

to acquire perpetual wetland or floodplain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and floodplains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

(b) Amount

The Secretary shall require that project sponsors of watershed projects provide up to 50 percent of the cost of acquiring easements under subsection (a) of this section.

(Aug. 4, 1954, ch. 656, §3A, as added Pub. L. 101-624, title XIV, §1462, Nov. 28, 1990, 104 Stat. 3615.)

§ 1004. Conditions for Federal assistance

The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall—

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government from funds appropriated for the purposes of this chapter, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance: *Provided*, That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated mandays of use of the projected recreational development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: *Provided further*, That the Secretary shall be authorized to participate in not more than one recreational development in a watershed project containing less than seventy-five thousand acres, or two such developments in a project containing between seventy-five thousand and one hundred and fifty thousand acres, or three such developments in projects exceeding one hundred and fifty thousand acres: *Provided further*, That when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or rights-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the

amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds: *Provided further*, That the Secretary shall be authorized to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organization for mitigation of fish and wildlife habitat losses, and that such acquisition is not limited to the confines of the watershed project boundaries;

(2) assume (A) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land: *Provided*, That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management, and (B) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purposes of this chapter: *Provided*, That, in addition to and without limitation on the authority of the Secretary to make loans or advancements under section 1006a of this title, the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this chapter as hereinafter provided: *Provided further*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: *Provided further*, That the Secretary shall determine prior to initiation of construction or modification of any reservoir structure including such water supply storage that there are adequate assurances by the local organization or by an agency of the State having authority

to give such assurances, that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands: *And provided further*, That the cost to be borne by the local organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that (1) no reimbursement of the cost of such water supply storage for anticipated future demands need be made until such supply is first used, and (2) no interest shall be charged on the cost of such water-supply storage for anticipated future demands until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 1006a of this title.

(3) make arrangements satisfactory to the Secretary for defraying costs of operating and maintaining such works of improvement, in accordance with regulations presented by the Secretary of Agriculture;

(4) acquire, or provide assurance that land-owners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement;

(5) obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 per centum of the land situated in the drainage area above each retention reservoir to be installed with Federal assistance; and

(6) submit a plan of repayment satisfactory to the Secretary for any loan or advancement made under the provisions of section 1006a of this title.

(Aug. 4, 1954, ch. 656, § 4, 68 Stat. 667; Aug. 7, 1956, ch. 1027, § 1(c)-(e), 70 Stat. 1088; Pub. L. 85-865, § 1, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 86-545, June 29, 1960, 74 Stat. 254; Pub. L. 87-703, title I, §§ 103, 104, Sept. 27, 1962, 76 Stat. 608, 609; Pub. L. 92-419, title II, § 201(d)-(f), Aug. 30, 1972, 86 Stat. 668; Pub. L. 97-98, title XV, § 1512(d), Dec. 22, 1981, 95 Stat. 1333.)

AMENDMENTS

1981—Par. (1). Pub. L. 97-98 inserted proviso authorizing the Secretary to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organization for mitigation of fish and wildlife habitat losses and directing that such acquisitions are not limited to the confines of the watershed project boundaries.

1972—Par. (1). Pub. L. 92-419, § 201(d), inserted “from funds appropriated for the purposes of this chapter” after “without cost to the Federal Government”.

Par. (2)(A). Pub. L. 92-419, § 201(e), substituted “fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land”, for “fish and wildlife or recreational development” and inserted water quality management proviso.

Par. (2)(B). Pub. L. 92-419, § 201(f), in revising text and making changes in phraseology, authorized payment

for water storage for present demands, inserted at end of first proviso “as hereinafter provided”, substituted provisions respecting Secretary’s determination of adequate assurances by the local agency or by an agency of the State having authority to give such assurances that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands, for provisions respecting the giving of reasonable assurances by the local organization of repayment of cost of such water supply storage for anticipated future demands, and substituted permissive provisions for repayment of cost for anticipated future demands within life of the reservoir structure for former mandatory provisions.

1962—Par. (1). Pub. L. 87-703, § 103(1), inserted provisos respecting cost sharing, participation, number of recreational developments and advances of funds.

Par. (2)(A). Pub. L. 87-703, § 103(2), substituted “national needs and assistance authorized for similar purposes under other Federal programs” for “the direct identifiable benefits” and inserted “(excluding engineering costs)” after “Federal assistance” and “or recreational” before “development”.

Par. (2)(B). Pub. L. 87-703, § 104, inserted provisos respecting water storage payments and limitation on amount of such payments, repayment agreements and period of time for repayment and provisions for commencement of repayment, interest-free period and rate of interest.

1960—Par. (1). Pub. L. 86-545 inserted provisions requiring local organizations to provide assurances with respect to interests in land to be acquired by condemnation.

1958—Par. (2)(A). Pub. L. 85-865 inserted “or for fish and wildlife development” after “and disposal of water”.

1956—Par. (2). Act Aug. 7, 1956, § 1(c), required local organizations to assume a proportionate share of costs applicable to agricultural water management in consideration of the direct identifiable benefits, and all the costs of works applicable to other purposes, and provided that the Federal Government shall bear the entire construction costs for flood prevention.

Par. (4). Act Aug. 7, 1956, § 1(d), inserted “or water users” after “landowners”.

Par. (6). Act Aug. 7, 1956, § 1(e), added par. (6).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-865, § 2, Sept. 2, 1958, 72 Stat. 1605, provided that: “The Secretary of Agriculture shall not furnish or agree to furnish financial assistance to local organizations for the institution of works of improvement for fish and wildlife development pursuant to the authority of this Act [amending this section] prior to July 1, 1958.”

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1002 of this title.

PUBLIC ACCESS TO WATER IMPOUNDMENTS

Pub. L. 99-662, title IX, § 930, Nov. 17, 1986, 100 Stat. 4196, provided that: “The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives

by April 1, 1988, on the feasibility, the desirability, and the public interest involved in requiring that public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to the Watershed Protection and Flood Protection Act (68 Stat. 666; 16 U.S.C. 1001 et seq.).”

EXTENSION OF BENEFITS TO PROJECTS AUTHORIZED
BEFORE AUG. 7, 1956

Amendment by act Aug. 7, 1956, as applicable to all works of improvement and plans for such works under the provisions of this chapter, see Extension of Benefits note set out under section 1001 of this title.

§ 1005. Works of improvement

(1) Engineering and other services; reimbursement; advances

At such time as the Secretary and the interested local organization have agreed on a plan for works of improvement, and the Secretary has determined that the benefits exceed the costs, and the local organization has met the requirements for participation in carrying out the works of improvement as set forth in section 1004 of this title, the local organization may secure engineering and other services, including the design, preparation of contracts and specifications, awarding of contracts, and supervision of construction, in connection with such works of improvement, by retaining or employing a professional engineer or engineers satisfactory to the Secretary or may request the Secretary to provide such services: *Provided*, That if the local organization elects to employ a professional engineer or engineers, the Secretary shall reimburse the local organization for the costs of such engineering and other services secured by the local organization as are properly chargeable to such works of improvement in an amount not to exceed the amount agreed upon in the plan for works of improvement or any modification thereof: *Provided further*, That the Secretary may advance such amounts as may be necessary to pay for such services, but such advances with respect to any works of improvement shall not exceed 5 per centum of the estimated installation cost of such works.

(2) Federal construction; request by local organization

Except as to the installation of works of improvement on Federal lands, the Secretary shall not construct or enter into any contract for the construction of any structure: *Provided*, That, if requested to do so by the local organization, the Secretary may enter into contracts for the construction of structures.

(3) Transmission of certain plans to Congress

Whenever the estimated Federal contribution to the construction cost of works of improvement in the plan for any watershed or subwatershed area shall exceed \$5,000,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President.

(4) Transmission of certain plans and recommendations to Congress

Any plans for works of improvement involving an estimated Federal contribution to construc-

tion costs in excess of \$5,000,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for goodwater¹ detention structures, (c) which includes features which may affect the public health, or (d) which includes measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health and Human Services, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

(5) Rules and regulations

Prior to any Federal participation in the works of improvement under this chapter, the President shall issue such rules and regulations as he deems necessary or desirable to carry out the purposes of this chapter, and to assure the coordination of the work authorized under this chapter and related work of other agencies, including the Department of the Interior and the Department of the Army.

(Aug. 4, 1954, ch. 656, § 5, 68 Stat. 667; July 19, 1956, ch. 639, 70 Stat. 580; Aug. 7, 1956, ch. 1027, § 1(f), 70 Stat. 1089; Pub. L. 87-703, title I, § 105, Sept. 27, 1962, 76 Stat. 609; Pub. L. 90-361, June 27, 1968, 82 Stat. 250; Pub. L. 92-419, title II, § 201(g), Aug. 30, 1972, 86 Stat. 669; Pub. L. 95-113, title XV, § 1506(b), (c), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97-98, title XV, § 1512(e), (f), Dec. 22, 1981, 95 Stat. 1333.)

AMENDMENTS

1981—Subd. (3). Pub. L. 97-98, § 1512(e), substituted “\$5,000,000” for “\$1,000,000”.

Subd. (4). Pub. L. 97-98, § 1512(f), substituted “\$5,000,000” for “\$1,000,000”.

1977—Subd. (3). Pub. L. 95-113, § 1506(b), substituted “\$1,000,000” for “\$250,000”.

Subd. (4). Pub. L. 95-113, § 1506(c), substituted “\$1,000,000” for “\$250,000”.

1972—Subd. (4). Pub. L. 92-419 substituted in item (a) “works of improvement for reclamation or irrigation” for “reclamation or irrigation works”, in item (b) “goodwater” for “floodwater”, added items (c) and (d), required submission of plans to Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency and transmittal of views and recommendations of such officials to the Congress.

1968—Subd. (2). Pub. L. 90-361 inserted proviso authorizing the Secretary to enter into contracts for the construction of structures if requested to do so by the local organization.

¹ So in original. Probably should be “floodwater”.