

(4) address such comments in the final plan.

(e) **INTEGRATION WITH OTHER PLANS.**—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

(f) **CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.**—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out the responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other Federal environmental law.

(g) **PRESERVATION OF EXISTING AUTHORITIES.**—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Added Pub. L. 112-141, div. A, title I, §1311(a), July 6, 2012, 126 Stat. 543; amended Pub. L. 114-94, div. A, title I, §1306, Dec. 4, 2015, 129 Stat. 1389.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (f) and (g), 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.

AMENDMENTS

2015—Subsec. (f). Pub. L. 114-94 substituted “shall give substantial weight to” for “may use” and inserted “or other Federal environmental law” before period at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 170. Funding flexibility for transportation emergencies

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a State may use up to 100 percent of any covered funds of the State to repair or replace a transportation facility that has suffered serious damage as a result of a natural disaster or catastrophic failure from an external cause.

(b) **DECLARATION OF EMERGENCY.**—Funds may be used under this section only for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(c) **REPAYMENT.**—Funds used under subsection (a) shall be repaid to the program from which the funds were taken in the event that such repairs or replacement are subsequently covered by a supplemental appropriation of funds.

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

(1) **COVERED FUNDS.**—The term “covered funds” means any amounts apportioned to a State under section 104(b), other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d), but including any such amounts required to be set aside for a purpose other than the repair or replacement of a transportation facility under this section.

(2) **TRANSPORTATION FACILITY.**—The term “transportation facility” means any facility eligible for assistance under section 125.

(Added Pub. L. 112-141, div. A, title I, §1515(a), July 6, 2012, 126 Stat. 573.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 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 5121 of Title 42 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 171. Wildlife crossings pilot program

(a) **FINDING.**—Congress finds that greater adoption of wildlife-vehicle collision safety countermeasures is in the public interest because—

(1) according to the report of the Federal Highway Administration entitled “Wildlife-Vehicle Collision Reduction Study”, there are more than 1,000,000 wildlife-vehicle collisions every year;

(2) wildlife-vehicle collisions—

(A) present a danger to—

- (i) human safety; and
- (ii) wildlife survival; and

(B) represent a persistent concern that results in tens of thousands of serious injuries and hundreds of fatalities on the roadways of the United States; and

(3) the total annual cost associated with wildlife-vehicle collisions has been estimated to be \$8,388,000,000; and

(4) wildlife-vehicle collisions are a major threat to the survival of species, including birds, reptiles, mammals, and amphibians.

(b) **ESTABLISHMENT.**—The Secretary shall establish a competitive wildlife crossings pilot program (referred to in this section as the “pilot program”) to provide grants for projects that seek to achieve—

(1) a reduction in the number of wildlife-vehicle collisions; and

(2) in carrying out the purpose described in paragraph (1), improved habitat connectivity for terrestrial and aquatic species.

(c) ELIGIBLE ENTITIES.—An entity eligible to apply for a grant under the pilot program is—

- (1) a State highway agency, or an equivalent of that agency;
- (2) a metropolitan planning organization (as defined in section 134(b));
- (3) a unit of local government;
- (4) a regional transportation authority;
- (5) a special purpose district or public authority with a transportation function, including a port authority;
- (6) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));
- (7) a Federal land management agency; or
- (8) a group of any of the entities described in paragraphs (1) through (7).

(d) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) REQUIREMENT.—If an application under paragraph (1) is submitted by an eligible entity other than an eligible entity described in paragraph (1) or (7) of subsection (c), the application shall include documentation that the State highway agency, or an equivalent of that agency, of the State in which the eligible entity is located was consulted during the development of the application.

(3) GUIDANCE.—To enhance consideration of current and reliable data, eligible entities may obtain guidance from an agency in the State with jurisdiction over fish and wildlife.

(e) CONSIDERATIONS.—In selecting grant recipients under the pilot program, the Secretary shall take into consideration the following:

(1) Primarily, the extent to which the proposed project of an eligible entity is likely to protect motorists and wildlife by reducing the number of wildlife-vehicle collisions and improve habitat connectivity for terrestrial and aquatic species.

(2) Secondarily, the extent to which the proposed project of an eligible entity is likely to accomplish the following:

(A) Leveraging Federal investment by encouraging non-Federal contributions to the project, including projects from public-private partnerships.

(B) Supporting local economic development and improvement of visitation opportunities.

(C) Incorporation of innovative technologies, including advanced design techniques and other strategies to enhance efficiency and effectiveness in reducing wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species.

(D) Provision of educational and outreach opportunities.

(E) Monitoring and research to evaluate, compare effectiveness of, and identify best practices in, selected projects.

(F) Any other criteria relevant to reducing the number of wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species, as the Secretary determines to be appropriate, subject to the condition that the implementation of the pilot program shall not be delayed in the absence of action by the Secretary to identify additional criteria under this subparagraph.

(f) USE OF FUNDS.—

(1) IN GENERAL.—The Secretary shall ensure that a grant received under the pilot program is used for a project to reduce wildlife-vehicle collisions.

(2) GRANT ADMINISTRATION.—

(A) IN GENERAL.—A grant received under the pilot program shall be administered by—

(i) in the case of a grant to a Federal land management agency or an Indian tribe (as defined in section 207(m)(1), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602))), the Federal Highway Administration, through an agreement; and

(ii) in the case of a grant to an eligible entity other than an eligible entity described in clause (i), the State highway agency, or an equivalent of that agency, for the State in which the project is to be carried out.

(B) PARTNERSHIPS.—

(i) IN GENERAL.—A grant received under the pilot program may be used to provide funds to eligible partners of the project for which the grant was received described in clause (ii), in accordance with the terms of the project agreement.

(ii) ELIGIBLE PARTNERS DESCRIBED.—The eligible partners referred to in clause (i) include—

(I) a metropolitan planning organization (as defined in section 134(b));

(II) a unit of local government;

(III) a regional transportation authority;

(IV) a special purpose district or public authority with a transportation function, including a port authority;

(V) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));

(VI) a Federal land management agency;

(VII) a foundation, nongovernmental organization, or institution of higher education;

(VIII) a Federal, Tribal, regional, or State government entity; and

(IX) a group of any of the entities described in subclauses (I) through (VIII).

(3) COMPLIANCE.—An eligible entity that receives a grant under the pilot program and en-

ters into a partnership described in paragraph (2) shall establish measures to verify that an eligible partner that receives funds from the grant complies with the conditions of the pilot program in using those funds.

(g) **REQUIREMENT.**—The Secretary shall ensure that not less than 60 percent of the amounts made available for grants under the pilot program each fiscal year are for projects located in rural areas.

(h) **ANNUAL REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than December 31 of each calendar year, the Secretary shall submit to Congress, and make publicly available, a report describing the activities under the pilot program for the fiscal year that ends during that calendar year.

(2) **CONTENTS.**—The report under paragraph (1) shall include—

(A) a detailed description of the activities carried out under the pilot program;

(B) an evaluation of the effectiveness of the pilot program in meeting the purposes described in subsection (b); and

(C) policy recommendations to improve the effectiveness of the pilot program.

(i) **TREATMENT OF PROJECTS.**—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(Added Pub. L. 117–58, div. A, title I, § 11123(b)(1), Nov. 15, 2021, 135 Stat. 499.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

§ 172. Wildlife-vehicle collision reduction and habitat connectivity improvement

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study (referred to in this subsection as the “study”) of the state, as of the date of the study, of the practice of methods to reduce collisions between motorists and wildlife (referred to in this section as “wildlife-vehicle collisions”).

(2) **CONTENTS.**—

(A) **AREAS OF STUDY.**—The study shall—

(i) update and expand on, as appropriate—

(I) the report entitled “Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress”; and

(II) the document entitled “Wildlife Vehicle Collision Reduction Study: Best Practices Manual” and dated October 2008; and

(ii) include—

(I) an assessment, as of the date of the study, of—

(aa) the causes of wildlife-vehicle collisions;

(bb) the impact of wildlife-vehicle collisions on motorists and wildlife; and

(cc) the impacts of roads and traffic on habitat connectivity for terrestrial and aquatic species; and

(II) solutions and best practices for—

(aa) reducing wildlife-vehicle collisions; and

(bb) improving habitat connectivity for terrestrial and aquatic species.

(B) **METHODS.**—In carrying out the study, the Secretary shall—

(i) conduct a thorough review of research and data relating to—

(I) wildlife-vehicle collisions; and

(II) habitat fragmentation that results from transportation infrastructure;

(ii) survey current practices of the Department of Transportation and State departments of transportation to reduce wildlife-vehicle collisions; and

(iii) consult with—

(I) appropriate experts in the field of wildlife-vehicle collisions; and

(II) appropriate experts on the effects of roads and traffic on habitat connectivity for terrestrial and aquatic species.

(3) **REPORT.**—

(A) **IN GENERAL.**—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report on the results of the study.

(B) **CONTENTS.**—The report under subparagraph (A) shall include—

(i) a description of—

(I) the causes of wildlife-vehicle collisions;

(II) the impacts of wildlife-vehicle collisions; and

(III) the impacts of roads and traffic on—

(aa) species listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(bb) species identified by States as species of greatest conservation need;

(cc) species identified in State wildlife plans; and

(dd) medium and small terrestrial and aquatic species;

(ii) an economic evaluation of the costs and benefits of installing highway infrastructure and other measures to mitigate damage to terrestrial and aquatic species, including the effect on jobs, property values, and economic growth to society, adjacent communities, and landowners;

(iii) recommendations for preventing wildlife-vehicle collisions, including recommended best practices, funding resources, or other recommendations for addressing wildlife-vehicle collisions; and

(iv) guidance, developed in consultation with Federal land management agencies and State departments of transportation, State fish and wildlife agencies, and Tribal governments that agree to participate, for developing, for each State that agrees to