

The Federal Water Pollution Control Act, referred to in par. (12), 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 (§1251 et seq.) of this title. Title VI of the Act is classified generally to subchapter VI (§1381 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

The Federal Credit Reform Act of 1990, referred to in par. (13), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

SHORT TITLE

Pub. L. 113-121, title V, §5021, June 10, 2014, 128 Stat. 1332, provided that: “This subtitle [subtitle C (§§5021-5035) of title V of Pub. L. 113-121, enacting this chapter] may be cited as the ‘Water Infrastructure Finance and Innovation Act of 2014.’”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 3902. Authority to provide assistance

(a) In general

The Secretary and the Administrator may provide financial assistance under this chapter to carry out projects, which shall be selected to ensure a diversity of project types and geographical locations.

(b) Responsibility

(1) Secretary

The Secretary shall provide financial assistance to carry out all projects under this chapter that are eligible projects under section 3905(1) of this title.

(2) Administrator

The Administrator shall provide financial assistance to carry out all projects under this chapter that are eligible projects under paragraphs (2), (3), (4), (5), (6), (7), and (9) of section 3905 of this title.

(3) Other projects

The Secretary or the Administrator, as applicable, may carry out eligible projects under paragraph (8) or (10) of section 3905 of this title.

(Pub. L. 113-121, title V, §5023, June 10, 2014, 128 Stat. 1333; Pub. L. 114-322, title IV, §5008(a), (b)(2)(A), Dec. 16, 2016, 130 Stat. 1896, 1897; Pub. L. 115-270, title IV, §4201(a)(1), Oct. 23, 2018, 132 Stat. 3877.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-270, §4201(a)(1)(A), struck out “pilot” before “projects”.

Subsec. (b)(1). Pub. L. 115-270, §4201(a)(1), substituted “provide financial assistance to carry out all projects” for “carry out all pilot projects”.

Subsec. (b)(2). Pub. L. 115-270, §4201(a)(1)(A), struck out “pilot” after “all”.

2016—Subsec. (b)(2). Pub. L. 114-322, §5008(b)(2)(A)(i), substituted “(7), and (9)” for “and (8)”.

Pub. L. 114-322, §5008(a), substituted “provide financial assistance to carry out” for “carry out”.

Subsec. (b)(3). Pub. L. 114-322, §5008(b)(2)(A)(ii), substituted “paragraph (8) or (10)” for “paragraph (7) or (9)”.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 3903. Applications

(a) In general

To receive assistance under this chapter, an eligible entity shall submit to the Secretary or the Administrator, as applicable, an application at such time, in such manner, and containing such information as the Secretary or the Administrator may require.

(b) Combined projects

In the case of an eligible project described in paragraph (9) or (10) of section 3905 of this title, the Secretary or the Administrator, as applicable, shall require the eligible entity to submit a single application for the combined group of projects.

(Pub. L. 113-121, title V, §5024, June 10, 2014, 128 Stat. 1333; Pub. L. 114-322, title IV, §5008(b)(2)(B), Dec. 16, 2016, 130 Stat. 1897.)

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-322 substituted “paragraph (9) or (10)” for “paragraph (8) or (9)”.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 3904. Eligible entities

The following entities are eligible to receive assistance under this chapter:

- (1) A corporation.
- (2) A partnership.
- (3) A joint venture.
- (4) A trust.
- (5) A Federal, State, or local governmental entity, agency, or instrumentality.
- (6) A tribal government or consortium of tribal governments.
- (7) A State infrastructure financing authority.

(Pub. L. 113-121, title V, §5025, June 10, 2014, 128 Stat. 1334.)

§ 3905. Projects eligible for assistance

The following projects may be carried out with amounts made available under this chapter:

- (1) Any project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—
 - (A) a project to reduce flood damage;
 - (B) a project to restore aquatic ecosystems;
 - (C) a project to improve the inland and intracoastal waterways navigation system of the United States; and

(D) a project to improve navigation of a coastal or inland harbor of the United States, including channel deepening and construction of associated general navigation features.

(2) 1 or more activities that are eligible for assistance under section 1383(c) of this title, notwithstanding the public ownership requirement under paragraph (1) of that subsection.

(3) 1 or more activities described in section 300j-12(a)(2) of title 42.

(4) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works.

(5) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).

(6) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion.

(7) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.

(8) Acquisition of real property or an interest in real property—

(A) if the acquisition is integral to a project described in paragraphs (1) through (6); or

(B) pursuant to an existing plan that, in the judgment of the Administrator or the Secretary, as applicable, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section.

(9) A combination of projects, each of which is eligible under paragraph (2) or (3), for which a State infrastructure financing authority submits to the Administrator a single application.

(10) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (1), (2), (3), (4), (5), (6), (7), or (8), for which an eligible entity, or a combination of eligible entities, submits a single application.

(Pub. L. 113-121, title V, § 5026, June 10, 2014, 128 Stat. 1334; Pub. L. 114-322, title IV, § 5008(b)(1), Dec. 16, 2016, 130 Stat. 1896.)

AMENDMENTS

2016—Par. (6). Pub. L. 114-322, § 5008(b)(1)(A), substituted “desalination project, including chloride control” for “desalination project” and “a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion” for “or a water recycling project”.

Pars. (7) to (9). Pub. L. 114-322, § 5008(b)(1)(B), (C), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively. Former par. (9) redesignated (10).

Par. (10). Pub. L. 114-322, § 5008(b)(1)(B), (D), redesignated par. (9) as (10) and substituted “(7), or (8)” for “or (7)”.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 3906. Activities eligible for assistance

For purposes of this chapter, an eligible activity with respect to an eligible project includes the cost of—

(1) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities;

(2) construction, reconstruction, rehabilitation, and replacement activities;

(3) the acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to section 3905(8) of this title), construction contingencies, and acquisition of equipment; and

(4) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(Pub. L. 113-121, title V, § 5027, June 10, 2014, 128 Stat. 1335; Pub. L. 114-322, title IV, § 5008(b)(2)(C), Dec. 16, 2016, 130 Stat. 1897.)

AMENDMENTS

2016—Par. (3). Pub. L. 114-322 substituted “section 3905(8)” for “section 3905(7)”.

§ 3907. Determination of eligibility and project selection

(a) Eligibility requirements

To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria, as determined by the Secretary or Administrator, as applicable:

(1) Creditworthiness

(A) In general

The project and obligor shall be creditworthy, which shall be determined by the Secretary or the Administrator, as applicable.

(B) Considerations

In determining the creditworthiness of a project and obligor, the Secretary or the Administrator, as applicable, shall take into consideration relevant factors, including—

(i) the terms, conditions, financial structure, and security features of the proposed financing;

(ii) the dedicated revenue sources that will secure or fund the project obligations;

(iii) the financial assumptions upon which the project is based; and

(iv) the financial soundness and credit history of the obligor.

(C) Security features

The Secretary or the Administrator, as applicable, shall ensure that any financing for