

## **16 USC Ch. 42: EMERGENCY CONSERVATION PROGRAM**

### **From Title 16—CONSERVATION**

#### **CHAPTER 42—EMERGENCY CONSERVATION PROGRAM**

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### **§2201. Payments to agricultural producers for carrying out wind erosion control or rehabilitation measures; criteria**

The Secretary of Agriculture 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, 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.

(Pub. L. 95–334, [title IV, §401, Aug. 4, 1978](#), 92 Stat. 433.)

#### **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 of Agriculture 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.)

#### **AMENDMENTS**

**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.

### **§2203. Emergency measures**

**(a) In general**

The Secretary of Agriculture is authorized to undertake emergency 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.)

## **AMENDMENTS**

**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. Authorization of appropriations; availability of funds; implementation of provisions; limitations on expenditures**

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter. Such funds shall remain available until expended. In implementing the provisions of this chapter, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The

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.)

### **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 of Agriculture 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.)

### **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.

#### **(4) Secretary**

The term "Secretary" means the Secretary of Agriculture.

### **(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.)

### **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.

### **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.]