

ally affect the productive capacity of the land, (3) represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

(b) Repair or replacement of fencing

(1) In general

With respect to a payment to an agricultural producer under subsection (a) for the repair or replacement of fencing, the Secretary shall give the agricultural producer the option of receiving not more than 25 percent of the payment, determined by the Secretary based on the applicable percentage of the fair market value of the cost of the repair or replacement, before the agricultural producer carries out the repair or replacement.

(2) Return of funds

If the funds provided under paragraph (1) are not expended by the end of the 60-day period beginning on the date on which the agricultural producer receives those funds, the funds shall be returned within a reasonable time-frame, as determined by the Secretary.

(Pub. L. 95-334, title IV, §401, Aug. 4, 1978, 92 Stat. 433; Pub. L. 115-334, title II, §2403(a)(1), Dec. 20, 2018, 132 Stat. 4571.)

AMENDMENTS

2018—Pub. L. 115-334 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted “The Secretary of Agriculture (referred to in this chapter as the ‘Secretary’)” for “The Secretary of Agriculture”, inserted “wildfires,” after “hurricanes,”, and added subsec. (b).

EFFECTIVE DATE

Pub. L. 95-334, title IV, §406, Aug. 4, 1978, 92 Stat. 434, provided that: “The provisions of this title [enacting this chapter] shall become effective October 1, 1978.”

§ 2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria

The Secretary is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures (including measures carried out to assist confined livestock) during periods of severe drought as determined by the Secretary.

(Pub. L. 95-334, title IV, §402, Aug. 4, 1978, 92 Stat. 434; Pub. L. 101-82, title V, §502, Aug. 14, 1989, 103 Stat. 586; Pub. L. 115-334, title II, §2403(a)(2)(A), Dec. 20, 2018, 132 Stat. 4571.)

AMENDMENTS

2018—Pub. L. 115-334 substituted “The Secretary is” for “The Secretary of Agriculture is”.

1989—Pub. L. 101-82, §502(1), inserted “(including measures carried out to assist confined livestock)”.

Pub. L. 101-82, §502(2), temporarily substituted “any fiscal year in which there is a period of severe drought” for “periods of severe drought”. See Effective and Termination Dates of 1989 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1989
AMENDMENT

Pub. L. 101-82, title V, §502(2), Aug. 14, 1989, 103 Stat. 586, provided in part that amendment by section 502(2) of Pub. L. 101-82 is effective only for fiscal year 1989.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 406 of Pub. L. 95-334, set out as a note under section 2201 of this title.

§ 2202a. Cost-share requirement

(a) Cost-share rate

Subject to subsections (b) and (c), the maximum cost-share payment under sections 2201 and 2202 of this title shall not exceed 75 percent of the total allowable cost, as determined by the Secretary.

(b) Exception

Notwithstanding subsection (a), a payment to a limited resource farmer or rancher, a socially disadvantaged farmer or rancher (as defined in subsection (a) of section 2279 of title 7), or a beginning farmer or rancher under section 2201 or 2202 of this title shall not exceed 90 percent of the total allowable cost, as determined by the Secretary.

(c) Limitation

The total payment under sections 2201 and 2202 of this title for a single event may not exceed 50 percent of the agriculture value of the land, as determined by the Secretary.

(Pub. L. 95-334, title IV, §402A, as added Pub. L. 115-334, title II, §2403(b), Dec. 20, 2018, 132 Stat. 4571.)

§ 2202b. Payment limitation

The maximum payment made under the emergency conservation program to an agricultural producer under sections 2201 and 2202 of this title shall not exceed \$500,000.

(Pub. L. 95-334, title IV, §402B, as added Pub. L. 115-334, title II, §2403(c), Dec. 20, 2018, 132 Stat. 4572.)

§ 2203. Emergency watershed program

(a) In general

The Secretary is authorized to undertake emergency watershed protection measures, including the purchase of floodplain easements, for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

(b) Floodplain easements

(1) Modification and termination

The Secretary may modify or terminate a floodplain easement administered by the Secretary under this section if—

- (A) the current owner agrees to the modification or termination; and
- (B) the Secretary determines that the modification or termination—
 - (i) will address a compelling public need for which there is no practicable alternative; and
 - (ii) is in the public interest.