(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.

(c) For purposes of this section, the term ''Alaska Marine Highway System'' includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

(Added Pub. L. 93–87, title I, § 127(a)(1), Aug. 13, 1973, 87 Stat. 264; amended Pub. L. 94–147, Dec. 12, 1975, 89 Stat. 803; Pub. L. 97–424, title I, § 158, Jan. 6, 1983, 96 Stat. 2135; Pub. L. 105–277, div. A, § 101(g) [title III, § 316], Oct. 21, 1998, 112 Stat. 2681–439, 2681–468; Pub. L. 108–7, div. I, title III, § 327, Feb. 20, 2003, 117 Stat. 413; Pub. L. 109–59, title IV, § 4409, Aug. 10, 2005, 119 Stat. 1778.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 4409(1), struck out ''prior to the date of the enactment of the reauthorization of the Transportation Equity Act for the 21st Century'' before ''shall not apply'' in introductory provisions.

Subsec. (c). Pub. L. 109–59, § 4409(2), added subsec. (c).

2003—Subsec. (a). Pub. L. 108–7 inserted ''reauthorization of the'' before ''Transportation''.

1998—Subsec. (a). Pub. L. 105–277, § 101(g) [title III, § 316(1)(A)], substituted ''to Haines'' for ''to the south Alaskan border'' in first sentence, substituted ''such highway or the Alaska Marine Highway System'' for ''such highway'' in third sentence, substituted ''any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century'' for ''any other fiscal year thereafter'' in fourth sentence, substituted ''construction of the portion of such highways that are in Canada until an agreement'' for ''construction of such highways until an agreement'' in fifth sentence.

Subsec. (b). Pub. L. 105–277, § 101(g) [title III, § 316(2)], inserted ''in Canada'' after ''undertaken''.

1983—Subsec. (a). Pub. L. 97–424 inserted provision that notwithstanding any other provision of law, upon agreement with the State of Alaska, the Secretary is authorized to expend on the highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum, and that any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to such projects.

1975—Subsec. (a)(1). Pub. L. 94–147 struck out provision requiring that the right-of-way granted by the Canadian Government shall forever be held inviolate as part of such highways in public use.

ALASKAN ROADS STUDY; INVESTIGATION; REPORT TO CONGRESS

Pub. L. 94–280, title I, § 151, May 5, 1976, 90 Stat. 448, provided that:

''(a) The Secretary of Transportation is authorized to undertake an investigation and study to determine the cost of, and the responsibility for, repairing the damage to Alaska highways that has been or will be caused by heavy truck traffic during construction of the trans-Alaska pipeline and to restore them to proper standards when construction is complete. The Secretary of Transportation shall report his initial findings to the Congress on or before September 30, 1976, and his final conclusions on rebuilding costs no later than three months after completion of pipeline construction.

''(b) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of $200,000 for the purpose of making the study authorized by subsection (a) of this section.''

APPROPRIATIONS AUTHORIZATION

Section 127(b) of Pub. L. 93–87 provided that: ''For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 218 of title 23 of the United States Code.''

[§ 219. Repealed. Pub. L. 100–17, title I, § 133(e)(1), Apr. 2, 1987, 101 Stat. 173]

Section, added Pub. L. 93–643, § 122(a), Jan. 4, 1975, 88 Stat. 2289; amended Pub. L. 94–280, title I, § 135(a), May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, § 168(d), Nov. 6, 1978, 92 Stat. 2723; Pub. L. 96–106, § 10(a), Nov. 9, 1979, 93 Stat. 798, related to projects for safer off-system roads.

CHAPTER 3—GENERAL PROVISIONS

Sec.
301. Freedom from tolls.
302. State transportation department.
303. Management systems.
304. Participation by small business enterprises.
305. Archeological and paleontological salvage.
306. Mapping.
[307. Repealed.]
308. Cooperation with Federal and State agencies and foreign countries.
309. Cooperation with other American Republics.
310. Civil defense.
311. Highway improvements strategically important to the national defense.
312. Detail of Army, Navy, and Air Force officers.
313. Buy America.
314. Relief of employees in hazardous work.
315. Rules, regulations, and recommendations.
316. Consent by United States to conveyance of property.
317. Appropriation for highway purposes of lands or interests in lands owned by the United States.
318. Highway relocation due to airport.
319. Landscaping and scenic enhancement.
320. Bridges on Federal dams.
321. Signs identifying funding sources.
322. Magnetic levitation transportation technology deployment program.
323. Donations and credits.
324. Prohibition of discrimination on the basis of sex.
325. State assumption of responsibilities for certain programs and projects.
326. State assumption of responsibility for categorical exclusions.
327. Surface transportation project delivery pilot program.
328. Eligibility for environmental restoration and pollution abatement.
329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species.

AMENDMENTS

2005—Pub. L. 109–59, title I, §§ 1901(b), 1903(b), title VI, §§ 6003(b), 6004(b), 6005(b), 6006(c), Aug. 10, 2005, 119 Stat. 1464, 1465, 1867, 1868, 1872, 1873, added items 313, 321, and 325 to 329.

1998—Pub. L. 105–178, title I, §§ 1212(a)(2)(B)(i), 1218(b), 1301(d)(3), title V, § 5119(c), June 9, 1998, 112 Stat. 193, 219, 226, 452, substituted ''State transportation department'' for ''State highway department'' in item 302,

struck out items 307 ''Research and planning'' and 321 ''National Highway Institute'', added item 322, substituted ''Donations and credits'' for ''Donations'' in item 323, and struck out items 325 ''International highway transportation outreach program'' and 326 ''Education and training program''.

1991—Pub. L. 102–240, title I, § 1034(b), title VI, §§ 6003(b), 6004(b), Dec. 18, 1991, 105 Stat. 1978, 2168, 2169, added items 303, 325, and 326.

1987—Pub. L. 100–17, title I, § 133(e)(1), Apr. 2, 1987, 101 Stat. 173, struck out item 322 ''Demonstration project—rail crossings''.

1983—Pub. L. 97–449, § 5(d)(2), Jan. 12, 1983, 96 Stat. 2442, struck out item 303 ''Bureau organization''.

1973—Pub. L. 93–87, title I, §§ 145(b), 162(b), Aug. 13, 1973, 87 Stat. 273, 280, added items 323 and 324.

1970—Pub. L. 91–605, title I, § 115(b), title II, § 205(b), Dec. 31, 1970, 84 Stat. 1723, 1743, added items 321 and 322.

1966—Pub. L. 89–564, title I, § 102(b)(2), Sept. 9, 1966, 80 Stat. 735, struck out item 313 relating to Highway Safety Conference.

1965—Pub. L. 89–285, title III, § 301(b), Oct. 22, 1965, 79 Stat. 1032, inserted ''and scenic enhancement'' after ''Landscaping'' in item 319.

§ 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912.)

§ 302. State transportation department

(a) Any State desiring to avail itself of the provisions of this title shall have a State transportation department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. In meeting the provisions of this subsection, a State may engage, to the extent necessary or desirable, the services of private engineering firms.

(b) EFFECT OF COMPLIANCE.—Compliance with subsection (a) shall have no effect on the eligibility of costs.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 89–574, § 11, Sept. 13, 1966, 80 Stat. 770; Pub. L. 105–178, title I, § 1212(a)(1), (2)(A)(i), (B)(ii), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Pub. L. 105–178, § 1212(a)(2)(B)(ii), substituted ''State transportation department'' for ''State highway department'' in section catchline.

Subsec. (a). Pub. L. 105–178, § 1212(a)(1)(A), (2)(A)(i), substituted ''State transportation department'' for ''State highway department'' and struck out after first sentence ''Among other things, the organization shall include a secondary road unit.''

Subsec. (b). Pub. L. 105–178, § 1212(a)(1)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to supervise construction and maintenance on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.''

§ 303. Management systems

(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

(1) Highway pavement of Federal-aid highways.

(2) Bridges on and off Federal-aid highways.

(3) Highway safety.

(4) Traffic congestion.

(5) Public transportation facilities and equipment.

(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation of each such system and minimum standards for each such system.

(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

(c) STATE ELECTION.—A State may elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.

(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under chapter 53 of title 49 and shall consider the results of the management systems in making project selection decisions under this title and under chapter 53.

(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(f) REPORTS.—

(1) ANNUAL REPORTS.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Comptroller General, in consultation with States, shall transmit to Congress a report on the management systems under this section, including recommendations as to whether, to what extent, and how the management systems should be implemented.

(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under sub-

sections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.

(Added Pub. L. 102–240, title I, § 1034(a), Dec. 18, 1991, 105 Stat. 1977; amended Pub. L. 103–429, § 3(8), (9), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title II, § 205(a), Nov. 28, 1995, 109 Stat. 576.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

PRIOR PROVISIONS

A prior section 303, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 87–392, § 1, Oct. 4, 1961, 75 Stat. 822; Pub. L. 88–426, title III, § 305(24), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91–605, title I, § 114(a), Dec. 31, 1970, 84 Stat. 1722; Pub. L. 93–87, title I, § 152(4), Aug. 13, 1973, 87 Stat. 276, provided for administrative organization of the Federal Highway Administration, prior to repeal by Pub. L. 97–449, § 7(b), Jan. 12, 1983, 96 Stat. 2445. See section 104 of Title 49, Transportation.

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–59, § 205(a)(1), added subsec. (c) and struck out former subsec. (c) which read as follows:

''(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under chapter 53 of title 49 for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.''

Subsec. (f). Pub. L. 104–59, § 205(a)(2), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading and realigned margins, and added par. (2).

1994—Subsec. (c). Pub. L. 103–429, § 3(8), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Subsec. (d). Pub. L. 103–429, § 3(9), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act'' and ''chapter 53'' for ''such Act''.

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (f)(1) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 137 of House Document No. 103–7.

REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM

Pub. L. 109–59, title I, § 1201, Aug. 10, 2005, 119 Stat. 1196, provided that:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.

''(2) PURPOSES.—The purposes of the real-time system management information program are to—

''(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

''(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and

''(C) provide the capability and means to share that data with State and local governments and the traveling public.

''(b) DATA EXCHANGE FORMATS.—Not later than 2 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

''(c) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

''(1) ADDRESSING INFORMATION NEEDS.—As State and local governments develop or update regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.

''(2) DATA EXCHANGE.—States shall incorporate the data exchange formats established by the Secretary [of Transportation] under subsection (b) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.

''(d) ELIGIBILITY.—Subject to project approval by the Secretary [of Transportation], a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities relating to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.

''(f) STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.—In this section, the term 'statewide incident reporting system' means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.''

§ 304. Participation by small business enterprises

It is declared to be in the national interest to encourage and develop the actual and potential

capacity of small business and to utilize this important segment of our economy to the fullest practicable extent in construction of the Federal-aid highway systems, including the Interstate System. In order to carry out that intent and encourage full and free competition, the Secretary should assist, insofar as feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913.)

§ 305. Archeological and paleontological salvage

Funds authorized to be appropriated to carry out this title to the extent approved as necessary by the highway department of any State, may be used for archeological and paleontological salvage in that State in compliance with the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (34 Stat. 225), and State laws where applicable,

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 86–657, § 8(e), July 14, 1960, 74 Stat. 525.)

REFERENCES IN TEXT

An Act for the preservation of American antiquities, referred to in text, is act June 8, 1906, ch. 3060, 34 Stat. 225, popularly known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 431 of Title 16 and Tables.

AMENDMENTS

1960—Pub. L. 86–657 substituted ''appropriated to carry out this title to the extent approved'' for ''appropriated under the Federal-Aid Highway Act of 1956, to the extent approved''.

§ 306. Mapping

(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for State and private mapping and surveying activities, including—

(1) preparation of standards and specifications;

(2) research in surveying and mapping instrumentation and procedures and technology transfer to the private sector;

(3) providing technical guidance, coordination, and administration of State surveying and mapping activities; and

(4) recommending methods for increasing the use by the States of private sector sources for surveying and mapping activities.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 104–59, title III, § 321, Nov. 28, 1995, 109 Stat. 590.)

AMENDMENTS

1995—Pub. L. 104–59 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

[§ 307. Repealed. Pub. L. 105–178, title V, § 5119(b), June 9, 1998, 112 Stat. 452]

Section, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 87–866, § 11, Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88–157, § 6, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–564, title I, § 103, Sept. 9, 1966, 80 Stat. 735; Pub. L. 91–605, title I, §§ 115(c), 126, 136(c), Dec. 31, 1970, 84 Stat. 1723, 1729, 1735; Pub. L. 93–87, title I, § 151, Aug. 13, 1973, 87 Stat. 276; Pub. L. 96–470, title I, § 112(b)(2), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 97–424, title I, §§ 156(a), (b), (d), 160(a), Jan. 6, 1983, 96 Stat. 2134, 2135; Pub. L. 100–17, title I, §§ 128, 129, 133(b)(17), Apr. 2, 1987, 101 Stat. 167, 169, 172; Pub. L. 102–240, title VI, §§ 6001, 6005, Dec. 18, 1991, 105 Stat. 2162, 2170; Pub. L. 103–429, § 3(10), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title III, § 325(d), Nov. 28, 1995, 109 Stat. 592, related to research and planning.

INTELLIGENT TRANSPORTATION SYSTEMS

Part B of title VI of Pub. L. 102–240, as amended by Pub. L. 102–388, title IV, § 404, Oct. 6, 1992, 106 Stat. 1564; Pub. L. 104–59, title III, § 338(a), (b), (c)(2), Nov. 28, 1995, 109 Stat. 603, 604; Pub. L. 105–130, § 5(d), Dec. 1, 1997, 111 Stat. 2557, related to Intelligent Transportation Systems Act of 1991, including provisions relating to establishment and scope of program, general authorities and requirements, strategic plan, implementation, and report to Congress, technical, planning, and operational testing project assistance, applications of technology, commercial motor vehicle safety technology, funding, and definitions, prior to repeal by Pub. L. 105–178, title V, § 5213, June 9, 1998, 112 Stat. 463. See Pub. L. 105–178, title V, §§ 5201–5213, June 9, 1998, 112 Stat. 452–463, set out as a note under section 502 of this title.

§ 308. Cooperation with Federal and State agencies and foreign countries

(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution to projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, § 152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–87 substituted ''Federal Highway Administration'' for ''Bureau of Public Roads'' in two places.

§ 309. Cooperation with other American Republics

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American

Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, § 152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93–87 substituted ''Federal Highway Administration'' for ''Bureau of Public Roads''.

PAN AMERICAN HIGHWAY STUDY

Pub. L. 104–59, title III, § 359(a), Nov. 28, 1995, 109 Stat. 626, provided that:

''(1) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

''(2) ELEMENTS.—The study shall include, at a minimum, the following elements:

''(A) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

''(B) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

''(C) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

''(D) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

''(E) Findings on the benefits to United States industry resulting from the use of United States technology and equipment in construction of improvements to the Pan American Highway.

''(F) Findings on environmental considerations, including environmental considerations relating to Darien Gap.

''(3) REPORT.—Not later than 2 years after the date of the enactment of this Act [Nov. 28, 1995], the Secretary shall transmit to Congress a report on the results of the study.''

§ 310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93–87, title I, § 152(3), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93–87 substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

TRANSFER OF FUNCTIONS

Office of Federal Civil Defense Administrator, referred to in text, abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1958, set out as a note under section 5195 of Title 42, The Public Health and Welfare. The Plan also established a new agency in the Executive Office of the President, known as the Office of Defense and Civilian Mobilization to be headed by a Director. Office redesignated as the Office of Civil and Defense Mobilization by act Aug. 26, 1958 (72 Stat. 861; 42 U.S.C. 5195 note). Civil defense functions transferred to Secretary of Defense by Executive Order No. 10952 of July 20, 1961, formerly set out as a note under section 2271 of Title 50, Appendix, War and National Defense, and remaining functions redesignated Office of Emergency Planning by act Sept. 22, 1961 (75 Stat. 630; 42 U.S.C. 5195 note). Office redesignated Office of Emergency Preparedness by act Oct. 21, 1968 (82 Stat. 1194; 42 U.S.C. 5195 note). Office of Emergency Preparedness including office of Director abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1973, set out as a note under section 5195 of Title 42.

§ 311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915.)

NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE UNITED STATES

Pub. L. 102–240, title I, § 1006(h), Dec. 18, 1991, 105 Stat. 1927, provided that:

''(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

''(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.''

§ 312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93–87, title I, § 152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93–87 substituted ''Federal Highway Administration'' for ''Bureau of Public Roads'' and ''Department of Transportation'' for ''Department of Commerce''.

§ 313. Buy America

(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

(e) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

(1) affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.

(Added and amended Pub. L. 109–59, title I, § 1903(a), (c), Aug. 10, 2005, 119 Stat. 1464, 1465.)

REFERENCES IN TEXT

The Surface Transportation Assistance Act of 1982, referred to in subsecs. (a) and (d), is Pub. L. 97–424, Jan. 6, 1983, 96 Stat. 2097, as amended. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 101 of this title and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

CODIFICATION

Section, as added by Pub. L. 109–59, consists of text of Pub. L. 97–424, title I, § 165, Jan. 6, 1983, 96 Stat. 2136; Pub. L. 98–229, § 10, Mar. 9, 1984, 98 Stat. 57; Pub. L. 100–17, title I, §§ 133(a)(6), 337(a)(1), (b), (c), Apr. 2, 1987, 101 Stat. 171, 241; Pub. L. 102–240, title I, § 1048, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 1999, 2088; Pub. L. 103–272, § 4(r), July 5, 1994, 108 Stat. 1371; Pub. L. 103–429, § 7(a)(3)(E), Oct. 31, 1994, 108 Stat. 4389, which was formerly set out as a note under section 101 of this title, and was repealed by Pub. L. 109–59, title I, § 1903(d), Aug. 10, 2005, 119 Stat. 1465.

PRIOR PROVISIONS

A prior section 313, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915, authorized the Secretary to cooperate with State highway departments and other agencies in the promotion of highway safety and authorized the expenditure of $150,000 out of the administrative funds made available in accordance with section 104(a) of this title for the purposes of this section, prior to repeal by Pub. L. 89–564, title I, § 102(a), Sept. 9, 1966, 80 Stat. 734. See section 401 et seq. of this title.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, § 1903(c)(1), substituted ''to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title'' for ''by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978''.

Subsec. (b)(3), (4). Pub. L. 109–59, § 1903(c)(2), redesignated par. (4) as (3).

Subsec. (d). Pub. L. 109–59, § 1903(c)(3), substituted ''the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that'' for ''this Act, the Surface Transportation Assistance Act of 1978 or title 23, United States Code, which''.

Subsec. (e) to (g). Pub. L. 109–59, § 1903(c)(4), (5), which directed amendment of this section by striking subsec. (e) and redesignating subsecs. (f) and (g) as (e) and (f), respectively, was executed by making the redesignations and by striking out two subsecs. (e), to reflect the probable intent of Congress. The first subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97–424, as originally enacted, repealed section 401 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599.

The second subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97–424, as added by Pub. L. 102–240, § 1048(b), related to report on purchases from foreign entities waived under subsec. (b) in fiscal years 1992 and 1993.

BUY AMERICA WAIVER NOTIFICATION AND ANNUAL REPORTS

Pub. L. 110–244, title I, § 117, June 6, 2008, 122 Stat. 1607, provided that:

''(a) WAIVER NOTIFICATION.—

''(1) IN GENERAL.—If the Secretary of Transportation makes a finding under section 313(b) of title 23, United States Code, with respect to a project, the Secretary shall—

''(A) publish in the Federal Register, before the date on which such finding takes effect, a detailed written justification as to the reasons that such finding is needed; and

''(B) provide notice of such finding and an opportunity for public comment on such finding for a period of not to exceed 60 days.

''(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in paragraph (1) shall be construed to require the effective date of a finding referred to in paragraph (1) to be delayed until after the close of the public comment period referred to in paragraph (1)(B).

''(b) ANNUAL REPORTS.—Not later than February 1 of each year beginning after the date of enactment of this Act [June 6, 2008], 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 on the projects for which the Secretary made findings under section 313(b) of title 23, United States Code, during the preceding calendar year and the justifications for such findings.''

Pub. L. 110–161, div. K, title I, § 130, Dec. 26, 2007, 121 Stat. 2389, provided that: ''Not less than 15 days prior to waiving, under her statutory authority, any Buy America requirement for Federal-aid highway projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefor: *Provided*, That the Secretary shall provide an annual report to the Appropriations Committees of the Congress on any waivers granted under the Buy America requirements.''

§ 314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93–87, title I, § 152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93–87 substituted ''Department of Transportation'' for ''Department of Commerce'' and ''Federal Highway Administration'' for ''Bureau of Public Roads''.

§ 315. Rules, regulations, and recommendations

Except as provided in sections 204(f) and 205(a) of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State transportation departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 100–17, title I, § 133(b)(18), Apr. 2, 1987, 101 Stat. 172; Pub. L. 105–178, title I, § 1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Pub. L. 105–178 substituted ''State transportation departments'' for ''State highway departments''.

1987—Pub. L. 100–17 which directed that this section be amended by substituting ''204(f) and 205(a)'' for ''204(d), 205(a), 207(b), and 208(c)'' was executed by substituting ''204(f) and 205(a)'' for ''204(d), 205(a), 206(b), 207(b), and 208(c)'', to reflect the probable intent of Congress.

§ 316. Consent by United States to conveyance of property

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State transportation department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 105–178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State transportation department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid system or under the provisions of chapter 2 of this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

§318. Highway relocation due to airport

Federal highway funds shall not be used for the reconstruction or relocation of any highway giving access to an airport constructed or extended after December 20, 1944, or for the reconstruction or relocation of any highway which has been or may be closed or the usefulness of which has been may be impaired by the location or construction of any airport constructed or extended after December 20, 1944, unless, prior to such construction or extension, as the case may be, the State transportation department and the Secretary have concurred with the officials in charge of the airport that the location of such airport or extension thereof and the consequent reconstruction or relocation of the highway are in the public interest.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

§319. Landscaping and scenic enhancement

(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

(b) PLANTING OF WILDFLOWERS.—

(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least ¼ of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 89–285, title III, §301(a), Oct. 22, 1965, 79 Stat. 1032; Pub. L. 89–574, §8(b), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(f), Aug. 23, 1968, 82 Stat. 818; Pub. L. 94–280, title I, §136(a), May 5, 1976, 90 Stat. 442; Pub. L. 100–17, title I, §130, Apr. 2, 1987, 101 Stat. 169.)

AMENDMENTS

1987—Pub. L. 100–17 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1976—Pub. L. 94–280, in revising section, struck out subsec. (a) designation for existing text; incorporated as part of the section provision of former subsec. (b) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways; and struck out subsec. (b) designation and other subsec. (b) provisions relating to: allocation to a State out of appropriated funds an amount equivalent to 3 per centum of funds apportioned to a State for Federal-aid highways for landscape and roadside development use within the highway right-of-way, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right-of-way without being matched by the State; authorization of Secretary to except a State from the requirement upon a showing that amount is in excess of the State needs for the purposes; lapse of unused funds; appropriations authorization of $120,000,000 for fiscal years ending June 30, 1966, and 1967, and $20,000,000 for fiscal year ending June 30, 1970; and provision making chapter 1 respecting obligation, period of availability, and expenditure of Federal-aid primary highway funds applicable to funds authorized to be appropriated to carry out subsec. (b) after June 30, 1967.

1968—Subsec. (b). Pub. L. 90–495 inserted provisions authorizing an appropriation of not to exceed $20,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (b). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this subsection after June 30, 1967, the provisions of chapter 1 of this title relating to the obligations, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this subsection.

1965—Pub. L. 89–285 rearranged section structurally, made provision for apportionment of an amount, in addition to the state's annual apportionment, equivalent to 3 per centum of the fund annually apportioned to the state for federal-aid highways to acquire interests and improvements for restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways, authorized appropriations of $120,000,000 for fiscal year ending June 30, 1966, and $120,000,000 for fiscal year ending June 30, 1967, and prohibited use of Highway Trust Fund moneys in carrying out the scenic enhancement provisions.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective August 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

CONTINUING AVAILABILITY OF APPROPRIATED FUNDS FOR APPROPRIATION, OBLIGATION, AND EXPENDITURE

Section 136(b) of Pub. L. 94–280 provided that: ''All sums authorized to be appropriated to carry out section 319(b) of title 23, United States Code [former subsec. (b) of this section], as in effect immediately before the date of enactment of this section [May 5, 1976] shall continue to be available for appropriation, obligation, and expenditure in accordance with such section 319(b) [former subsec. (b) of this section], notwithstanding the amendment made by the subsection (a) of this section [to this section].''

NATIONAL SCENIC HIGHWAY SYSTEM STUDY AND USER ACCESS STUDY FOR PARKS AND RECREATION AREAS

Pub. L. 93–87, title I, § 134, Aug. 13, 1973, 87 Stat. 268, mandated a study to determine the feasibility of a scenic highway system to link together recreational, historical sites, and a study of user access to parks and recreational areas, including alternatives to private automobiles, the results of the studies to be reported to Congress no later than July 1, 1974, and Jan. 1, 1975, respectively.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89–285, see section 305 of Pub. L. 89–285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89–285, see section 401 of Pub. L. 89–285, set out as a note under section 131 of this title.

§ 320. Bridges on Federal dams

(a) Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of the United States, hereinafter collectively and individually referred to as ''agency'', which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall determine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) Construction of any bridge upon and across any dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain, or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accommodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expenditures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the national defense, the development of power, or other program, purpose, or function of such agency.

(d) Not to exceed $65,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reim-

burse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge, approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 917; Pub. L. 86–342, title I, § 108, Sept. 21, 1959, 73 Stat. 613; Pub. L. 88–423, § 4(c), Aug. 13, 1964, 78 Stat. 398; Pub. L. 91–605, title I, § 116(a), Dec. 31, 1970, 84 Stat. 1724; Pub. L. 93–87, title I, § 128(a), Aug. 13, 1973, 87 Stat. 265; Pub. L. 93–643, § 123(a), Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94–280, title I, § 137(a), May 5, 1976, 90 Stat. 443; Pub. L. 95–599, title I, § 128(a), Nov. 6, 1978, 92 Stat. 2707.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–599 substituted ''$65,000,000'' for ''$50,000,000''.

1976—Subsec. (d). Pub. L. 94–280 substituted ''$50,000,000'' for ''$27,761,000''.

1975—Subsec. (d). Pub. L. 93–643 substituted ''$27,761,000'' for ''$25,261,000''.

1973—Subsec. (d). Pub. L. 93–87 substituted ''$25,261,000'' for ''$16,761,000''.

1970—Subsec. (d). Pub. L. 91–605 substituted ''$16,761,000'' for ''$13,000,000''.

1964—Subsec. (b). Pub. L. 88–423 substituted ''which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with'' for ''such State, shall enter into an agreement with such agency and with which such bridge is to be located, or the appropriate subdivision of''.

1959—Subsec. (d). Pub. L. 86–342 substituted ''$13,000,000'' for ''$10,000,000''.

APPROPRIATION OUT OF HIGHWAY TRUST FUND OF SUMS APPROPRIATED UNDER AUTHORITY OF INCREASED AUTHORIZATION

Section 128(b) of Pub. L. 95–599 provided that: ''Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.''

APPROPRIATION OF INCREASED AUTHORIZATION

Section 137(b) of Pub. L. 94–280 provided that: ''Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1977, and for subsequent fiscal years.''

RESTRICTION ON INCREASED AUTHORIZATION OF APPROPRIATIONS

Section 116(b) of Pub. L. 91–605 provided that: ''All sums appropriated under authority of the increased authorization of $3,761,000 established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw, Kentucky. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana.''

Section 123(b) of Pub. L. 93–643 provided that: ''All sums appropriated under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be available for expenditure in the same manner and for the same purpose as provided for in subsection (b) of section 116 of the Federal-Aid Highway Act of 1970 (Public Law 91–605).''

Section 128(b) of Pub. L. 93–87 provided that: ''All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with reconstruction of a bridge across the Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project, and the State of Tennessee for the Chattanooga project.''

§ 321. Signs identifying funding sources

If a State has a practice of erecting on projects under actual construction without Federal-aid highway assistance signs which indicate the source or sources of any funds used to carry out such projects, such State shall erect on all projects under actual construction with any funds made available out of the Highway Trust Fund (other than the Mass Transit Account)

signs which are visible to highway users and which indicate each governmental source of funds being used to carry out such federally assisted projects and the amount of funds being made available by each such source.

(Added Pub. L. 109–59, title I, § 1901(a), Aug. 10, 2005, 119 Stat. 1464.)

CODIFICATION

Section, as added by Pub. L. 109–59, consists of text of Pub. L. 100–17, title I, § 154, Apr. 2, 1987, 101 Stat. 209, which was formerly set out as a note under section 101 of this title, and was repealed by Pub. L. 109–59, title I, § 1901(c), Aug. 10, 2005, 119 Stat. 1464.

PRIOR PROVISIONS

A prior section 321, added Pub. L. 91–605, title I, § 115(a), Dec. 31, 1970, 84 Stat. 1723; amended Pub. L. 96–106, § 11, Nov. 9, 1979, 93 Stat. 798; Pub. L. 100–17, title I, § 131, Apr. 2, 1987, 101 Stat. 170; Pub. L. 102–240, title VI, § 6002, Dec. 18, 1991, 105 Stat. 2166; Pub. L. 105–130, § 5(e)(3), Dec. 1, 1997, 111 Stat. 2557, related to National Highway Institute, prior to repeal by Pub. L. 105–178, title V, § 5119(b), June 9, 1998, 112 Stat. 452.

§ 322. Magnetic levitation transportation technology deployment program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs''—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term ''full project costs'' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term ''MAGLEV'' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) PARTNERSHIP POTENTIAL.—The term ''partnership potential'' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

(2) require an amount of Federal funds for project financing that will not exceed the sum of—

(A) the amounts made available under subsection (h)(1); and

(B) the amounts made available by States under subsection (h)(3);

(3) result in an operating transportation facility that provides a revenue producing service;

(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

(5) satisfy applicable statewide and metropolitan planning requirements;

(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

(3) States, regions, and localities financially contribute to the project;

(4) implementation of the project will create new jobs in traditional and emerging industries;

(5) the project will augment MAGLEV networks identified as having partnership potential;

(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

(7) financial assistance would foster the timely implementation of a project; and

(8) life-cycle costs in design and engineering are considered and enhanced.

(f) PROJECT SELECTION.—

(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

(h) FUNDING.—

(1) IN GENERAL.—

(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001.

(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

(II) the availability of the funds shall be determined in accordance with paragraph (2).

(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.

(i) LOW-SPEED PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, $5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

(i) shall not be available in advance of an annual appropriation; and

(ii) shall remain available until expended.

(Added and amended Pub. L. 105–178, title I, § 1218(a), (c), June 9, 1998, 112 Stat. 216; Pub. L. 105–206, title IX, § 9003(i), July 22, 1998, 112 Stat. 841.)

REFERENCES IN TEXT

Section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(4), is section 1036 of Pub. L. 102–240, title I, Dec. 18, 1991, 105 Stat. 1978, which enacted section 309 of Title 49, Transportation, amended section 831 of Title 45, Railroads, and section 302 of Title 49, and enacted provisions set out as notes under section 831 of Title 45 and section 309 of Title 49.

The date of enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

The Transportation Equity Act for the 21st Century, referred to in subsec. (h)(4), is Pub. L. 105–178, June 9, 1998, 112 Stat. 107, as amended. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105–178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

PRIOR PROVISIONS

A prior section 322, added Pub. L. 91–605, title II, § 205(a), Dec. 31, 1970, 84 Stat. 1742; amended Pub. L. 93–643, § 117, Jan. 4, 1975, 88 Stat. 2288; Pub. L. 97–449, § 5(d)(3), Jan. 12, 1983, 96 Stat. 2442, related to demonstration projects for elimination or protection of certain ground-level rail-highway crossings and required study of problem of providing increased highway safety at public and private ground-level rail-highway crossings on nationwide basis through elimination of such crossings or otherwise, and report to Congress on such study not later than July 1, 1972, prior to repeal by Pub. L. 100–17, title I, § 133(e)(1), Apr. 2, 1987, 101 Stat. 173.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–178, § 1218(c)(1), as added by Pub. L. 105–206, § 9003(i), struck out ''or under 50 miles per hour'' before period at end.

Subsec. (d)(1). Pub. L. 105–178, § 1218(c)(2)(A), as added by Pub. L. 105–206, § 9003(i), struck out ''or low-speed'' after ''high-speed''.

Subsec. (d)(2)(A). Pub. L. 105–178, § 1218(c)(2)(B)(i), as added by Pub. L. 105–206, § 9003(i), substituted ''(h)(1)'' for ''(h)(1)(A)''.

Subsec. (d)(2)(B). Pub. L. 105–178, § 1218(c)(2)(B)(ii), as added by Pub. L. 105–206, § 9003(i), substituted ''(h)(3)'' for ''(h)(4)''.

Subsec. (h)(1)(B)(i). Pub. L. 105–178, § 1218(c)(3), as added by Pub. L. 105–206, § 9003(i), inserted ''(other than subsection (i))'' after ''this section''.

Subsec. (i). Pub. L. 105–178, § 1218(c)(4), as added by Pub. L. 105–206, § 9003(i), added subsec. (i).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS

Pub. L. 109–59, title I, § 1307, Aug. 10, 2005, 119 Stat. 1217, as amended by Pub. L. 110–244, title I, § 102(b), (c), June 6, 2008, 122 Stat. 1577, provided that:

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs'—

''(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

''(B) includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(4) STATE.—The term 'State' has the meaning such term has under section 101(a) of title 23, United States Code.

''(b) IN GENERAL.—

''(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary [of Transportation] shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

''(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

''(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

''(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

''(1) involve a segment or segments of a high-speed ground transportation corridor;

''(2) result in an operating transportation facility that provides a revenue producing service; and

''(3) be approved by the Secretary [of Transportation] based on an application submitted to the Secretary by a State or authority designated by one or more States.

''(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary [of Transportation] shall allocate—

''(1) 50 percent to the Nevada department of transportation who shall cooperate with the California-Nevada Super Speed Train Commission for the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California; and

''(2) 50 percent for existing MAGLEV projects located east of the Mississippi River using such criteria as the Secretary deems appropriate.

''(e) CONTRACT AUTHORITY.—Funds authorized under section 1101(a)(18) [119 Stat. 1155] shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project to be carried out with such funds shall be 80 percent.''

[Pub. L. 110–244, title I, § 102(d), June 6, 2008, 122 Stat. 1578, provided that: ''The amendments made by this section [amending section 1307 of Pub. L. 109–59, set out above] take effect on October 1, 2007.'']

ADVANCED TECHNOLOGY PILOT PROJECT

Pub. L. 105–178, title III, § 3015(c), June 9, 1998, 112 Stat. 361, as amended by Pub. L. 105–206, title IX, § 9009(k)(1), July 22, 1998, 112 Stat. 857; Pub. L. 108–88, § 8(q), Sept. 30, 2003, 117 Stat. 1125; Pub. L. 108–202, § 9(q), Feb. 29, 2004, 118 Stat. 489; Pub. L. 108–224, § 7(q), Apr. 30, 2004, 118 Stat. 637; Pub. L. 108–263, § 7(q), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, § 7(q), July 30, 2004, 118 Stat. 885; Pub. L. 108–310, § 8(q), Sept. 30, 2004, 118 Stat. 1158; Pub. L. 109–14, § 7(p), May 31, 2005, 119 Stat. 334; Pub. L. 109–20, § 7(p), July 1, 2005, 119 Stat. 356; Pub. L. 109–35, § 7(p), July 20, 2005, 119 Stat. 389; Pub. L. 109–37, § 7(p), July 22, 2005, 119 Stat. 404; Pub. L. 109–40, § 7(p), July 28, 2005, 119 Stat. 420, provided that:

''(1) IN GENERAL.—The Secretary shall make grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

''(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act [112 Stat. 419] for each of fiscal years 1998 through 2004, and for the period of October 1, 2004, through July 30, 2005,, [sic] $5,000,000 per fiscal year and $4,150,685 for such period shall be available to carry out this subsection. Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

''(3) FEDERAL SHARE.—The Federal share payable on account of activities carried out using a grant made

under this subsection shall be 80 percent of the cost of such activities.''

[Pub. L. 109–35, § 7(p)(1), which directed amendment of Pub. L. 105–178, § 3015(c)(2), set out above, by substituting ''July 21, 2005'' for ''July 19, 2005,'' was executed by making the substitution for ''July 19, 2005'', to reflect the probable intent of Congress.]

[Pub. L. 109–20, § 7(p)(1), which directed amendment of Pub. L. 105–178, § 3015(c)(2), set out above, by substituting ''July 19, 2005'' for ''June 30, 2005,'' was executed by making the substitution for ''June 30, 2005'', to reflect the probable intent of Congress.]

[Pub. L. 108–280, § 7(q), which directed amendment of Pub. L. 105–178, § 3015(c)(2), set out above, by substituting ''2004, $5,000,000 per fiscal year'' for ''2003, and for the period of October 1, 2003, through July 31, 2004 $5,000,000 per fiscal year and $4,142,083 for such period'', was executed by making the substitution for ''2003, and for the period of October 1, 2003, through July 31, 2004, $5,000,000 per fiscal year and $4,142,083 for such period'', to reflect the probable intent of Congress.]

[Pub. L. 108–224, § 7(q)(1), which directed amendment of Pub. L. 105–178, § 3015(c)(2), set out above, by substituting ''June 30, 2004'' for ''April 30, 2004,'' was executed by making the substitution for ''April 30, 2004'', to reflect the probable intent of Congress.]

§ 323. Donations and credits

(a) DONATIONS OF PROPERTY BEING ACQUIRED.—Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(b) CREDIT FOR ACQUIRED LANDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

(A) is lawfully obtained by the State or a unit of local government in the State;

(B) is incorporated into the project;

(C) is not land described in section 138; and

(D) the Secretary determines will not influence the environmental assessment of the project, including—

(i) the decision as to the need to construct the project;

(ii) the consideration of alternatives; and

(iii) the selection of a specific location.

(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

(B) the fair market value of donated land shall be established as of the earlier of—

(i) the date on which the donation becomes effective; or

(ii) the date on which equitable title to the land vests in the State.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply to donations made by an agency of the Federal Government.

(4) LIMITATION ON AMOUNT OF CREDIT.—The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project.

(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services, or a local government from offering to donate funds, materials, or services performed by local government employees, in connection with a project eligible for assistance under this title. In the case of such a project with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the project by the State transportation department shall be credited against the State share.

(d) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 shall clearly indicate that—

(1) all alternatives to a proposed alignment will be studied and considered pursuant to such Act;

(2) acquisition of property under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(3) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings, if required, and completion of the environmental document.

(Added Pub. L. 93–87, title I, § 145(a), Aug. 13, 1973, 87 Stat. 273; amended Pub. L. 93–643, § 112, Jan. 4, 1975, 88 Stat. 2285; Pub. L. 100–17, title I, § 146(a), Apr. 2, 1987, 101 Stat. 179; Pub. L. 104–59, title III, § 322, Nov. 28, 1995, 109 Stat. 591; Pub. L. 105–178, title I, §§ 1212(a)(2)(A)(i), 1301(b)–(d)(1), June 9, 1998, 112 Stat. 193, 225, 226; Pub. L. 109–59, title I, § 1902, Aug. 10, 2005, 119 Stat. 1464.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–59, § 1902(1), inserted '', or a local government from offering to donate funds, materials, or services performed by local government employees,'' before ''in connection with a project''.

Subsec. (e). Pub. L. 109–59, § 1902(2), struck out heading and text of subsec. (e). Text read as follows: ''A contribution by a unit of local government of real property, funds, or material in connection with a project eligible for assistance under this title shall be credited

against the State share of the project at the fair market value of the real property, funds, or material.''

1998—Pub. L. 105–178, § 1301(d)(1), substituted ''Donations and credits'' for ''Donations'' in section catchline.

Subsec. (b). Pub. L. 105–178, § 1301(b)(1), substituted ''Acquired'' for ''Donated'' in heading.

Subsec. (b)(1), (2). Pub. L. 105–178, § 1301(b)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) GENERAL RULE.—Notwithstanding any provision of this title, the State matching share for a project with respect to which Federal assistance is provided out of the Highway Trust Fund (other than the Mass Transit Account) may be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the date of the enactment of this subsection.

''(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of the donated land shall be established as determined by the Secretary. Fair market value shall not include increases and decreases in the value of donated property caused by the project. For purposes of this subsection, the fair market value of donated land shall be established as of the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier.''

Subsec. (b)(3). Pub. L. 105–178, § 1301(b)(3), substituted ''agency of the Federal Government'' for ''agency of a Federal, State, or local government''.

Subsec. (b)(4). Pub. L. 105–178, § 1301(b)(4), struck out ''to which the donation is applied'' before period at end.

Subsec. (c). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (e). Pub. L. 105–178, § 1301(c), added subsec. (e).

1995—Subsecs. (c), (d). Pub. L. 104–59 added subsec. (c) and redesignated former subsec. (c) as (d).

1987—Pub. L. 100–17 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1975—Pub. L. 93–643 substituted ''after he has been fully informed of his right to receive just compensation for the acquisition of his property'' for ''after he has been tendered the full amount of the estimated just compensation as established by an approved appraisal of the fair market value of the subject real property''.

§ 324. Prohibition of discrimination on the basis of sex

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Added Pub. L. 93–87, title I, § 162(a), Aug. 13, 1973, 87 Stat. 280.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000d of Title 42 and Tables.

§ 325. State assumption of responsibilities for certain programs and projects

(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

(1) PILOT PROGRAM.—

(A) ESTABLISHMENT.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

(B) FIRST 3 FISCAL YEARS.—In the first 3 fiscal years following the date of enactment of the SAFETEA–LU, the Secretary may allow up to 5 States to participate in the pilot program.

(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decision-making or other actions required under any Federal law as such requirements apply to the following projects:

(A) Projects funded under section 104(h).

(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).

(b) AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

(2) CERTIFICATION.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

(3) MAXIMUM DURATION.—A memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

(4) COMPLIANCE.—

(A) IN GENERAL.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

(B) RENEWALS.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of a memorandum of understanding with the State under the program.

(5) SOLE RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

(6) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

(c) SELECTION OF STATES FOR PILOT PROGRAM.—

(1) APPLICATION.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—

(A) a description of the projects or classes of projects for which the State seeks to assume responsibilities under subsection (a)(2); and

(B) a certification that the State has the capability to assume such responsibilities.

(2) PUBLIC NOTICE.—Before entering into a memorandum of understanding allowing a State to participate in the pilot program, the Secretary shall—

(A) publish notice in the Federal Register of the Secretary's intent to allow the State to participate in the program, including a copy of the State's application to the Secretary and the terms of the proposed agreement with the State; and

(B) provide an opportunity for public comment.

(3) SELECTION CRITERIA.—The Secretary may approve the application of a State to assume responsibilities under the program only if—

(A) the requirements under paragraph (2) have been met; and

(B) the Secretary determines that the State has the capability to assume the responsibilities.

(4) OTHER FEDERAL AGENCY VIEWS.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.

(d) STATE DEFINED.—With respect to the recreational trails program, the term ''State'' means the State agency designated by the Governor of the State in accordance with section 206(c)(1).

(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.

(Added Pub. L. 109–59, title VI, § 6003(a), Aug. 10, 2005, 119 Stat. 1865.)

REFERENCES IN TEXT

The date of enactment of the SAFETEA–LU, referred to in subsec. (a)(1)(B), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

A prior section 325, added Pub. L. 102–240, title VI, § 6003[(a)], Dec. 18, 1991, 105 Stat. 2168, related to international highway transportation outreach program, prior to repeal by Pub. L. 105–178, title V, § 5119(b), June 9, 1998, 112 Stat. 452.

§ 326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) OTHER APPLICABLE FEDERAL LAWS.—

(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

(c) MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

(2) TERM.—A memorandum of understanding—

(A) shall have a term of not more than 3 years; and

(B) shall be renewable.

(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

(4) MONITORING.—The Secretary shall—

(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.

(Added Pub. L. 109–59, title VI, § 6004(a), Aug. 10, 2005, 119 Stat. 1867.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(3), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 326, added Pub. L. 102–240, title VI, § 6004(a), Dec. 18, 1991, 105 Stat. 2169; amended Pub. L. 105–130, § 5(e)(4), Dec. 1, 1997, 111 Stat. 2558, related to education and training program, prior to repeal by Pub. L. 105–178, title V, § 5119(b), June 9, 1998, 112 Stat. 452.

§ 327. Surface transportation project delivery pilot program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the ''program'').

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

(ii) the Secretary may not assign—

(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

(II) any responsibility imposed on the Secretary by section 134 or 135.

(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

(b) STATE PARTICIPATION.—

(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

(A) the regulatory requirements under paragraph (2) have been met;

(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary

to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

(2) be in such form as the Secretary may prescribe;

(3) provide that the State—

(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

(C) certifies that State laws (including regulations) are in effect that—

(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

(d) JURISDICTION.—

(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

(A) semiannual audits during each of the first 2 years of State participation; and

(B) annual audits during each subsequent year of State participation.

(2) PUBLIC AVAILABILITY AND COMMENT.—

(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

(i) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(B) the Secretary provides to the State—

(i) notification of the determination of noncompliance; and

(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.

(Added Pub. L. 109–59, title VI, § 6005(a), Aug. 10, 2005, 119 Stat. 1868.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this section, referred to in subsecs. (b)(2) and (i)(1), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

§ 328. Eligibility for environmental restoration and pollution abatement

(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollu-

tion abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

(Added Pub. L. 109–59, title VI, § 6006(b), Aug. 10, 2005, 119 Stat. 1872.)

§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:

(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, and aesthetic enhancement.

(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—

(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

(3) control or elimination of plants as defined in subsection (a)(2);

(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and

(5) training.

(c) CONTRIBUTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

(Added Pub. L. 109–59, title VI, § 6006(b), Aug. 10, 2005, 119 Stat. 1872.)

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (b)(1), is title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, as amended, which is classified principally to chapter 104 (§ 7701 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of Title 7 and Tables.

CHAPTER 4—HIGHWAY SAFETY

Sec.
401. Authority of the Secretary.
402. Highway safety programs.
403. Highway safety research and development.
404. National Highway Safety Advisory Committee.
405. Occupant protection incentive grants.
406. Safety belt performance grants.
407. Innovative project grants.
408. State traffic safety information system improvements.
409. Discovery and admission as evidence of certain reports and surveys.
410. Alcohol-impaired driving countermeasures.
411. State highway safety data improvements.
412. Agency accountability.

AMENDMENTS

2005—Pub. L. 109–59, title II, §§ 2005(b), 2006(b), 2008(b), Aug. 10, 2005, 119 Stat. 1527, 1529, 1535, substituted ''Safety belt performance grants'' for ''School bus driver training'' in item 406 and ''State traffic safety information system improvements'' for ''Alcohol traffic safety programs'' in item 408 and added item 412.

1998—Pub. L. 105–178, title II, §§ 2003(a)(2), 2005(b), June 9, 1998, 112 Stat. 327, 334, substituted ''Occupant protection incentive grants'' for ''Repealed'' in item 405 and added item 411.

1991—Pub. L. 102–240, title I, § 1035(b), title II, § 2004(c), Dec. 18, 1991, 105 Stat. 1978, 2079, substituted ''Discovery and admission'' for ''Admission'' in item 409 and ''Alcohol-impaired driving countermeasures'' for ''Drunk driving prevention programs'' in item 410.

1988—Pub. L. 100–690, title IX, § 9002(b), Nov. 18, 1988, 102 Stat. 4525, added item 410.

1987—Pub. L. 100–17, title I, § 132(b), Apr. 2, 1987, 101 Stat. 170, added item 409.

1982—Pub. L. 97–364, title I, § 101(b), Oct. 25, 1982, 96 Stat. 1740, added item 408.

1978—Pub. L. 95–599, title II, § 208(b), Nov. 6, 1978, 92 Stat. 2732, added item 407.

1976—Pub. L. 94–280, title I, § 135(d), May 5, 1976, 90 Stat. 442, substituted item 405 ''Repealed'' for ''Federal-aid safer roads demonstration program''.

1975—Pub. L. 93–643, § 126(b), Jan. 4, 1975, 88 Stat. 2291, added item 406.

1973—Pub. L. 93–87, title II, § 230(b), Aug. 13, 1973, 87 Stat. 294, added item 405.

§ 401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term ''State'' means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Added Pub. L. 89–564, title I, § 101, Sept. 9, 1966, 80 Stat. 731; amended Pub. L. 93–87, title II, § 218, Aug. 13, 1973, 87 Stat. 290; Pub. L. 98–363, § 3(b), July 17, 1984, 98 Stat. 436; Pub. L. 100–17, title I, § 133(b)(19), Apr. 2, 1987, 101 Stat. 172.)

AMENDMENTS

1987—Pub. L. 100–17 inserted reference in second sentence to Commonwealth of the Northern Mariana Islands.

1984—Pub. L. 98–363 struck out '', except that all expenditures for carrying out this chapter in the Virgin