

(b) Cooperative agreements between eligible entities and the Secretary

(1) Duties

As a condition of entering into a cooperative agreement with the Secretary under this section, an eligible entity shall agree to—

(A) assume responsibility for the non-Federal share of the cost of carrying out the project under the national aquatic health plan, as determined by the Secretary in accordance with paragraph (2); and

(B) act in accordance with applicable disease and species specific best management practices relating to activities to be carried out under such project.

(2) Non-Federal share

The Secretary shall determine the non-Federal share of the cost of carrying out a project under the national aquatic health plan on a case-by-case basis for each such project. Such non-Federal share may be provided in cash or in-kind.

(c) Applicability of other laws

In carrying out this section, the Secretary may make use of the authorities under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), including the authority to carry out operations and measures to detect, control, and eradicate pests and diseases and the authority to pay claims arising out of the destruction of any animal, article, or means of conveyance.

(d) Eligible entity defined

In this section, the term “eligible entity” means a State, a political subdivision of a State, Indian tribe, or other appropriate entity, as determined by the Secretary of Agriculture.

(Pub. L. 110-234, title XI, §11013, May 22, 2008, 122 Stat. 1361; Pub. L. 110-246, §4(a), title XI, §11013, June 18, 2008, 122 Stat. 1664, 2122; Pub. L. 113-79, title XII, §12103, Feb. 7, 2014, 128 Stat. 979; Pub. L. 115-334, title XII, §12105, Dec. 20, 2018, 132 Stat. 4943.)

REFERENCES IN TEXT

The Animal Health Protection Act, referred to in subsec. (c), is subtitle E (§§10401-10418) of title X of Pub. L. 107-171, May 13, 2002, 116 Stat. 494, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

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 L. 110-234 was repealed by section 4(a) of Pub.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.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Animal Health Protection Act, which in part comprises this chapter.

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115-334 redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: “There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2018.”

2014—Subsec. (d). Pub. L. 113-79 substituted “2018” for “2012”.

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 this title.

CHAPTER 109A—CONTROL OF WILD ANIMALS

Sec.	
8351.	Predatory and other wild animals.
8352.	Authorization of expenditures for the eradication and control of predatory and other wild animals.
8353.	Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception.
8354.	Expenditures for cooperative agreements to lease aircraft.

§ 8351. Predatory and other wild animals

(a) In general

The Secretary of Agriculture may conduct a program of wildlife services with respect to injurious animal species and take any action the Secretary considers necessary in conducting the program.

(b) Administration

The Secretary shall administer the program in a manner consistent with all of the wildlife services authorities in effect on the day before October 28, 2000.

(c) Action by FWS

The Director of the United States Fish and Wildlife Service shall use the most expeditious procedure practicable to process and administer permits for take of—

- (1) a depredating eagle under the Act of June 8, 1940 (commonly known as the “Bald Eagle Protection Act”) (54 Stat. 250, chapter 278; 16 U.S.C. 668 et seq.), or sections 22.11 through 22.32 of title 50, Code of Federal Regulations (or successor regulations) (including depredation of livestock, wildlife, and species protected under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any other Federal management program); or
- (2) a migratory bird included on the list under section 10.13 of title 50, Code of Federal Regulations (or successor regulations) that is posing a conflict.

(Mar. 2, 1931, ch. 370, §1, 46 Stat. 1468; Pub. L. 102-237, title X, §1013(d), Dec. 13, 1991, 105 Stat. 1901; Pub. L. 106-387, §1(a) [title VII, §767], Oct. 28, 2000, 114 Stat. 1549, 1549A-4; Pub. L. 115-270, title IV, §4307, Oct. 23, 2018, 132 Stat. 3886.)

REFERENCES IN TEXT

The Act of June 8, 1940 (commonly known as the Bald Eagle Protection Act), referred to in subsec. (c)(1), is act June 8, 1940, ch. 278, 54 Stat. 250, which is classified generally to subchapter II of chapter 5A (§668 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

The Endangered Species Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Section was formerly classified to section 426 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2018—Pub. L. 115-270 designated first and second sentences as subsections. (a) and (b), respectively, inserted subsection headings, and added subsection. (c).

2000—Pub. L. 106-387 inserted section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of Agriculture is authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, brown tree snakes, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: *Provided*, That in carrying out the provisions of this section the Secretary of Agriculture may cooperate with States, individuals, and public and private agencies, organizations, and institutions.”

1991—Pub. L. 102-237 inserted “brown tree snakes,” after “rabbits.”

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

Pub. L. 99-190, §101(a) [H.R. 3037, title I, §101], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-433, provided in part: “That effective upon the date of enactment of this Act [Dec. 19, 1985] and notwithstanding any other provision of law, the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b) [now 7 U.S.C. 8351, 8352], (transferred to the Secretary of the Interior pursuant to section 4(f) of 1939 Reorganization Plan No. II) and all personnel, property, records, unexpended balances of appropriations, allocations and other funds of the Fish and Wildlife Service, United States Department of the Interior used, held, available or to be made available in connection with the administration of such Act, are hereby transferred from the Secretary of the Interior to the Secretary of Agriculture, and this appropriation shall be available to carry out such authorities.”

FERAL SWINE ERADICATION AND CONTROL PILOT PROGRAM

Pub. L. 115-334, title II, §2408, Dec. 20, 2018, 132 Stat. 4574, provided that:

“(a) IN GENERAL.—The Secretary [of Agriculture] shall establish a feral swine eradication and control pilot program to respond to the threat feral swine pose to agriculture, native ecosystems, and human and animal health.

“(b) DUTIES OF THE SECRETARY.—In carrying out the pilot program, the Secretary shall—

“(1) study and assess the nature and extent of damage to the pilot areas caused by feral swine;

“(2) develop methods to eradicate or control feral swine in the pilot areas;

“(3) develop methods to restore damage caused by feral swine; and

“(4) provide financial assistance to agricultural producers in pilot areas.

“(c) ASSISTANCE.—The Secretary may provide financial assistance to agricultural producers under the pilot program to implement methods to—

“(1) eradicate or control feral swine in the pilot areas; and

“(2) restore damage caused by feral swine.

“(d) COORDINATION.—The Secretary shall ensure that the Natural Resources Conservation Service and the Animal and Plant Health Inspection Service coordinate for purposes of this section through State technical committees established under section 1261(a) of the Food Security Act of 1985 (16 U.S.C. 3861(a)).

“(e) PILOT AREAS.—The Secretary shall carry out the pilot program in areas of States in which feral swine have been identified as a threat to agriculture, native ecosystems, or human or animal health, as determined by the Secretary.

“(f) COST SHARING.—

“(1) FEDERAL SHARE.—The Federal share of the costs of activities under the pilot program may not exceed 75 percent of the total costs of such activities.

“(2) IN-KIND CONTRIBUTIONS.—The non-Federal share of the costs of activities under the pilot program may be provided in the form of in-kind contributions of materials or services.

“(g) FUNDING.—

“(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$75,000,000 for the period of fiscal years 2019 through 2023.

“(2) DISTRIBUTION OF FUNDS.—Of the funds made available under paragraph (1)—

“(A) 50 percent shall be allocated to the Natural Resources Conservation Service to carry out the pilot program, including the provision of financial assistance to producers for on-farm trapping and technology related to capturing and confining feral swine; and

“(B) 50 percent shall be allocated to the Animal and Plant Health Inspection Service to carry out the pilot program, including the use of established, and testing of innovative, population reduction methods.

“(3) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of funds made available under this section may be used for administrative expenses of the pilot program.”

WOLF LIVESTOCK LOSS DEMONSTRATION PROJECT

Pub. L. 111-11, title VI, subtitle C, Mar. 30, 2009, 123 Stat. 1170, provided that:

“SEC. 6201. DEFINITIONS.

“In this subtitle:

“(1) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) [now 25 U.S.C. 5304].

“(2) LIVESTOCK.—The term ‘livestock’ means cattle, swine, horses, mules, sheep, goats, livestock guard animals, and other domestic animals, as determined by the Secretary.

“(3) PROGRAM.—The term ‘program’ means the demonstration program established under section 6202(a).

“(4) SECRETARIES.—The term ‘Secretaries’ means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

“SEC. 6202. WOLF COMPENSATION AND PREVENTION PROGRAM.

“(a) IN GENERAL.—The Secretaries shall establish a 5-year demonstration program to provide grants to States and Indian tribes—

“(1) to assist livestock producers in undertaking proactive, non-lethal activities to reduce the risk of livestock loss due to predation by wolves; and

“(2) to compensate livestock producers for livestock losses due to such predation.

“(b) CRITERIA AND REQUIREMENTS.—The Secretaries shall—

“(1) establish criteria and requirements to implement the program; and

“(2) when promulgating regulations to implement the program under paragraph (1), consult with States

that have implemented State programs that provide assistance to—

“(A) livestock producers to undertake proactive activities to reduce the risk of livestock loss due to predation by wolves; or

“(B) provide compensation to livestock producers for livestock losses due to such predation.

“(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State or Indian tribe shall—

“(1) designate an appropriate agency of the State or Indian tribe to administer the 1 or more programs funded by the grant;

“(2) establish 1 or more accounts to receive grant funds;

“(3) maintain files of all claims received under programs funded by the grant, including supporting documentation;

“(4) submit to the Secretary—

“(A) annual reports that include—

“(i) a summary of claims and expenditures under the program during the year; and

“(ii) a description of any action taken on the claims; and

“(B) such other reports as the Secretary may require to assist the Secretary in determining the effectiveness of activities provided assistance under this section; and

“(5) promulgate rules for reimbursing livestock producers under the program.

“(d) ALLOCATION OF FUNDING.—The Secretaries shall allocate funding made available to carry out this subtitle—

“(1) equally between the uses identified in paragraphs (1) and (2) of subsection (a); and

“(2) among States and Indian tribes based on—

“(A) the level of livestock predation in the State or on the land owned by, or held in trust for the benefit of, the Indian tribe;

“(B) whether the State or Indian tribe is located in a geographical area that is at high risk for livestock predation; or

“(C) any other factors that the Secretaries determine are appropriate.

“(e) ELIGIBLE LAND.—Activities and losses described in subsection (a) may occur on Federal, State, or private land, or land owned by, or held in trust for the benefit of, an Indian tribe.

“(f) FEDERAL COST SHARE.—The Federal share of the cost of any activity provided assistance made available under this subtitle shall not exceed 50 percent of the total cost of the activity.

“SEC. 6203. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subtitle \$1,000,000 for fiscal year 2009 and each fiscal year thereafter.”

§ 8352. Authorization of expenditures for the eradication and control of predatory and other wild animals

The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 8351 of this title.

(Mar. 2, 1931, ch. 370, § 3, 46 Stat. 1469.)

CODIFICATION

Section was formerly classified to section 426b of this title prior to editorial reclassification and renumbering as this section.

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through Bureau of Biological Survey, relating to con-

servation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

§ 8353. Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception

On and after December 22, 1987, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

(Pub. L. 100–202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331.)

CODIFICATION

Section was formerly classified to section 426c of this title prior to editorial reclassification and renumbering as this section.

§ 8354. Expenditures for cooperative agreements to lease aircraft

On and after November 10, 2005, notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 8351 to 8353¹ of this title, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

(Pub. L. 109–97, title VII, §749, Nov. 10, 2005, 119 Stat. 2156.)

REFERENCES IN TEXT

Sections 8351 to 8353 of this title, referred to in text, was in the original a reference to “sections 426–426c of title 7, United States Code” and was translated as meaning act Mar. 2, 1931, ch. 370, 46 Stat. 1468, and Pub. L. 100–202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331, which were formerly classified to sections 426 to 426c of this title. Sections 1 and 3 of the act of Mar. 2, 1931, which were formerly classified to sections 426 and 426b of this title, were editorially reclassified as sections 8351 and 8352, respectively, of this title. Section 2 of the act of Mar. 2, 1931, which was formerly classified to section 426a of this title, was omitted from

¹ See Reference in Text note below.