

SMALL WATERSHED REHABILITATION AMENDMENTS
OF 1999

NOVEMBER 18, 1999.—Ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

REPORT

[To accompany H.R. 728]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 728) 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, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Watershed Rehabilitation Amendments of 1999”.

TITLE I—DAM REHABILITATION

SEC. 101. REHABILITATION OF WATER RESOURCE STRUCTURAL MEASURES CONSTRUCTED UNDER CERTAIN DEPARTMENT OF AGRICULTURE PROGRAMS.

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

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

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

“(1) REHABILITATION.—The term ‘rehabilitation’, with respect to a structural measure constructed as part of a covered water resource project, means the

completion of all work necessary to extend the service life of the structural measure and meet applicable safety and performance standards. This may include (A) protecting the integrity of the structural measure or prolonging the useful life of the structural measure beyond the original evaluated life expectancy, (B) correcting damage to the structural measure from a catastrophic event, (C) correcting the deterioration of structural components that are deteriorating at an abnormal rate, (D) upgrading the structural measure to meet changed land use conditions in the watershed served by the structural measure or changed safety criteria applicable to the structural measure, or (E) decommissioning the structure, if requested by the local organization.

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

“(A) This Act.

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

“(C) The pilot watershed program authorized under the heading ‘FLOOD PREVENTION’ of the Department of Agriculture Appropriation Act, 1954 (Public Law 156; 67 Stat. 214).

“(D) Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.; commonly known as the Resource Conservation and Development Program).

“(3) STRUCTURAL MEASURE.—The term ‘structural measure’ means a physical improvement that impounds water, commonly known as a dam, which was constructed as part of a covered water resource project, including the impoundment area and flood pool.

“(b) COST SHARE ASSISTANCE FOR REHABILITATION.—

“(1) ASSISTANCE AUTHORIZED.—The Secretary may provide financial assistance to a local organization to cover a portion of the total costs incurred for the rehabilitation of structural measures originally constructed as part of a covered water resource project. The total costs of rehabilitation include the costs associated with all components of the rehabilitation project, including acquisition of land, easements, and rights-of-ways, rehabilitation project administration, the provision of technical assistance, contracting, and construction costs, except that the local organization shall be responsible for securing all land, easements, or rights-of-ways necessary for the project.

“(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—The amount of Federal funds that may be made available under this subsection to a local organization for construction of a particular rehabilitation project shall be equal to 65 percent of the total rehabilitation costs, but not to exceed 100 percent of actual construction costs incurred in the rehabilitation. However, the local organization shall be responsible for the costs of water, mineral, and other resource rights and all Federal, State, and local permits.

“(3) RELATION TO LAND USE AND DEVELOPMENT REGULATIONS.—As a condition on entering into an agreement to provide financial assistance under this subsection, the Secretary, working in concert with the affected unit or units of general purpose local government, may require that proper zoning or other developmental regulations are in place in the watershed in which the structural measures to be rehabilitated under the agreement are located so that—

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

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

“(c) TECHNICAL ASSISTANCE FOR WATERSHED PROJECT REHABILITATION.—The Secretary, acting through the Natural Resources Conservation Service, may provide technical assistance in planning, designing, and implementing rehabilitation projects should a local organization request such assistance. Such assistance may consist of specialists in such fields as engineering, geology, soils, agronomy, biology, hydraulics, hydrology, economics, water quality, and contract administration.

“(d) PROHIBITED USE.—

“(1) PERFORMANCE OF OPERATION AND MAINTENANCE.—Rehabilitation assistance provided under this section may not be used to perform operation and maintenance activities specified in the agreement for the covered water resource project entered into between the Secretary and the local organization responsible for the works of improvement. Such operation and maintenance activities shall remain the responsibility of the local organization, as provided in the project work plan.

“(2) RENEGOTIATION.—Notwithstanding paragraph (1), as part of the provision of financial assistance under subsection (b), the Secretary may renegotiate the original agreement for the covered water resource project entered into between

the Secretary and the local organization regarding responsibility for the operation and maintenance of the project when the rehabilitation is finished.

“(e) APPLICATION FOR REHABILITATION ASSISTANCE.—A local organization may apply to the Secretary for technical and financial assistance under this section if the application has also been submitted to and approved by the State agency having supervisory responsibility over the covered water resource project at issue or, if there is no State agency having such responsibility, by the Governor of the State. The Secretary shall request the State dam safety officer (or equivalent State official) to be involved in the application process if State permits or approvals are required. The rehabilitation of structural measures shall meet standards established by the Secretary and address other dam safety issues. At the request of the local organization, personnel of the Natural Resources Conservation Service of the Department of Agriculture may assist in preparing applications for assistance.

“(f) RANKING OF REQUESTS FOR REHABILITATION ASSISTANCE.—The Secretary shall establish such system of approving rehabilitation requests, recognizing that such requests will be received throughout the fiscal year and subject to the availability of funds to carry out this section, as is necessary for proper administration by the Department of Agriculture and equitable for all local organizations. The approval process shall be in writing, and made known to all local organizations and appropriate State agencies.

“(g) PROHIBITION ON CERTAIN REHABILITATION ASSISTANCE.—The Secretary may not approve a rehabilitation request if the need for rehabilitation of the structure is the result of a lack of adequate maintenance by the party responsible for the maintenance.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$60,000,000 for each of the fiscal years 2000 through 2009 to provide financial and technical assistance under this section.

“(i) ASSESSMENT OF REHABILITATION NEEDS.—Of the amount appropriated pursuant to subsection (h) for fiscal years 2000 and 2001, \$5,000,000 shall be used by the Secretary, in concert with the responsible State agencies, to conduct an assessment of the rehabilitation needs of covered water resource projects in all States in which such projects are located.

“(j) RECORDKEEPING AND REPORTS.—

“(1) SECRETARY.—The Secretary shall maintain a data base to track the benefits derived from rehabilitation projects supported under this section and the expenditures made under this section. On the basis of such data and the reports submitted under paragraph (2), the Secretary shall prepare and submit to Congress an annual report providing the status of activities conducted under this section.

“(2) GRANT RECIPIENTS.—Not later than 90 days after the completion of a specific rehabilitation project for which assistance is provided under this section, the local organization that received the assistance shall make a report to the Secretary giving the status of any rehabilitation effort undertaken using financial assistance provided under this section.”.

TITLE II—DAM SAFETY

SEC. 201. DAM SAFETY.

(a) INVENTORY AND ASSESSMENT OF OTHER DAMS.—

(1) INVENTORY.—The Secretary of the Army (in this section referred to as the “Secretary”) shall establish an inventory of dams constructed by and using funds made available through the Works Progress Administration, the Works Projects Administration, and the Civilian Conservation Corps.

(2) ASSESSMENT OF REHABILITATION NEEDS.—In establishing the inventory required under paragraph (1), the Secretary shall also assess the condition of the dams on such inventory and the need for rehabilitation or modification of the dams.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the inventory and assessment required by this section.

(c) INTERIM ACTIONS.—

(1) IN GENERAL.—If the Secretary determines that a dam referred to in subsection (a) presents an imminent and substantial risk to public safety, the Secretary is authorized to carry out measures to prevent or mitigate against such risk.

(2) EXCLUSION.—The assistance authorized in paragraph (1) shall not be available to dams under the jurisdiction of the Department of the Interior.

(3) FEDERAL SHARE.—The Federal share of the cost of assistance provided under this subsection shall be 65 percent of such cost.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated a total of \$30,000,000 for fiscal years beginning after September 30, 1999, of which not more than \$5,000,000 may be expended on any 1 dam.

(d) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the appropriate State dam safety officials and the Director of the Federal Emergency Management Agency.

Amend the title so as to read:

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, and for other purposes.

SUMMARY AND PURPOSE

H.R. 728, “The Small Watershed Rehabilitation Amendments of 1999,” was introduced by Representative Frank Lucas of Oklahoma on February 11, 1999 and was referred to the Committee on Agriculture, and in addition, the Committees on Resources, and Transportation and Infrastructure.

The purpose of H.R. 728, “The Small Watershed Rehabilitation Amendments of 1999,” is to assist local organizations in the identification and rehabilitation of dams (built under certain federal programs) that are near the end of their service life and no longer meet safety and performance standards. Title I establishes a program to provide assistance through the Secretary of Agriculture for rehabilitation of dams previously constructed with assistance from the Secretary. The Secretary of Agriculture is authorized to provide technical assistance to local organizations and to share in the cost of the rehabilitation. Title II of the bill directs the Secretary of the Army to inventory and assess the condition of dams built under certain federal assistance programs during the Great Depression and report to Congress. Where there is an imminent and substantial risk to public safety, the Secretary may carry out a project to reduce the risk.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, the Secretary of Agriculture, acting through the Natural Resources Conservation Service (NRCS), whose predecessor was the Soil Conservation Service, is authorized to provide technical and financial assistance to local organizations in planning and carrying out small watershed projects for flood protection, agricultural water management, recreation, municipal and industrial water supply, and wildlife enhancement. Since 1948, thousands of small dams have been constructed and turned over to local organizations to operate and maintain. Many of the over 10,000 dams built under such authority are reaching the end of their 50-year design life and are in need of rehabilitation. Others are in areas that have experienced demographic changes that are inconsistent with the original design criteria so that some now pose a threat to public health and safety.

The Secretary of Agriculture does not have authority to begin a program to rehabilitate the NRCS dams that are not functioning

as intended, or as currently needed. H.R. 728 provides the Secretary the authority to rehabilitate these dams as appropriate on a limited and programmatic basis.

During the 1930's and 1940's, a large number of dams and reservoirs were built with federal assistance under the Works Progress Administration, Works Projects Administration, and the Civilian Conservation Corps. These ranged in size from small farm ponds to large multipurpose reservoirs. The programs that built them no longer exist and the dams are currently believed to be under the management of numerous federal, state, municipal, and private jurisdictions. There has not been a recent inventory or assessment of this category of structures; however, some have suggested that given their age, many of these dams may be in need of rehabilitation.

An inventory and assessment of these Depression-era dams will assist in determining their current status and the need for a rehabilitation program. H.R. 728 provides for the Secretary of the Army to accomplish an inventory and assessment as well as to take immediate corrective action where imminent and substantial risk to public safety is discovered. A report to Congress by the Secretary will provide the basis for decisions regarding future legislation.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This Act may be cited as the "Small Watershed Rehabilitation Amendments of 1999."

TITLE I—DAM REHABILITATION

Section 101. Rehabilitation of water resources structural measures constructed under certain Department of Agriculture programs

This section amends the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) by adding a new section 14 titled "Rehabilitation of Structural Measures Near, At or Past Their Evaluated Life Expectancy." The new section has the following subsections:

(a) Definitions.—Subsection (a) provides the following definitions: (1) "Rehabilitation" means completion of work necessary to extend the service life of a structure and to meet safety and performance standards, (2) "Covered Water Resources Project" means a work of improvement carried out by the Secretary of Agriculture under any of four specified authorities, and (3) "Structural Measure" means a dam, including the impoundment area and flood pool. The Committee modified the definition of rehabilitation to include decommissioning, if such decommissioning is requested by the local organization. Decommissioning could result in a dam being taken out of active service or removed.

(b) Cost Share Assistance for Rehabilitation.—This subsection authorizes the Secretary of Agriculture to provide financial assistance to a local organization for rehabilitation of structures (usually dams) constructed as part of a covered water resources project. The amount of the federal assistance is limited to 65 percent of the total rehabilitation. The Secretary of Agriculture, working in con-

cert with the affected unit or units of general purpose local government, may require that proper local zoning and other development regulations are in place as a condition for assistance.

(c) Technical Assistance for Watershed Project Rehabilitation.—This subsection authorizes technical assistance to local organizations in planning, designing, and implementing rehabilitation projects.

(d) Prohibited Use.—This subsection states that operation and maintenance of rehabilitated projects shall be a non-federal responsibility and that the Secretary of Agriculture may renegotiate the original agreement for the project with the local organization regarding operation and maintenance when the rehabilitation is finished.

(e) Application for Rehabilitation Assistance.—This subsection sets down the procedures for a local organization to apply to the Secretary of Agriculture for assistance.

(f) Ranking of Requests for Rehabilitation Assistance.—This subsection directs the Secretary of Agriculture to establish a system for ranking potential projects.

(g) Prohibition of Certain Rehabilitation Assistance.—This subsection prohibits the Secretary from providing assistance under this section if the need for rehabilitation is the result of a lack of adequate maintenance.

(h) Authorization of Appropriations.—For purposes of providing assistance under this section, subsection (h) authorizes \$60,000,000 for each of ten years beginning in FY 2000.

(i) Assessment of Rehabilitation Needs.—Subsection (i) directs the Secretary of Agriculture, in concert with responsible State agencies, to conduct an assessment of the rehabilitation needs in all States. For this purpose, \$5,000,000 is authorized for use by the Secretary from the amounts authorized for appropriation in subsection (h) for each of fiscal years 2000 and 2001.

(j) Recordkeeping and Reports.—This subsection requires the Secretary of Agriculture to maintain a data base and to submit an annual report to Congress. Also, local organizations receiving assistance must report the status of rehabilitation efforts to the Secretary.

TITLE II—DAM SAFETY

Section 201. Dam safety

(a) Inventory and Assessment of Other Dams.—This subsection directs the Secretary of the Army to inventory dams constructed by the Works Progress Administration, the Works Projects Administration, and the Civilian Conservation Corps and to assess the condition of the dams.

(b) Report to Congress.—A report to Congress by the Secretary of the Army is required in two years.

(c) Interim Actions.—Subsection (c) provides that where the Secretary of the Army determines that a dam presents an imminent and substantial risk to public safety, the Secretary is authorized to carry out measures to address the risk. These measures could include removal of a structure where appropriate and where requested by the non-federal interest. The federal cost share of such

assistance will be 65 percent. A total of \$30,000,000 is authorized of which not more than \$5,000,000 may be expended on any one dam. This assistance is not authorized for dams under the jurisdiction of the Department of the Interior.

(d) Coordination.—This subsection requires the Secretary of the Army to coordinate with the appropriate dam safety officials and the Director of the Federal Emergency Management Agency in carrying out this section.

HEARINGS

On September 24, 1999, the Subcommittee on Water Resources and Environment of the Transportation and Infrastructure Committee held a hearing on H.R. 728. Witnesses included Rep. Frank Lucas and the NRCS of the Department of Agriculture. In addition, the Subcommittee on General Farm Commodities, Resources Conservation and Credit of the Committee on Agriculture held a hearing on H.R. 728 on April 15, 1999.

COMMITTEE CONSIDERATION

On November 8, 1999, the Subcommittee on Water Resources and Environment approved by voice vote, H.R. 728, with an en bloc amendment offered by Rep. Sherwood Boehlert. The amendment included adding decommissioning as an option for rehabilitating NRCS dams, and included a new title for the bill that addresses the condition of dams built during the Depression era. On November 10, 1999, the Committee on Transportation and Infrastructure approved by voice vote a motion to report the bill as amended. The Agriculture Committee marked up H.R. 728 on October 27, 1999, making several amendments.

ROLLCALL VOTES

There were no rollcall votes in the Committee.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 728.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 728 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 17, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 728, the Small Watershed Rehabilitation Amendments of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs) and Marjorie Miller (for the impact on state, local, and tribal governments).

Sincerely,

STEVE LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 728—Small Watershed Rehabilitation Amendments of 1999

Summary: Based on information from the Natural Resources Conservation Service (NRCS) and the Army Corps of Engineers (the Corps), CBO estimates that implementing H.R. 728 would cost \$401 million over the 2000–2004 period, assuming appropriation of the amounts specified in the bill. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 728 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments probably would incur some costs to match the grants authorized by this bill, but these costs would be voluntary.

Local watershed project sponsors, assisted by the NRCS, have constructed over 10,000 watershed projects under the Small Watershed Program. Title I of H.R. 728 would authorize the Secretary of Agriculture, acting through the NRCS, to assist local project sponsors in rehabilitating those projects and would authorize the appropriation of \$60 million a year over the 2000–2009 period for that purpose. Title II of H.R. 728 would authorize the Secretary of the Army to establish an inventory of dams constructed with federal assistance to assess needs for rehabilitation or modification and to report to the Congress on the condition of such dams within two years. Starting in fiscal year 2000, the bill would authorize an annual appropriation of \$30 million for the Corps to conduct the as-

assessment and to provide assistance to local organizations to rehabilitate dams that are determined to pose significant risks to public safety.

Estimated cost to the Federal Government: For purposes of this estimate, CBO assumes that H.R. 728 will be enacted early in fiscal year 2000 and that funding will be provided as authorized by the bill. Estimates of outlays are based on historical spending patterns for similar programs. In 2000, no funds have been appropriated to NRCS or to the Corps for activities authorized under H.R. 728. The estimated budgetary impact of H.R. 728 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
Authorization level	90	90	90	90	90
Estimated outlays	57	77	87	90	90

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: H.R. 728 contains no intergovernmental mandates as defined in UMRA. State and local governments would probably incur some costs to match the grants authorized by this bill, but these costs would be voluntary. The bill would require recipients to fund at least 35 percent of the total costs of assisted projects.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On November 3, 1999, CBO transmitted a cost estimate for H.R. 728 as ordered reported by the House Committee on Agriculture on October 27, 1999. The Agriculture Committee's version of the bill did not include the provisions related to the dam safety program that would be authorized under title II of the Transportation and Infrastructure Committee's versions of the legislation. The difference in the two cost estimates for this legislation reflects the additional cost of the dam safety program.

Estimate prepared by: Federal costs: Megan Carroll; impact on state, local, and tribal governments: Marjorie Miller.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104-4)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104-1)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**SECTION 14 OF THE WATERSHED PROTECTION AND
FLOOD PREVENTION ACT**

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

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

(1) *REHABILITATION.—The term “rehabilitation”, with respect to a structural measure constructed as part of a covered water resource project, means the completion of all work necessary to extend the service life of the structural measure and meet applicable safety and performance standards. This may include (A) protecting the integrity of the structural measure or prolonging the useful life of the structural measure beyond the original evaluated life expectancy, (B) correcting damage to the structural measure from a catastrophic event, (C) correcting the deterioration of structural components that are deteriorating at an abnormal rate, (D) upgrading the structural measure to meet changed land use conditions in the watershed served by the structural measure or changed safety criteria applicable to the structural measure, or (E) decommissioning the structure, if requested by the local organization.*

(2) *COVERED WATER RESOURCE PROJECT.—The term “covered water resource project” means a work of improvement carried out under any of the following:*

(A) *This Act.*

(B) *Section 13 of the Act of December 22, 1944 (Public Law 78-534; 58 Stat. 905).*

(C) *The pilot watershed program authorized under the heading “FLOOD PREVENTION” of the Department of Agri-*

culture Appropriation Act, 1954 (Public Law 156; 67 Stat. 214).

(D) Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.; commonly known as the Resource Conservation and Development Program).

(3) STRUCTURAL MEASURE.—The term “structural measure” means a physical improvement that impounds water, commonly known as a dam, which was constructed as part of a covered water resource project, including the impoundment area and flood pool.

(b) COST SHARE ASSISTANCE FOR REHABILITATION.—

(1) ASSISTANCE AUTHORIZED.—The Secretary may provide financial assistance to a local organization to cover a portion of the total costs incurred for the rehabilitation of structural measures originally constructed as part of a covered water resource project. The total costs of rehabilitation include the costs associated with all components of the rehabilitation project, including acquisition of land, easements, and rights-of-ways, rehabilitation project administration, the provision of technical assistance, contracting, and construction costs, except that the local organization shall be responsible for securing all land, easements, or rights-of-ways necessary for the project.

(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—The amount of Federal funds that may be made available under this subsection to a local organization for construction of a particular rehabilitation project shall be equal to 65 percent of the total rehabilitation costs, but not to exceed 100 percent of actual construction costs incurred in the rehabilitation. However, the local organization shall be responsible for the costs of water, mineral, and other resource rights and all Federal, State, and local permits.

(3) RELATION TO LAND USE AND DEVELOPMENT REGULATIONS.—As a condition on entering into an agreement to provide financial assistance under this subsection, the Secretary, working in concert with the affected unit or units of general purpose local government, may require that proper zoning or other developmental regulations are in place in the watershed in which the structural measures to be rehabilitated under the agreement are located so that—

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

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

(c) TECHNICAL ASSISTANCE FOR WATERSHED PROJECT REHABILITATION.—The Secretary, acting through the Natural Resources Conservation Service, may provide technical assistance in planning, designing, and implementing rehabilitation projects should a local organization request such assistance. Such assistance may consist of specialists in such fields as engineering, geology, soils, agronomy, biology, hydraulics, hydrology, economics, water quality, and contract administration.

(d) PROHIBITED USE.—

(1) PERFORMANCE OF OPERATION AND MAINTENANCE.—Rehabilitation assistance provided under this section may not be

used to perform operation and maintenance activities specified in the agreement for the covered water resource project entered into between the Secretary and the local organization responsible for the works of improvement. Such operation and maintenance activities shall remain the responsibility of the local organization, as provided in the project work plan.

(2) *RENEGOTIATION.*—*Notwithstanding paragraph (1), as part of the provision of financial assistance under subsection (b), the Secretary may renegotiate the original agreement for the covered water resource project entered into between the Secretary and the local organization regarding responsibility for the operation and maintenance of the project when the rehabilitation is finished.*

(e) *APPLICATION FOR REHABILITATION ASSISTANCE.*—*A local organization may apply to the Secretary for technical and financial assistance under this section if the application has also been submitted to and approved by the State agency having supervisory responsibility over the covered water resource project at issue or, if there is no State agency having such responsibility, by the Governor of the State. The Secretary shall request the State dam safety officer (or equivalent State official) to be involved in the application process if State permits or approvals are required. The rehabilitation of structural measures shall meet standards established by the Secretary and address other dam safety issues. At the request of the local organization, personnel of the Natural Resources Conservation Service of the Department of Agriculture may assist in preparing applications for assistance.*

(f) *RANKING OF REQUESTS FOR REHABILITATION ASSISTANCE.*—*The Secretary shall establish such system of approving rehabilitation requests, recognizing that such requests will be received throughout the fiscal year and subject to the availability of funds to carry out this section, as is necessary for proper administration by the Department of Agriculture and equitable for all local organizations. The approval process shall be in writing, and made known to all local organizations and appropriate State agencies.*

(g) *PROHIBITION ON CERTAIN REHABILITATION ASSISTANCE.*—*The Secretary may not approve a rehabilitation request if the need for rehabilitation of the structure is the result of a lack of adequate maintenance by the party responsible for the maintenance.*

(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated to the Secretary \$60,000,000 for each of the fiscal years 2000 through 2009 to provide financial and technical assistance under this section.*

(i) *ASSESSMENT OF REHABILITATION NEEDS.*—*Of the amount appropriated pursuant to subsection (h) for fiscal years 2000 and 2001, \$5,000,000 shall be used by the Secretary, in concert with the responsible State agencies, to conduct an assessment of the rehabilitation needs of covered water resource projects in all States in which such projects are located.*

(j) *RECORDKEEPING AND REPORTS.*—

(1) *SECRETARY.*—*The Secretary shall maintain a data base to track the benefits derived from rehabilitation projects supported under this section and the expenditures made under this section. On the basis of such data and the reports submitted under*

paragraph (2), the Secretary shall prepare and submit to Congress an annual report providing the status of activities conducted under this section.

(2) GRANT RECIPIENTS.—Not later than 90 days after the completion of a specific rehabilitation project for which assistance is provided under this section, the local organization that received the assistance shall make a report to the Secretary giving the status of any rehabilitation effort undertaken using financial assistance provided under this section.

