

nical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for such survey, under this section. The non-Federal share of the cost of carrying out this section shall be 50 percent.

**(b) Authorization of appropriations**

There is authorized to be appropriated to the Secretary, to implement this section, the sum of \$5,000,000 for each of the fiscal years ending September 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),<sup>1</sup> 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, 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.)

### Editorial Notes

#### 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).

### Statutory Notes and Related Subsidiaries

#### 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.

### § 2263a. Aquatic invasive species research

#### (a) In general

As part of the ongoing activities of the Engineer Research and Development Center to address the spread and impacts of aquatic invasive species, the Secretary shall undertake research on the prevention, management, and eradication of aquatic invasive species, including Asian carp, elodea, quagga mussels, and zebra mussels.

#### (b) Locations

In carrying out subsection (a), the Secretary shall work with Corps of Engineers district offices representing diverse geographical regions of the continental United States that are impacted or could be impacted in the future by aquatic invasive species, such as the Atlantic, Pacific, Arctic, and Gulf Coasts, the Great Lakes, and reservoirs operated and maintained by the Secretary.

#### (c) Report

Not later than 180 days after October 23, 2018, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report recommending a plan to address the spread and impacts of aquatic invasive species.

(Pub. L. 115-270, title I, §1108, Oct. 23, 2018, 132 Stat. 3774; Pub. L. 116-260, div. AA, title V, §502, Dec. 27, 2020, 134 Stat. 2744.)

### Editorial Notes

#### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2018, and also as part of the America’s Water Infrastructure Act of 2018, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

#### AMENDMENTS

2020—Subsec. (a). Pub. L. 116-260, §502(1), substituted “prevention, management,” for “management” and inserted “, elodea, quagga mussels,” after “Asian carp”.

Subsec. (b). Pub. L. 116-260, §502(2), inserted “or could be impacted in the future” after “that are impacted” and substituted “Pacific, Arctic, and Gulf Coasts, the

<sup>1</sup> See References in Text note below.