

94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 1286. Definitions

As used in this chapter, the term—

(a) “River” means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) “Free-flowing”, as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) “Scenic easement” means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner’s consent, any regular use exercised prior to the acquisition of the easement. For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this chapter. Such an acquisition shall not constitute fee title ownership for purposes of section 1277(b) of this title.

(Pub. L. 90-542, §16, formerly §15, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, §1(c), May 10, 1974, 88 Stat. 123; renumbered Pub. L. 96-487, title VI, §606(a), Dec. 2, 1980, 94 Stat. 2416; Pub. L. 99-590, title V, §510, Oct. 30, 1986, 100 Stat. 3337.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-590 inserted provisions relating to function of appropriate Secretary with respect to acquisition of fee title.

1974—Subsec. (c). Pub. L. 93-279 substituted “within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area” for “for the purposes of protecting the scenic view from the river”.

§ 1287. Authorization of appropriations

There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274(a) of this title):

Clearwater, Middle Fork, Idaho, \$2,909,800;
 Eleven Point, Missouri, \$10,407,000;
 Feather Middle Fork, California, \$3,935,700;
 Rio Grande, New Mexico, \$253,000;
 Rogue, Oregon, \$15,147,000;
 St. Croix, Minnesota and Wisconsin, \$21,769,000;
 Salmon Middle Fork, Idaho, \$1,837,000;

Wolf, Wisconsin, \$142,150.

(Pub. L. 90-542, §17, formerly §16, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, §1(d), May 10, 1974, 88 Stat. 123; Pub. L. 94-273, §2(11), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-625, title VII, §§751-754, 763(c), Nov. 10, 1978, 92 Stat. 3532, 3533; renumbered Pub. L. 96-487, title VI, §606(a), Dec. 2, 1980, 94 Stat. 2416.)

AMENDMENTS

1978—Pub. L. 95-625, §§751-754, 763(c), increased appropriations authorization for the following rivers, substituting for:

Eleven Point, \$10,407,000 for \$4,906,500;
 Rogue, \$15,147,000 for \$12,447,200;
 Saint Croix, \$21,769,000 for \$11,768,550; and
 Salmon, \$1,837,000 for \$1,237,100; and

struck out subsec. (a) designation and subsec. (b) which provided for expiration of authority to make authorized appropriations on Sept. 30, 1979.

1976—Subsec. (b). Pub. L. 94-273 substituted “September” for “June”.

1974—Pub. L. 93-279 added subsecs. (a) and (b). Former unlettered provisions authorizing appropriation of amounts up to \$17,000,000 for the acquisition of lands and interests in land were struck out.

CHAPTER 29—WATER BANK PROGRAM FOR WETLANDS PRESERVATION

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§ 1301. Congressional declaration of policy; authority of Secretary

The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agri-

cultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

(Pub. L. 91-559, § 2, Dec. 19, 1970, 84 Stat. 1468.)

SHORT TITLE

Pub. L. 91-559, § 1, Dec. 19, 1970, 84 Stat. 1468, provided: "That this Act [enacting this chapter] may be cited as the 'Water Bank Act'."

§ 1302. Conservation agreements to effectuate water bank program; duration and renewal; adjustment of payment rate for renewal period; "wetlands" defined; duration of ownership or control of land as determining eligibility for agreements; protection of and compensation for tenants and sharecroppers; participation by owner or operator in other Federal or State programs

In effectuating the water bank program authorized by this chapter, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall, beginning in 1980, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period, in the light of the then current land and crop values, and make needed adjustments in rates for any such initial or renewal period as provided in section 1304 of this title. In addition, the Secretary shall, beginning in 1980, reexamine the payment rates in any agreement that has been in effect for five years or more in the light of current land and crop values and make any needed adjustments in rates. As used in this chapter, the term "wetlands" means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1) of this sentence, and (3) such other wetland types as the Secretary may designate. No agreement shall be entered into under this chapter concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous

owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this chapter. A person who has operated the land to be covered by an agreement under this chapter for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this chapter shall prevent an owner or operator who is participating in the program under this chapter from participating in other Federal or State programs designed to conserve or protect wetlands.

(Pub. L. 91-559, § 3, Dec. 19, 1970, 84 Stat. 1469; Pub. L. 96-182, §§ 1, 2, Jan. 2, 1980, 93 Stat. 1317.)

AMENDMENTS

1980—Pub. L. 96-182, in provisions relating to the reexamination of payment rates, substituted provisions requiring the Secretary to make such reexamination, beginning in 1980, at the beginning of the fifth year of any ten-year initial or renewal period and before the beginning of any renewal period, and make adjustments in accordance with section 1304 of this title, and in agreements in effect for five years or more, requiring the Secretary to make adjustments in the light of current land and crop values for provisions requiring reexamination and adjustment at the beginning of the ten-year renewal period only, and, in definition of "wetlands", designated existing provisions as cl. (1) and, among other changes, substituted types 1-7 for types 1-5, and added cls. (2) and (3).

§ 1303. Terms of agreement; required provisions

In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 1306 of this title;