

agreements and contracts to permit State forestry programs to perform watershed restoration and protection services on National Forest System and Bureau of Land Management lands when similar and complementary services were being performed on adjacent State or private lands.

#### WATERSHED AGREEMENTS

Pub. L. 105-277, div. A, § 101(e) [title III, § 323], Oct. 21, 1998, 112 Stat. 2681-231, 2681-290, as amended, formerly set out as a note under this section, was transferred and is classified to section 1011a of this title.

### § 1011a. Watershed agreements

#### (a) Watershed restoration and enhancement agreements

For fiscal year 2006 and each fiscal year thereafter, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed.

#### (b) Direct and indirect watershed agreements

The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

- (1) directly with a willing private landowner; or
- (2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.

#### (c) Terms and conditions

In order for the Secretary to enter into a watershed restoration and enhancement agreement—

- (1) the agreement shall—
  - (A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state<sup>1</sup> or local government, or private or nonprofit entity;
  - (B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;
  - (C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;
  - (D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and
  - (E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and
- (2) the Secretary may require such other terms and conditions as are necessary to pro-

tect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.

#### (d) Applicable law

Chapter 63 of title 31 shall not apply to—

- (1) a watershed restoration and enhancement agreement entered into under this section; or
- (2) an agreement entered into under section 565a-1 of this title.

#### (e) Reporting requirements

Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—

- (1) A<sup>2</sup> concise description of each project, including the project purpose, location on federal<sup>1</sup> and non-federal<sup>3</sup> land, key activities, and all parties to the agreement.
- (2) the funding and/or other contributions provided by each party for each project agreement.

(Pub. L. 105-277, div. A, § 101(e) [title III, § 323], Oct. 21, 1998, 112 Stat. 2681-231, 2681-290; Pub. L. 107-63, title III, § 330, Nov. 5, 2001, 115 Stat. 471; Pub. L. 109-54, title IV, § 434, Aug. 2, 2005, 119 Stat. 557; Pub. L. 111-11, title III, § 3001, Mar. 30, 2009, 123 Stat. 1126.)

#### Editorial Notes

##### CODIFICATION

Section was formerly set out as a note under section 1011 of this title.

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

##### AMENDMENTS

2009—Subsec. (a). Pub. L. 111-11, § 3001(1), substituted “fiscal year 2006 and each fiscal year thereafter” for “each of fiscal years 2006 through 2011”.

Subsecs. (d), (e). Pub. L. 111-11, § 3001(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

2005—Subsec. (a). Pub. L. 109-54 substituted “each of fiscal years 2006 through 2011” for “fiscal year 1999, 2000 and 2001, and fiscal years 2002 through 2005”.

2001—Subsec. (a). Pub. L. 107-63 inserted “and fiscal years 2002 through 2005,” before “to the extent funds are otherwise available”.

#### Statutory Notes and Related Subsidiaries

##### SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-83, title III, § 334, Nov. 14, 1997, 111 Stat. 1601.

### § 1012. Rehabilitation of structural measures near, at, or past their evaluated life expectancy

#### (a) Definitions

For purposes of this section:

<sup>2</sup> So in original. Probably should not be capitalized.

<sup>3</sup> So in original. Probably should be “non-Federal”.

<sup>1</sup> So in original. Probably should be capitalized.

**(1) Rehabilitation**

The term “rehabilitation”, with respect to a structural measure constructed as part of a covered water resource project, means the completion of all work necessary to extend the service life of the structural measure and meet applicable safety and performance standards. This may include: (A) protecting the integrity of the structural measure or prolonging the useful life of the structural measure beyond the original evaluated life expectancy; (B) correcting damage to the structural measure from a catastrophic event; (C) correcting the deterioration of structural components that are deteriorating at an abnormal rate; (D) upgrading the structural measure to meet changed land use conditions in the watershed served by the structural measure or changed safety criteria applicable to the structural measure; or (E) decommissioning the structure, if requested by the local organization.

**(2) Covered water resource project**

The term “covered water resource project” means a work of improvement carried out under any of the following:

- (A) This chapter.
- (B) Section 13 of the Act of December 22, 1944 (Public Law 78-534; 58 Stat. 905).
- (C) The pilot watershed program authorized under the heading “FLOOD PREVENTION” of the Department of Agriculture Appropriation Act, 1954 (Public Law 156; 67 Stat. 214).
- (D) Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.; commonly known as the Resource Conservation and Development Program).

**(3) Structural measure**

The term “structural measure” means a physical improvement that impounds water, commonly known as a dam, which was constructed as part of a covered water resource project, including the impoundment area and flood pool.

**(b) Cost share assistance for rehabilitation****(1) Assistance authorized**

The Secretary may provide financial assistance to a local organization to cover a portion of the total costs incurred for the rehabilitation of structural measures originally constructed as part of a covered water resource project. The total costs of rehabilitation include the costs associated with all components of the rehabilitation project, including acquisition of land, easements, and rights-of-ways, rehabilitation project administration, the provision of technical assistance, contracting, and construction costs, except that the local organization shall be responsible for securing all land, easements, or rights-of-ways necessary for the project.

**(2) Amount of assistance; limitations**

The amount of Federal funds that may be made available under this subsection to a local organization for construction of a particular rehabilitation project shall be equal to 65 percent of the total rehabilitation costs, but not to exceed 100 percent of actual construction costs incurred in the rehabilitation. How-

ever, the local organization shall be responsible for the costs of water, mineral, and other resource rights and all Federal, State, and local permits.

**(3) Relation to land use and development regulations**

As a condition on entering into an agreement to provide financial assistance under this subsection, the Secretary, working in concert with the affected unit or units of general purpose local government, may require that proper zoning or other developmental regulations are in place in the watershed in which the structural measures to be rehabilitated under the agreement are located so that—

- (A) the completed rehabilitation project is not quickly rendered inadequate by additional development; and
- (B) society can realize the full benefits of the rehabilitation investment.

**(c) Technical assistance for watershed project rehabilitation**

The Secretary, acting through the Natural Resources Conservation Service, may provide technical assistance in planning, designing, and implementing rehabilitation projects should a local organization request such assistance. Such assistance may consist of specialists in such fields as engineering, geology, soils, agronomy, biology, hydraulics, hydrology, economics, water quality, and contract administration.

**(d) Prohibited use****(1) Performance of operation and maintenance**

Rehabilitation assistance provided under this section may not be used to perform operation and maintenance activities specified in the agreement for the covered water resource project entered into between the Secretary and the local organization responsible for the works of improvement. Such operation and maintenance activities shall remain the responsibility of the local organization, as provided in the project work plan.

**(2) Renegotiation**

Notwithstanding paragraph (1), as part of the provision of financial assistance under subsection (b), the Secretary may renegotiate the original agreement for the covered water resource project entered into between the Secretary and the local organization regarding responsibility for the operation and maintenance of the project when the rehabilitation is finished.

**(e) Application for rehabilitation assistance**

A local organization may apply to the Secretary for technical and financial assistance under this section if the application has also been submitted to and approved by the State agency having supervisory responsibility over the covered water resource project at issue or, if there is no State agency having such responsibility, by the Governor of the State. The Secretary shall request the State dam safety officer (or equivalent State official) to be involved in the application process if State permits or approvals are required. The rehabilitation of struc-

tural measures shall meet standards established by the Secretary and address other dam safety issues. At the request of the local organization, personnel of the Natural Resources Conservation Service of the Department of Agriculture may assist in preparing applications for assistance.

**(f) Ranking of requests for rehabilitation assistance**

The Secretary shall establish such system of approving rehabilitation requests, recognizing that such requests will be received throughout the fiscal year and subject to the availability of funds to carry out this section, as is necessary for proper administration by the Department of Agriculture and equitable for all local organizations. The approval process shall be in writing, and made known to all local organizations and appropriate State agencies.

**(g) Prohibition on certain rehabilitation assistance**

The Secretary may not approve a rehabilitation request if the need for rehabilitation of the structure is the result of a lack of adequate maintenance by the party responsible for the maintenance.

**(h) Funding**

**(1) Funds of Commodity Credit Corporation**

In carrying out this section, of the funds of the Commodity Credit Corporation, the Secretary shall make available, to remain available until expended—

- (A) \$45,000,000 for fiscal year 2003;
- (B) \$50,000,000 for fiscal year 2004;
- (C) \$55,000,000 for fiscal year 2005;
- (D) \$60,000,000 for fiscal year 2006;
- (E) \$65,000,000 for fiscal year 2007;
- (F) \$0 for fiscal year 2008;
- (G) \$100,000,000 for fiscal year 2009, to be available until expended; and
- (H) \$250,000,000 for fiscal year 2014, to remain available until expended.

**(2) Authorization of appropriations**

In addition to amounts made available under paragraph (1), there are authorized to be appropriated to the Secretary to carry out this section, to remain available until expended—

- (A) \$45,000,000 for fiscal year 2003;
- (B) \$55,000,000 for fiscal year 2004;
- (C) \$65,000,000 for fiscal year 2005;
- (D) \$75,000,000 for fiscal year 2006; and
- (E) \$85,000,000 for each of fiscal years 2008 through 2023.

**(i) Assessment of rehabilitation needs**

The Secretary, in concert with the responsible State agencies, shall conduct an assessment of the rehabilitation needs of covered water resource projects in all States in which such projects are located.

**(j) Recordkeeping and reports**

**(1) Secretary**

The Secretary shall maintain a data base to track the benefits derived from rehabilitation projects supported under this section and the expenditures made under this section. On the basis of such data and the reports submitted

under paragraph (2), the Secretary shall prepare and submit to Congress an annual report providing the status of activities conducted under this section.

**(2) Grant recipients**

Not later than 90 days after the completion of a specific rehabilitation project for which assistance is provided under this section, the local organization that received the assistance shall make a report to the Secretary giving the status of any rehabilitation effort undertaken using financial assistance provided under this section.

(Aug. 4, 1954, ch. 656, §14, as added Pub. L. 106-472, title III, §313, Nov. 9, 2000, 114 Stat. 2077; amended Pub. L. 107-171, title II, §2505, May 13, 2002, 116 Stat. 274; Pub. L. 110-234, title II, §2803, May 22, 2008, 122 Stat. 1086; Pub. L. 110-246, §4(a), title II, §2803, June 18, 2008, 122 Stat. 1664, 1814; Pub. L. 113-79, title II, §2505, Feb. 7, 2014, 128 Stat. 752; Pub. L. 115-334, title II, §2401(b), Dec. 20, 2018, 132 Stat. 4570.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 13 of the Act of December 22, 1944, referred to in subsec. (a)(2)(B), is section 13 of act Dec. 22, 1944, ch. 665, 58 Stat. 905, which is not classified to the Code.

The Department of Agriculture Appropriation Act, 1954, referred to in subsec. (a)(2)(C), is act July 28, 1953, ch. 251, 67 Stat. 205. Provisions under the heading “FLOOD PREVENTION” are not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Agriculture and Food Act of 1981, referred to in subsec. (a)(2)(D), is Pub. L. 97-98, Dec. 22, 1981, 95 Stat. 1213. Subtitle H of title XV of the Act is classified generally to subchapter V (§3451 et seq.) of chapter 54 of this title. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

**AMENDMENTS**

2018—Subsec. (h)(2)(E). Pub. L. 115-334 substituted “2023” for “2018”.

2014—Subsec. (h)(1)(H). Pub. L. 113-79, §2505(a), added subpar. (H).

Subsec. (h)(2)(E). Pub. L. 113-79, §2505(b), substituted “2018” for “2012”.

2008—Subsec. (h)(1)(G). Pub. L. 110-246, §2803(a), added subpar. (G).

Subsec. (h)(2)(E). Pub. L. 110-246, §2803(b), substituted “each of fiscal years 2008 through 2012” for “fiscal year 2007”.

2002—Subsec. (h). Pub. L. 107-171 added subsec. (h) and struck out heading and text of former subsec. (h). Text read as follows: “There is authorized to be appropriated to the Secretary to provide financial and technical assistance under this section—

- “(1) \$5,000,000 for fiscal year 2001;
- “(2) \$10,000,000 for fiscal year 2002;
- “(3) \$15,000,000 for fiscal year 2003;
- “(4) \$25,000,000 for fiscal year 2004; and
- “(5) \$35,000,000 for fiscal year 2005.”

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment 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 an Effective Date note under section 8701 of Title 7, Agriculture.

### § 1012a. Funding

In addition to any other funds made available by this chapter, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this chapter \$50,000,000 for fiscal year 2019 and each fiscal year thereafter.

(Aug. 4, 1954, ch. 656, §15, as added Pub. L. 115-334, title II, §2401(c), Dec. 20, 2018, 132 Stat. 4570.)

## CHAPTER 18A—COOPERATIVE WATERSHED MANAGEMENT PROGRAM

Sec.	
1015.	Definitions.
1015a.	Program.
1015b.	Effect of chapter.

### § 1015. Definitions

In this chapter:

#### (1) Affected stakeholder

The term “affected stakeholder” means an entity that significantly affects, or is significantly affected by, the quality or quantity of water in a watershed, as determined by the Secretary.

#### (2) Disadvantaged community

The term “disadvantaged community” means a community (including a city, town, county, or reasonably isolated and divisible segment of a larger municipality) with an annual median household income that is less than 100 percent of the statewide annual median household income for the State in which the community is located, according to the most recent decennial census.

#### (3) Grant recipient

The term “grant recipient” means a watershed group that the Secretary has selected to receive a grant under section 1015a(c)(2) of this title.

#### (4) Program

The term “program” means the Cooperative Watershed Management Program established by the Secretary under section 1015a(a) of this title.

#### (5) Secretary

The term “Secretary” means the Secretary of the Interior.

#### (6) Watershed group

The term “watershed group” means a self-sustaining, cooperative watershed-wide group that—

- (A) is comprised of representatives of the affected stakeholders of the relevant watershed;
- (B) incorporates the perspectives of a diverse array of stakeholders, including, to the maximum extent practicable—
  - (i) representatives of—
    - (I) hydroelectric production;
    - (II) livestock grazing;
    - (III) timber production;

- (IV) land development;
- (V) recreation or tourism;
- (VI) irrigated agricultural production;
- (VII) the environment;
- (VIII) potable water purveyors and industrial water users;
- (IX) private property owners within the watershed; and
- (X) disadvantaged communities;

- (ii) any Federal agency that has authority with respect to the watershed;
- (iii) any State agency that has authority with respect to the watershed;
- (iv) any local agency that has authority with respect to the watershed; and
- (v) any Indian tribe that—
  - (I) owns land within the watershed; or
  - (II) has land in the watershed that is held in trust;

(C) is a grassroots, nonregulatory entity that addresses water availability and quality issues within the relevant watershed;

(D) is capable of promoting the sustainable use of the water resources of the relevant watershed and improving the functioning condition of rivers and streams through—

- (i) water conservation;
- (ii) improved water quality;
- (iii) ecological resiliency; and
- (iv) the reduction of water conflicts; and

(E) makes decisions on a consensus basis, as defined in the bylaws of the watershed group.

#### (7) Watershed management project

The term “watershed management project” means any project (including a demonstration project) that—

- (A) enhances water conservation, including alternative water uses;
- (B) improves water quality;
- (C) improves ecological resiliency of a river or stream, including benefits to fisheries, wildlife, or habitat;
- (D) reduces the potential for water conflicts; or
- (E) advances any other goals associated with water quality or quantity that the Secretary determines to be appropriate.

(Pub. L. 111-11, title VI, §6001, Mar. 30, 2009, 123 Stat. 1165; Pub. L. 116-260, div. FF, title XI, §1107(a), Dec. 27, 2020, 134 Stat. 3243.)

## Editorial Notes

### AMENDMENTS

2020—Pars. (2) to (6). Pub. L. 116-260, §1107(a)(1), (2), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively. Former par. (6) redesignated (7).

Par. (6)(B)(i)(X). Pub. L. 116-260, §1107(a)(3), added subcl. (X).

Par. (7). Pub. L. 116-260, §1107(a)(1), redesignated par. (6) as (7).

Par. (7)(C). Pub. L. 116-260, §1107(a)(4), inserted “, including benefits to fisheries, wildlife, or habitat” after “river or stream”.

### § 1015a. Program

#### (a) Establishment

Not later than 180 days after March 30, 2009, the Secretary shall establish a program, to be