

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 rule-making 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 7 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; amended Pub. L. 111–322, title II, § 2203(c), Dec. 22, 2010, 124 Stat. 3526.)

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, 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.

AMENDMENTS

2010—Subsec. (i)(1). Pub. L. 111–322 substituted “7 years after” for “6 years after”.

§ 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 pollution 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 activi-

ties 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 subsection (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

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Sec.	
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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 Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated” after “and American Samoa”.

1973—Pub. L. 93–87 inserted definition of “State” and provided that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 3(c) of Pub. L. 98–363 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 402 of this title] shall apply to fiscal years beginning after the date of enactment of this Act [July 17, 1984].”

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–240, title II, §2001, Dec. 18, 1991, 105 Stat. 2070, provided that: “This part [part A (§§2001–2009) of