

105TH CONGRESS
2D SESSION

H. R. 4409

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1998

Mr. LUCAS of Oklahoma (for himself and Mr. WATKINS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “The Small Watershed
3 Rehabilitation Amendments of 1998”.

4 **SEC. 2. REHABILITATION OF WATER RESOURCE STRUC-**
5 **TURAL MEASURES CONSTRUCTED UNDER**
6 **CERTAIN DEPARTMENT OF AGRICULTURE**
7 **PROGRAMS.**

8 The Watershed Protection and Flood Prevention Act
9 (16 U.S.C. 1001 et seq.) is amended by adding at the end
10 the following new section:

11 **“SEC. 14. REHABILITATION OF STRUCTURAL MEASURES**
12 **NEAR, AT, OR PAST THEIR EVALUATED LIFE**
13 **EXPECTANCY.**

14 “(a) DEFINITIONS.—For purposes of this section:

15 “(1) REHABILITATION.—The term ‘rehabilita-
16 tion’, with respect to a structural measure con-
17 structed as part of a covered water resource project,
18 means the completion of all work necessary to ex-
19 tend the service life of the structural measure and
20 meet applicable safety and performance standards.

21 This may include (A) protecting the integrity of the
22 structural measure, or prolonging the useful life of
23 the structural measure, beyond the original evalu-
24 ated life expectancy, (B) correcting damage to the
25 structural measure from a catastrophic event, (C)
26 correcting the deterioration of structural components

1 that are deteriorating at an abnormal rate, or (D)
2 upgrading the structural measure to meet changed
3 land use conditions in the watershed served by the
4 structural measure or changed safety criteria appli-
5 cable to the structural measure.

6 “(2) COVERED WATER RESOURCE PROJECT.—
7 The term ‘covered water resource project’ means a
8 work of improvement carried out under any of the
9 following:

10 “(A) This Act.

11 “(B) Section 13 of the Act of December
12 22, 1944 (Public Law 78–534; 58 Stat. 905).

13 “(C) The pilot watershed program author-
14 ized under the heading ‘FLOOD PREVENTION’
15 of the Department of Agriculture Appropriation
16 Act, 1954 (Public Law 156; 67 Stat. 214).

17 “(D) Subtitle H of title XV of the Agri-
18 culture and Food Act of 1981 (16 U.S.C. 3451
19 et seq.; commonly known as the Resource Con-
20 servation and Development Program).

21 “(3) ELIGIBLE LOCAL ORGANIZATION.—The
22 term ‘eligible local organization’ means a local orga-
23 nization or appropriate State agency responsible for
24 the operation and maintenance of structural meas-

1 ures constructed as part of a covered water resource
2 project.

3 “(4) STRUCTURAL MEASURE.—The term
4 “structural measure” means a physical improvement
5 that impounds water and was constructed as part of
6 a covered water resource project.

7 “(b) COST SHARE ASSISTANCE FOR REHABILITA-
8 TION.—

9 “(1) AMOUNT AND USE.—The Secretary may
10 provide financial assistance to an eligible local orga-
11 nization to assist the local organization with the re-
12 habilitation of structural measures originally con-
13 structed as part of a covered water resource project.
14 The amount of the financial assistance for a particu-
15 lar rehabilitation project may not exceed 65 percent
16 of the total rehabilitation costs for the structural
17 measures included in the rehabilitation project. The
18 total costs of rehabilitation may include financial as-
19 sistance to pay for costs associated with the rehabili-
20 tation project, including land, easements, and rights-
21 of-ways costs, costs of water, mineral and other re-
22 source rights, rehabilitation project administration,
23 and contracting.

24 “(2) RELATION TO LAND USE AND DEVELOP-
25 MENT REGULATIONS.—As a condition on entering

1 into an agreement to provide financial assistance
2 under this subsection, the Secretary, working in con-
3 cert with the eligible local organization, may require
4 that proper zoning or other developmental regula-
5 tions are in place in the watershed in which the
6 structural measures to be rehabilitated under the
7 agreement are located so that—

8 “(A) the completed rehabilitation project is
9 not quickly rendered inadequate by additional
10 development; and

11 “(B) society can realize the full benefits of
12 the rehabilitation investment.

13 “(c) TECHNICAL ASSISTANCE FOR WATERSHED
14 PROJECT REHABILITATION.—The Secretary may provide
15 technical assistance in planning, designing, and imple-
16 menting rehabilitation projects should an eligible local or-
17 ganization request such assistance. Such assistance may
18 consist of specialists in such fields as engineering, geology,
19 soils, agronomy, biology, hydraulics, hydrology, economics,
20 water quality, and contract administration.

21 “(d) PROHIBITED USE.—

22 “(1) PERFORMANCE OF OPERATION AND MAIN-
23 TENANCE.—Rehabilitation assistance provided under
24 this section may not be used to perform operation
25 and maintenance activities specified in the agree-

1 ment for the covered water resource project entered
2 into between the Secretary and the eligible local or-
3 ganization responsible for the works of improvement.
4 Such operation and maintenance activities shall re-
5 main the responsibility of the local organization, as
6 provided in the project work plan.

7 “(2) RENEGOTIATION.—Notwithstanding para-
8 graph (1), as part of the provision of financial as-
9 sistance under subsection (b), the Secretary may re-
10 negotiate the original agreement for the covered
11 water resource project entered into between the Sec-
12 retary and the eligible local organization regarding
13 responsibility for the operation and maintenance of
14 the project.

15 “(e) APPLICATION FOR REHABILITATION ASSIST-
16 ANCE.—An eligible local organization may apply to the
17 Secretary for technical and financial assistance under this
18 section if the application has also been submitted to and
19 approved by the State agency having supervisory respon-
20 sibility over the covered water resource project at issue
21 or, if there is no State agency having such responsibility,
22 by the Governor of the State. The Secretary shall request
23 the State dam safety officer (or equivalent State official)
24 to be involved in the application process if State permits
25 or approvals are required. The rehabilitation of structural

1 measures shall meet standards established by the Sec-
2 retary and address other dam safety issues. Personnel of
3 the Natural Resources Conservation Service of the De-
4 partment of Agriculture shall assist in preparing applica-
5 tions for assistance.

6 “(f) JUSTIFICATION FOR REHABILITATION ASSIST-
7 ANCE.—In order to qualify for technical or financial as-
8 sistance under this authority, the Secretary shall require
9 the rehabilitation project to be performed in the most cost-
10 effective manner that accomplishes the rehabilitation ob-
11 jective. Since the requirements for accomplishing the reha-
12 bilitation are generally for public health and safety rea-
13 sons, in many instances being mandated by other State
14 or Federal laws, benefit-cost analysis and a positive bene-
15 fit cost-ratio will not be required. The benefits of and the
16 requirements for the rehabilitation project shall be docu-
17 mented to ensure the wise and responsible use of Federal
18 funds.

19 “(g) RANKING OF REQUESTS FOR REHABILITATION
20 ASSISTANCE.—The Secretary shall establish such system
21 of approving rehabilitation requests, recognizing that such
22 requests will be received throughout the fiscal year and
23 subject to the availability of funds to carry out this sec-
24 tion, as is necessary for proper administration by the De-
25 partment of Agriculture and equitable for all eligible local

1 organizations. The approval process shall be in writing,
2 and made known to all eligible local organizations and ap-
3 propriate State agencies.

4 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$60,000,000 for each
6 of the fiscal years 1999 through 2008 to carry out this
7 section.

8 “(i) ASSESSMENT OF REHABILITATION NEEDS.—Of
9 the amount appropriated pursuant to subsection (h) for
10 both fiscal year 1999 and 2000, \$5,000,000 shall be used
11 by the Secretary, in concert with the responsible State
12 agencies, to conduct an assessment of the rehabilitation
13 needs of covered water resource projects in all States in
14 which such projects are located.

15 “(j) REPORTS.—The Secretary shall submit an an-
16 nual report to Congress providing the status of activities
17 conducted under this section. An eligible local organization
18 that receives rehabilitation assistance shall make an an-
19 nual report to the Secretary giving the status of any reha-
20 bilitation effort undertaken using financial assistance pro-
21 vided under this section.”.

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