

under this chapter shall include lands, easements, rights-of-way, and relocations and may include services (including monitoring), or any other form of in-kind contribution determined by the Secretary to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the activity.

(4) Operation and maintenance

The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this section.

(e) Interim actions

(1) In general

Pending completion of the estuary habitat restoration strategy to be developed under section 2905 of this title, the Secretary may take interim actions to carry out an estuary habitat restoration activity.

(2) Federal share

The Federal share of the cost of an estuary habitat restoration activity before the completion of the estuary habitat restoration strategy shall not exceed 25 percent of such cost.

(f) Cooperation of non-Federal interests

(1) In general

The Secretary may not carry out an estuary habitat restoration project until a non-Federal interest has entered into a written agreement with the Secretary in which the non-Federal interest agrees to—

(A) provide all lands, easements, rights-of-way, and relocations and any other elements the Secretary determines appropriate under subsection (d)(3); and

(B) provide for long-term maintenance and monitoring of the project.

(2) Nongovernmental organizations

Notwithstanding section 1962d-5b(b) of title 42, for any project to be undertaken under this chapter, the Secretary, in consultation and coordination with appropriate State and local governmental agencies and Indian tribes, may allow a nongovernmental organization to serve as the non-Federal interest for the project.

(3) Project agreements

For a project carried out under this chapter, the requirements of section 2213(j)(1) of this title may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).

(g) Delegation of project implementation

(1) In general

In carrying out this chapter, the Secretary may delegate project implementation to another Federal department or agency on a reimbursable basis if the Secretary, upon the recommendation of the Council, determines such delegation is appropriate.

(2) Small projects

(A) Small project defined

In this paragraph, the term “small project” means a project carried out under

this chapter with an estimated Federal cost of less than \$1,000,000.

(B) Delegation of project implementation

In carrying out this section, the Secretary, on recommendation of the Council, may delegate implementation of a small project to—

(i) the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service);

(ii) the Under Secretary for Oceans and Atmosphere of the Department of Commerce;

(iii) the Administrator of the Environmental Protection Agency; or

(iv) the Secretary of Agriculture.

(C) Funding

A small project delegated to the head of a Federal department or agency under this paragraph may be carried out using funds appropriated to the department or agency under section 2908(a)(1) of this title or other funds available to the department or agency.

(D) Agreements

The head of a Federal department or agency to which a small project is delegated under this paragraph shall enter into an agreement with the non-Federal interest for the project generally in conformance with the criteria in subsections (d) and (e). Cooperative agreements may be used for any delegated project to allow the non-Federal interest to carry out the project on behalf of the Federal agency.

(Pub. L. 106-457, title I, §104, Nov. 7, 2000, 114 Stat. 1960; Pub. L. 110-114, title V, §5017(c), Nov. 8, 2007, 121 Stat. 1197; Pub. L. 114-322, title IV, §5013(a), Dec. 16, 2016, 130 Stat. 1903.)

Editorial Notes

AMENDMENTS

2016—Subsec. (f)(3). Pub. L. 114-322 added par. (3).

2007—Subsec. (a). Pub. L. 110-114, §5017(c)(1), inserted “through the award of contracts and cooperative agreements” after “assistance”.

Subsec. (c)(3)(A). Pub. L. 110-114, §5017(c)(2)(A), inserted “or State” after “Federal”.

Subsec. (c)(4)(B). Pub. L. 110-114, §5017(c)(2)(B), inserted “or approach” after “technology”.

Subsec. (d)(1). Pub. L. 110-114, §5017(c)(3)(A), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (d)(2). Pub. L. 110-114, §5017(c)(3)(B), inserted “or approach” after “technology”.

Subsec. (d)(3). Pub. L. 110-114, §5017(c)(3)(C), inserted “(including monitoring)” after “services”.

Subsec. (f)(1)(B). Pub. L. 110-114, §5017(c)(4), inserted “long-term” before “maintenance”.

Subsec. (g). Pub. L. 110-114, §5017(c)(5), designated existing provisions as par. (1), inserted heading, and added par. (2).

§ 2904. Establishment of Estuary Habitat Restoration Council

(a) Council

There is established a council to be known as the “Estuary Habitat Restoration Council”.

(b) Duties

The Council shall be responsible for—

(1) soliciting, reviewing, and evaluating project proposals and developing recommendations concerning such proposals based on the factors specified in section 2903(c)(3) of this title;

(2) submitting to the Secretary a list of recommended projects, including a recommended priority order and any recommendation as to whether a project should be carried out by the Secretary or by another Federal department or agency under section 2903(g) of this title;

(3) developing and transmitting to Congress a national strategy for restoration of estuary habitat;

(4) periodically reviewing the effectiveness of the national strategy in meeting the purposes of this chapter and, as necessary, updating the national strategy;

(5) providing advice on the development of the database, monitoring standards, and report required under sections 2906 and 2907 of this title;

(6) cooperating in the implementation of the strategy developed under section 2905 of this title;

(7) recommending standards for monitoring for restoration projects and contribution of project information to the database developed under section 2906 of this title; and

(8) otherwise using the respective authorities of the Council members to carry out this chapter.

(c) Membership

The Council shall be composed of the following members:

(1) The Secretary (or the Secretary's designee).

(2) The Under Secretary for Oceans and Atmosphere of the Department of Commerce (or the Under Secretary's designee).

(3) The Administrator of the Environmental Protection Agency (or the Administrator's designee).

(4) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service (or such Secretary's designee).

(5) The Secretary of Agriculture (or such Secretary's designee).

(6) The head of any other Federal agency designated by the President to serve as an ex officio member of the Council.

(d) Prohibition of compensation

Members of the Council may not receive compensation for their service as members of the Council.

(e) Chairperson

The chairperson shall be elected by the Council from among its members for a 3-year term, except that the first elected chairperson may serve a term of fewer than 3 years.

(f) Convening of Council

(1) First meeting

The Secretary shall convene the first meeting of the Council not later than 60 days after November 7, 2000, for the purpose of electing a chairperson.

(2) Additional meetings

The chairperson shall convene additional meetings of the Council as often as appro-

priate to ensure that this chapter is fully carried out, but not less often than annually.

(g) Council procedures

The Council shall establish procedures for voting, the conduct of meetings, and other matters, as necessary.

(h) Public participation

Meetings of the Council shall be open to the public. The Council shall provide notice to the public of such meetings.

(i) Advice

The Council shall consult with persons with recognized scientific expertise in estuary or estuary habitat restoration, representatives of State agencies, local or regional government agencies, and nongovernmental organizations with expertise in estuary or estuary habitat restoration, and representatives of Indian tribes, agricultural interests, fishing interests, and other estuary users—

(1) to assist the Council in the development of the estuary habitat restoration strategy to be developed under section 2905 of this title; and

(2) to provide advice and recommendations to the Council on proposed estuary habitat restoration projects, including advice on the scientific merit, technical merit, and feasibility of a project.

(Pub. L. 106-457, title I, §105, Nov. 7, 2000, 114 Stat. 1962; Pub. L. 110-114, title V, §5017(d), Nov. 8, 2007, 121 Stat. 1198.)

Editorial Notes

AMENDMENTS

2007—Subsec. (b)(6) to (8). Pub. L. 110-114 added pars. (6) to (8).

§ 2905. Estuary habitat restoration strategy

(a) In general

Not later than 1 year after November 7, 2000, the Council,¹ shall develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects and to foster the coordination of Federal and non-Federal activities related to restoration of estuary habitat.

(b) Goal

The goal of the strategy shall be the restoration of 1,000,000 acres of estuary habitat by the year 2010.

(c) Integration of estuary habitat restoration plans, programs, and partnerships

In developing the estuary habitat restoration strategy, the Council shall—

(1) conduct a review of estuary management or habitat restoration plans and Federal programs established under other laws that authorize funding for estuary habitat restoration activities; and

(2) ensure that the estuary habitat restoration strategy is developed in a manner that is consistent with the estuary management or habitat restoration plans.

¹ So in original. The comma probably should not appear.