

16 USC Ch. 42: EMERGENCY CONSERVATION PROGRAM

From Title 16—CONSERVATION

CHAPTER 42—EMERGENCY CONSERVATION PROGRAM

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§2201. Emergency conservation program

(a) In general

The Secretary of Agriculture (referred to in this chapter as the "Secretary") is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, wildfires, or other natural disasters when, as a result of the foregoing, new conservation problems have been created that (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

(b) Repair or replacement of fencing

(1) In general

With respect to a payment to an agricultural producer under subsection (a) for the repair or replacement of fencing, the Secretary shall give the agricultural producer the option of receiving not more than 25 percent of the payment, determined by the Secretary based on the applicable percentage of the fair market value of the cost of the repair or replacement, before the agricultural producer carries out the repair or replacement.

(2) Return of funds

If the funds provided under paragraph (1) are not expended by the end of the 60-day period beginning on the date on which the agricultural producer receives those funds, the funds shall be returned within a reasonable timeframe, as determined by the Secretary.

(Pub. L. 95–334, title IV, §401, Aug. 4, 1978, 92 Stat. 433; Pub. L. 115–334, title II, §2403(a)(1), Dec. 20, 2018, 132 Stat. 4571.)

AMENDMENTS

2018—Pub. L. 115–334 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted "The Secretary of Agriculture (referred to in this chapter as the 'Secretary')" for "The Secretary of Agriculture", inserted "wildfires," after "hurricanes,", and added subsec. (b).

EFFECTIVE DATE

Pub. L. 95–334, title IV, §406, Aug. 4, 1978, 92 Stat. 434, provided that: "The provisions of this title [enacting this chapter] shall become effective October 1, 1978."

§2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria

The Secretary is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures (including measures carried out to assist confined livestock) during periods of severe drought as determined by the Secretary.

(Pub. L. 95–334, title IV, §402, Aug. 4, 1978, 92 Stat. 434; Pub. L. 101–82, title V, §502, Aug. 14, 1989, 103 Stat. 586; Pub. L. 115–334, title II, §2403(a)(2)(A), Dec. 20, 2018, 132 Stat. 4571.)

AMENDMENTS

2018—Pub. L. 115–334 substituted "The Secretary is" for "The Secretary of Agriculture is".

1989—Pub. L. 101–82, §502(1), inserted "(including measures carried out to assist confined livestock)".

Pub. L. 101–82, §502(2), temporarily substituted "any fiscal year in which there is a period of severe drought" for "periods of severe drought". See Effective and Termination Dates of 1989 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Pub. L. 101–82, [title V, §502\(2\), Aug. 14, 1989](#), 103 Stat. 586, provided in part that amendment by section 502(2) of Pub. L. 101–82 is effective only for fiscal year 1989.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 406 of Pub. L. 95–334, set out as a note under section 2201 of this title.

§2202a. Cost-share requirement

(a) Cost-share rate

Subject to subsections (b) and (c), the maximum cost-share payment under sections 2201 and 2202 of this title shall not exceed 75 percent of the total allowable cost, as determined by the Secretary.

(b) Exception

Notwithstanding subsection (a), a payment to a limited resource farmer or rancher, a socially disadvantaged farmer or rancher (as defined in subsection (a) of section 2279 of title 7), or a beginning farmer or rancher under section 2201 or 2202 of this title shall not exceed 90 percent of the total allowable cost, as determined by the Secretary.

(c) Limitation

The total payment under sections 2201 and 2202 of this title for a single event may not exceed 50 percent of the agriculture value of the land, as determined by the Secretary.

(Pub. L. 95–334, title IV, §402A, as added Pub. L. 115–334, [title II, §2403\(b\), Dec. 20, 2018](#), 132 Stat. 4571.)

§2202b. Payment limitation

The maximum payment made under the emergency conservation program to an agricultural producer under sections 2201 and 2202 of this title shall not exceed \$500,000.

(Pub. L. 95–334, title IV, §402B, as added Pub. L. 115–334, [title II, §2403\(c\), Dec. 20, 2018](#), 132 Stat. 4572.)

§2203. Emergency watershed program

(a) In general

The Secretary is authorized to undertake emergency watershed protection measures, including the purchase of floodplain easements, for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

(b) Floodplain easements

(1) Modification and termination

The Secretary may modify or terminate a floodplain easement administered by the Secretary under this section if—

- (A) the current owner agrees to the modification or termination; and
- (B) the Secretary determines that the modification or termination—
 - (i) will address a compelling public need for which there is no practicable alternative; and
 - (ii) is in the public interest.

(2) Consideration

(A) Termination

As consideration for termination of an easement and associated agreements under paragraph (1), the Secretary shall enter into compensatory arrangements as determined to be appropriate by the Secretary.

(B) Modification

In the case of a modification under paragraph (1)—

- (i) as a condition of the modification, the current owner shall enter into a compensatory arrangement (as determined to be appropriate by the Secretary) to incur the costs of modification; and
- (ii) the Secretary shall ensure that—
 - (I) the modification will not adversely affect the floodplain functions and values for which the easement was acquired;
 - (II) any adverse impacts will be mitigated by enrollment and restoration of other land that provides greater floodplain functions and values at no additional cost to the Federal Government; and
 - (III) the modification will result in equal or greater environmental and economic values to the United States.

(Pub. L. 95–334, title IV, §403, Aug. 4, 1978, 92 Stat. 434; Pub. L. 104–127, title III, §382, Apr. 4, 1996, 110 Stat. 1016; Pub. L. 113–79, title II, §2506, Feb. 7, 2014, 128 Stat. 752; Pub. L. 115–334, title II, §2403(a)(2)(A), (d), Dec. 20, 2018, 132 Stat. 4571, 4572.)

AMENDMENTS

2018—Pub. L. 115–334, §2403(d)(1), substituted "Emergency watershed program" for "Emergency measures" in section catchline.

Subsec. (a). Pub. L. 115–334, §2403(d)(2), inserted "watershed protection" after "emergency".

Pub. L. 115–334, §2403(a)(2)(A), substituted "The Secretary is" for "The Secretary of Agriculture is".

2014—Pub. L. 113–79 inserted section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

1996—Pub. L. 104–127 inserted ", including the purchase of floodplain easements," after "emergency measures".

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 406 of Pub. L. 95–334, set out as a note under section 2201 of this title.

DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES

Pub. L. 100–387, title IV, §402, as added Pub. L. 101–82, title V, §503, Aug. 14, 1989, 103 Stat. 586, provided that:

"(a) IN GENERAL.—The Secretary of Agriculture may provide disaster relief assistance in accordance with this section to repair damage caused by storms occurring in 1988 or 1989 to watersheds located in any county in any State, to the extent that funds authorized by this section remain available.

"(b) FORM OF ASSISTANCE.—The assistance authorized by this section—

"(1) includes both financial and technical assistance; and

"(2) shall be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 1990."

§2204. Funding and administration

(a) Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter, to remain available until expended.

(b) Set-aside for fencing

Of the amounts made available under subsection (a) for a fiscal year, 25 percent shall be set aside until April 1 of that fiscal year for the repair or replacement of fencing.

(c) Use of Commodity Credit Corporation

In implementing this chapter, the Secretary may use the facilities, services, and authorities of the Commodity Credit Corporation.

(d) Limitation

The Commodity Credit Corporation shall not make any expenditures to carry out the provisions of this chapter unless funds specifically appropriated for such purpose have been transferred to it.

(Pub. L. 95–334, title IV, §404, Aug. 4, 1978, 92 Stat. 434; Pub. L. 115–334, title II, §2403(a)(2)(A), (e), Dec. 20, 2018, 132 Stat. 4571, 4572.)

2018—Pub. L. 115–334, §2403(e), inserted section catchline; designated first, third, and fourth sentences as subsecs. (a), (c), and (d), respectively, and inserted headings; in subsec. (a), inserted ", to remain available until expended" before period at end; in subsec. (c), substituted "In implementing this chapter" for "In implementing the provisions of this chapter"; in subsec. (d), substituted "The Commodity Credit Corporation" for "The Corporation"; added subsec. (b); and struck

out former second sentence which read as follows: "Such funds shall remain available until expended."

Pub. L. 115–334, §2403(a)(2)(A), substituted "Secretary" for "Secretary of Agriculture" in third sentence.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 406 of Pub. L. 95–334, set out as a note under section 2201 of this title.

§2205. Regulations for implementation of provisions

The Secretary is authorized to prescribe such regulations as the Secretary determines necessary to carry out the provisions of this chapter.

(Pub. L. 95–334, title IV, §405, Aug. 4, 1978, 92 Stat. 434; Pub. L. 115–334, title II, §2403(a)(2)(A), Dec. 20, 2018, 132 Stat. 4571.)

AMENDMENTS

2018—Pub. L. 115–334 substituted "The Secretary is" for "The Secretary of Agriculture is".

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 406 of Pub. L. 95–334, set out as a note under section 2201 of this title.

§2206. Emergency forest restoration program

(a) Definitions

In this section:

(1) Emergency measures

The term "emergency measures" means those measures that—

(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—

- (i) would impair or endanger the natural resources on the land; and
- (ii) would materially affect future use of the land; and

(B) would restore forest health and forest-related resources on the land.

(2) Natural disaster

The term "natural disaster" includes wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.

(3) Nonindustrial private forest land

The term "nonindustrial private forest land" means rural land, as determined by the Secretary, that—

(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and

(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.

(b) Availability of assistance

The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.

(c) Eligibility

To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.

(d) Cost share requirement

Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.

(Pub. L. 95–334, title IV, §407, as added Pub. L. 110–234, title VIII, §8203(a), May 22, 2008, 122 Stat. 1290, and Pub. L. 110–246, §4(a), title VIII, §8203(a), June 18, 2008, 122 Stat. 1664, 2051; amended Pub. L. 115–334, title II, §2403(a)(2)(B), Dec. 20, 2018, 132 Stat. 4571.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2018—Subsec. (a)(4). Pub. L. 115–334 struck out par. (4). Text read as follows: "The term 'Secretary' means the Secretary of Agriculture."

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

REGULATIONS

Pub. L. 110–234, title VIII, §8203(b), May 22, 2008, 122 Stat. 1291, and Pub. L. 110–246, §4(a), title VIII, §8203(b), June 18, 2008, 122 Stat. 1664, 2052, provided that: "Not later than one year after the date of the enactment of this Act [June 18, 2008], the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978 [16 U.S.C. 2206], as added by subsection (a)."

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]