1962—Pub. L. 87–866 inserted ''public lands development roads and trails,'' before ''park roads and trails'' in two places.

1960—Pub. L. 86–657 substituted ''Funds authorized'' for ''Funds now authorized'' in first sentence.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 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 a note under section 104 of this title.

§ 204. Federal Lands Highways Program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, refuge roads, and Indian reservation roads and bridges.

(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

(A) shall be developed in cooperation with States and metropolitan planning organizations; and

(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, and engineering and construction of, highways, roads, parkways, and transit facilities located on public lands, national parks, and Indian reservations; and

(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).

(c) Before approving as a project on an Indian reservation road any project eligible for funds apportioned under section 104 or section 144 of this title in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title. Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in

lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the appropriate Federal land management agency shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the ''Buy Indian'' Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

(2) Adjacent vehicular parking areas.

(3) Interpretive signage.

(4) Acquisition of necessary scenic easements and scenic or historic sites.

(5) Provision for pedestrians and bicycles.

(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.

(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a). Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

(k) REFUGE ROADS.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

(A) maintenance and improvements of refuge roads;

(B) maintenance and improvements of eligible projects described in paragraphs (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to wildlife refuges;

(C) administrative costs associated with such maintenance and improvements;

(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

(E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.

(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

(3) COMPLIANCE WITH OTHER LAW.—Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(*l*) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

(1) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

(A) Indian reservation roads; and

(B) roads providing access to Indian reservation roads.

(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

(A) shall be negotiated between the State and the Indian tribe; and

(B) shall not require the approval of the Secretary.

(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

(A) the Indian tribes and States that have entered into agreements under paragraph (1);

(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 97–424, title I, §126(b), Jan. 6, 1983, 96 Stat. 2114; Pub. L. 100–17, title I, §133(b)(13), (14), Apr. 2, 1987, 101 Stat. 172; Pub. L. 102–240, title I, §§1030, 1032(b), title VI, §6004(c), Dec. 18, 1991, 105 Stat. 1970, 1974, 2169; Pub. L. 105–178, title I, §1115(d), (e)(4), title V, §5119(a), June 9, 1998, 112 Stat. 156, 158, 452; Pub. L. 109–59, title I, §1119(h)–(k), Aug. 10, 2005, 119 Stat. 1187–1189.)

REFERENCES IN TEXT

Section 23 of the ''Buy Indian'' Act of June 25, 1910 (36 Stat. 861), referred to in subsec. (e), is classified to section 47 of Title 25, Indians.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (j), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. Section 7(b) of the Act is classified to section 450e(b) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The National Wildlife Refuge System Administration Act of 1966, referred to in subsec. (k)(3), consists of sections 4 and 5 of Pub. L. 89–699, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd and 668ee of Title 16, Conservation. For further details, see Short Title note set out under section 668dd of Title 16.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, §1119(h)(1), inserted ''refuge roads,'' after ''parkways,''.

Subsec. (b). Pub. L. 109–59, §1119(h)(2), added subsec. (b) and struck out former subsec. (b) which related to use of funds available for public lands highways, park roads and parkways, and Indian reservation roads.

Subsec. (c). Pub. L. 109–59, §1119(i), substituted ''Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.'' for ''Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.''

Subsec. (k)(1)(B). Pub. L. 109–59, §1119(j)(1)(A), substituted ''(2), (3), (5),'' for ''(2), (5),''.

Subsec. (k)(1)(D), (E). Pub. L. 109–59, §1119(j)(1)(B), (2), (3), added subpars. (D) and (E).

Subsec. (*l*). Pub. L. 109–59, §1119(k), added subsec. (*l*).

1998—Subsec. (a). Pub. L. 105–178, §1115(d)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of this title. The Secretary, in cooperation with the Secretary of the Interior and the Secretary of Agriculture, shall develop appropriate transportation planning procedures and safety, bridge, and pavement management systems for roads funded under the Federal Lands Highway Program. Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.''

Subsec. (b). Pub. L. 105–178, §§1115(d)(2), 5119(a), substituted ''Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.'' for ''Funds available for public lands highways shall be used by the Secretary to pay for the cost of planning, research, engineering and construction thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary or the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable.'' and ''section 504(b)'' for ''section 326''.

Subsec. (e). Pub. L. 105–178, §1115(d)(3), substituted ''Secretary of the appropriate Federal land management agency'' for ''Secretary of the Interior'' in first sentence.

Subsec. (h)(8). Pub. L. 105–178, §1115(d)(4), added par. (8).

Subsec. (i). Pub. L. 105–178, §1115(d)(5), added subsec. (i) and struck out heading and text of former subsec. (i). Text read as follows: ''The Secretary shall transfer to the Secretary of the Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.''

Subsec. (j). Pub. L. 105–178, §1115(d)(6), substituted second sentence for former second sentence which read as follows: ''The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding.''

Subsec. (k). Pub. L. 105–178, §1115(e)(4), added subsec. (k).

1991—Subsec. (a). Pub. L. 102–240, §1032(b)(1), struck out ''forest highways,'' before ''public lands highways''

and inserted provisions requiring Secretary, in cooperation with Secretaries of the Interior and Agriculture, to develop transportation planning procedures and safety, bridge, and pavement management systems for roads funded under Federal Lands Highway Program, and provisions prohibiting public lands highway projects from being undertaken in any State pursuant to this section unless State concurs in selection and planning of project.

Subsec. (b). Pub. L. 102–240, § 6004(c), inserted at end ''The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 326.''

Pub. L. 102–240, § 1032(b)(2)(B), (C), struck out ''forest highways and'' before ''public lands highways'' and inserted at end ''Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways.''

Pub. L. 102–240, § 1032(b)(2)(A), substituted ''planning, research, engineering and construction thereof'' for ''construction and improvements thereof'' and was executed by making the substitution for the first reference to ''construction and improvement thereof'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 102–240, §§ 1030, 1032(b)(3), substituted ''eligible for funds apportioned under section 104 or section 144 of this title'' for ''on a Federal-aid system'' and inserted at end ''Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.''

Subsecs. (h) to (j). Pub. L. 102–240, § 1032(b)(4), added subsecs. (h) to (j) and struck out former subsec. (h) which read as follows: ''Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.''

1987—Subsec. (b). Pub. L. 100–17, § 133(b)(13), inserted ''the Secretary or'' after ''used by'' in second sentence.

Subsec. (e). Pub. L. 100–17, § 133(b)(14), struck out ''of 1975'' after ''Education Assistance Act''.

1983—Pub. L. 97–424 substituted ''Federal Lands Highways Program'' for ''Forest highways'' in section catchline.

Subsecs. (a), (b). Pub. L. 97–424 added subsec. (a), redesignated former subsec. (a) as (b), inserted reference to public lands highways, inserted ''and improvement'' after ''construction'', inserted reference to reservations, Indian tribes, and the Secretary of the Interior, and inserted provision that funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 97–424 added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 97–424 redesignated former subsec. (b) as (d) and substituted provision that cooperation may be accepted in construction and improvement, and that any funds received from a State, county, or local subdivision be credited to appropriations available for the class of Federal lands highways to which such funds were contributed, for provision that cooperation may be accepted but may not be required by the Secretary. Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 97–424 redesignated former subsec. (c) as (e) and substituted provisions relating to competitive bidding and preference for Indians for provisions that construction estimated to cost $5,000 or more per mile, exclusive of bridges, was to be advertised and let to contract, that if such estimated cost was less than $5,000 per mile or if, after proper advertising, no acceptable bid was received or the bids deemed excessive, the work might be done by the Secretary on his own account, and that for such purpose, the Secretary might purchase, lease, hire, rent, or otherwise obtain all necessary supplies, materials, tools, equipment, and facilities required to perform the work, and might pay wages, salaries, and other expenses for help employed in connection with such work. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 97–424 redesignated former subsec. (d) as (f), inserted reference to each class of Federal lands highways and to agreements, and substituted reference to the Secretary of the appropriate Federal land management agency for reference to the Secretary of Agriculture. Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 97–424 redesignated former subsec. (e) as (g) and substituted ''forest highways'' for ''forest-highway program''.

Subsec. (h). Pub. L. 97–424 redesignated former subsec. (f) as (h), substituted reference to each class of Federal lands highways for reference to forest highways, and reference to scenic easements for reference to sanitary, water, and fire control facilities.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 1030 and 1032 of Pub. L. 102–240 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 a note under section 104 of this title.

§ 205. Forest development roads and trails

(a) Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance thereof, including roads and trails on experimental and other areas under Forest Service administration. In connection therewith, the Secretary of Agriculture may enter into contracts with a State or civil subdivision thereof, and issue such regulations as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

(c) Construction estimated to cost $50,000 or more per mile or $50,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If such estimated cost is less than $50,000 per mile or $50,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 86–657, § 8(c), July 14, 1960, 74 Stat. 524; Pub. L. 88–423, § 4(d), Aug. 13, 1964, 78 Stat. 398; Pub. L. 90–495, § 9, Aug. 23, 1968, 82 Stat. 820; Pub. L. 102–240, title I, § 1032(c), Dec. 18, 1991, 105 Stat. 1975.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–240 substituted ''$50,000'' for ''$15,000'' wherever appearing.