

Agricultural Credit Act of 1978 - Title IV (Emergency Conservation Program)

[Public Law 95–334; 92 Stat. 420; 16 U.S.C. 2201–2205]

[As Amended Through P.L. 115–334, Enacted December 20, 2018]

【Currency: This publication is a compilation of the text of title IV of Public Law 95-334. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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AN ACT To amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 1921 note] That this Act may be cited as the “Agricultural Credit Act of 1978”.

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TITLE IV—EMERGENCY CONSERVATION PROGRAM

SEC. 401. [16 U.S.C. 2201] EMERGENCY CONSERVATION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title 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 disas-

¹ This table of contents is not part of the Act but is included for user convenience.

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.

SEC. 402. [16 U.S.C. 2202] 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 periods⁴⁰²⁻¹ of severe drought as determined by the Secretary.

SEC. 402A. [16 U.S.C. 2202a] COST-SHARE REQUIREMENT.

(a) COST-SHARE RATE.—Subject to subsections (b) and (c), the maximum cost-share payment under sections 401 and 402 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 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), or a beginning farmer or rancher under section 401 or 402 shall not exceed 90 percent of the total allowable cost, as determined by the Secretary.

(c) LIMITATION.—The total payment under sections 401 and 402 for a single event may not exceed 50 percent of the agriculture value of the land, as determined by the Secretary.

SEC. 402B. [16 U.S.C. 2202b] PAYMENT LIMITATION.

The maximum payment made under the emergency conservation program to an agricultural producer under sections 401 and 402 shall not exceed \$500,000.

⁴⁰²⁻¹ Effective only for fiscal year 1989, sec. 502(2) of P.L. 101-82, 103 Stat. 586, Aug. 14, 1989, amended this sec. by striking “periods” and inserting “any fiscal year in which there is a period”.

SEC. 403. [16 U.S.C. 2203] EMERGENCY WATERSHED PROGRAM.¹

(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.

SEC. 404. [16 U.S.C. 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 title, 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.

¹Section 2506(1) of Public Law 113-79 amends section 403 of this Act by striking “Sec. 403. The Secretary” and inserting “SEC 403.” through “The Secretary”. The matter proposed to be struck should have appeared in lightface type with “Sec” appearing in initial cap and small caps. Such amendment was executed to reflect the probable intent of Congress.

(c) **USE OF COMMODITY CREDIT CORPORATION.**—In implementing this title, 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 title unless funds specifically appropriated for such purpose have been transferred to it.

SEC. 405. [16 U.S.C. 2205] The Secretary is authorized to prescribe such regulations as the Secretary determines necessary to carry out the provisions of this title.

SEC. 406. [16 U.S.C. 2201, note] The provisions of this title shall become effective October 1, 1978.

SEC. 407. [16 U.S.C. 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.

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(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.