

plan for works of improvement as provided for in section 1003 of this title:

(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department.

(Aug. 4, 1954, ch. 656, §12, as added Pub. L. 85-624, §3, Aug. 12, 1958, 72 Stat. 567.)

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.

§ 1009. Joint investigations and surveys by Secretary of the Army and Secretary of Agriculture; reports to Congress

The Secretary of the Army and the Secretary of Agriculture, when authorized to do so by resolutions adopted by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, are authorized and directed to make joint investigations and surveys in accordance with their existing authorities of watershed areas in the United States, Puerto Rico, and the Virgin Islands, and to prepare joint reports on such investigations and surveys setting forth their recommendations for the installation of the works of improvement needed for flood prevention or the conservation, development, utilization, and disposal of water, and for flood control and allied purposes. Such joint reports shall be submitted to the Congress through the President for adoption and authorization by the Congress of the

recommended works of improvement: *Provided*, That the project authorization procedure established by this chapter shall not be affected.

(Pub. L. 87-639, §1, Sept. 5, 1962, 76 Stat. 438; Pub. L. 103-437, §6(w), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was not enacted as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House” for “Committee on Public Works of the Senate or the Committee on Public Works of the House”.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 87-639, §2, Sept. 5, 1962, 76 Stat. 438, provided that: “There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [this section], such sums to remain available until expended.”

§ 1010. Data

The Secretary shall collect and maintain data on a national and State by State basis concerning—

(1) expenditures for the individual flood control and conservation measures for which assistance is provided under this chapter; and

(2) the expected flood control or environmental (including soil erosion) benefits that will result from the implementation of such measures.

(Aug. 4, 1954, ch. 656, §13, as added Pub. L. 101-624, title XIV, §1463, Nov. 28, 1990, 104 Stat. 3615.)

§ 1011. Watershed restoration and enhancement agreements

(a) In general

For fiscal year 1997 and each fiscal year thereafter, appropriations made for the Bureau of Land Management including appropriations for the Wildland Fire Management account allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs may be used by the Secretary of the Interior for the purpose of entering into cooperative agreements with the heads of other Federal agencies, 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 and the reduction of risk from natural disaster where public safety is threatened that benefit these resources on public lands within the watershed.

(b) Direct and indirect watershed agreements

The Secretary of the Interior 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;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other biotic resources on public land in 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,¹ the landowner, 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 protect the public investment on private lands, provided such terms and conditions are mutually agreed to by the Secretary and the landowner.

(Pub. L. 104–208, div. A, title I, §101(d) [title I, §124], Sept. 30, 1996, 110 Stat. 3009–181, 3009–204; Pub. L. 105–277, div. A, §101(e) [title I, §136], Oct. 21, 1998, 112 Stat. 2681–231, 2681–266; Pub. L. 108–7, div. F, title I, §135, Feb. 20, 2003, 117 Stat. 243.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1997, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Watershed Protection and Flood Prevention Act which comprises this chapter.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–7 inserted “including appropriations for the Wildland Fire Management account allocated to the National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs” after “appropriations made for the Bureau of Land Management”.

1998—Subsec. (a). Pub. L. 105–277 substituted “with the heads of other Federal agencies, 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 and the reduction of risk from natural disaster where public safety is threatened” for “with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both”.

FEDERAL AND STATE COOPERATIVE WATERSHED RESTORATION AND PROTECTION

Pub. L. 106–291, title III, §331, Oct. 11, 2000, 114 Stat. 996, as amended by Pub. L. 108–447, div. E, title III, §336,

Dec. 8, 2004, 118 Stat. 3102; Pub. L. 111–88, div. A, title IV, §422, Oct. 30, 2009, 123 Stat. 2961; Pub. L. 113–76, div. G, title IV, §417, Jan. 17, 2014, 128 Stat. 341, provided that:

“(a) USE OF STATE FOREST SERVICE.—The Secretary of Agriculture, via cooperative agreement or contract (including sole source contract) as appropriate, may permit the head of a State agency with jurisdiction over State forestry programs in a State containing National Forest System land (in this section referred to as a ‘State Forester’) to perform watershed restoration and protection services on National Forest System lands in the State when similar and complementary watershed restoration and protection services are being performed by the State Forest Service on adjacent State or private lands. The types of services that may be extended to National Forest System lands include treatment of insect infected trees, reduction of hazardous fuels, and other activities to restore or improve watersheds or fish and wildlife habitat across ownership boundaries.

“(b) STATE AS AGENT.—Except as provided in subsection (c), a cooperative agreement or contract under subsection (a) may authorize the State Forester to serve as the agent for the Forest Service in providing all services necessary to facilitate the performance of watershed restoration and protection services under subsection (a). The services to be performed by a State Forester may be conducted with subcontracts utilizing State contract procedures. Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to services performed under a cooperative agreement or contract under subsection (a).

“(c) RETENTION OF NEPA RESPONSIBILITIES.—With respect to any watershed restoration and protection services on National Forest System lands proposed for performance by a State Forester under subsection (a), any decision required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may not be delegated to the State Forester or any other officer or employee of the State.

“(d) INCLUSION OF BLM LANDS.—The authority provided by this section shall also be available to the Secretary of the Interior with respect to public lands in a State administered by the Secretary through the Bureau of Land Management.

“(e) EXPIRATION OF AUTHORITY.—The authority of the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements and contracts under this section expires September 30, 2018, and the term of any cooperative agreement or contract entered into under this section shall not extend beyond that date.”

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.

¹ So in original. Probably should be capitalized.