \$15,000,000” before “shall be available” in introductory provisions.

Subsec. (c). Pub. L. 108-447, §114(a)(3), struck out “, not to exceed \$15,000,000,” before “shall be available”.

1994—Subsec. (c). Pub. L. 103-375 inserted “in coastal wetlands ecosystems” after “wetlands conservation projects”.

§ 3956. General provisions

(a) Additional authority for Corps of Engineers

The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) Study

The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(Pub. L. 101-646, title III, §307, Nov. 29, 1990, 104 Stat. 4787.)

§ 3957. Environmental banks

(a) Guidelines

Not later than 1 year after December 16, 2016, the Task Force shall, after public notice and opportunity for comment, issue guidelines for the use, maintenance, and oversight of environmental banks in Louisiana.

(b) Requirements

The guidelines issued pursuant to subsection (a) shall—

(1) set forth procedures for establishment and approval of environmental banks subject to the approval of the heads of the appropriate Federal agencies responsible for implementation of Federal environmental laws for which mitigation credits may be used;

(2) establish criteria for siting of environmental banks that enhance the resilience of coastal resources to inundation and coastal erosion in high priority areas, as identified within Federal or State restoration plans, including the restoration of resources within the scope of a project authorized for construction;

(3) establish criteria that ensure environmental banks secure adequate financial assurances and legally enforceable protection for the land or resources that generate the credits from environmental banks;

(4) stipulate that credits from environmental banks may not be used for mitigation of impacts required under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342)¹ or the Endangered Species Act (16 U.S.C. 1531 et seq.) in an area where an existing mitigation bank approved pursuant to such laws within 5 years of enactment of the Water Resources Development Act of 2016 has credits available;

(5) establish performance criteria for environmental banks; and

(6) establish criteria and financial assurance for the operation and monitoring of environmental banks.

(c) Environmental bank

(1) Definition of environmental bank

In this section, the term “environmental bank” means a project, project increment, or projects for purposes of restoring, creating, or enhancing natural resources at a designated site to establish mitigation credits.

(2) Credits

Mitigation credits created from environmental banks approved pursuant to this section may be used to satisfy existing liability under Federal environmental laws.

(d) Savings clause

(1) Application of Federal law

Guidelines developed under this section and mitigation carried out through an environmental bank established pursuant to such guidelines shall comply with all applicable requirements of Federal law (including regulations), including—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Endangered Species Act (16 U.S.C. 1531 et seq.);

(C) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

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

(E) section 2283 of title 33.

(2) Statutory construction

Nothing in this section may be construed to affect—

(A) any authority, regulatory determination, or legal obligation in effect the day before December 16, 2016; or

(B) the obligations or requirements of any Federal environmental law.

(e) Sunset

No new environmental bank may be created or approved pursuant to this section after the date that is 10 years after December 16, 2016.

(Pub. L. 101-646, title III, §309, as added Pub. L. 114-322, title IV, §5014, Dec. 16, 2016, 130 Stat. 1903.)

REFERENCES IN TEXT

Section 404 of the Federal Water Pollution Control Act, referred to in subsec. (b)(4), is section 404 of act June 30, 1948, ch. 758, which is classified to section 1344 of Title 33, Navigation and Navigable Waters. Section 1342 of Title 33 is section 402 of the Act.

The Endangered Species Act, referred to in subsecs. (b)(4) and (d)(1)(B), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

Enactment of the Water Resources Development Act of 2016, referred to in subsec. (b)(4), means the enactment of title I of Pub. L. 114-322, which was approved Dec. 16, 2016.

The Federal Water Pollution Control Act, referred to in subsec. (d)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26

¹ See References in Text note below.