



**NATIONAL WATERSHED MANUAL (NWSM)
390-V
CIRCULAR NO. 7**

November 15, 2001

SUBJECT: PDM – Watersheds – Policy for Watershed Rehabilitation

Purpose. To establish policy on implementation of watershed rehabilitation

Effective Date. This circular is effective when received.

Filing Instructions. Remove the entire Section 508. File this circular and attachments in Section 508 of the NWSM.

Background. The 106th Congress enacted legislation to provide the Secretary authorization to assist project sponsors with rehabilitation of aging project dams. Since this is a new authorization for the Natural Resources Conservation Service, the current Subpart 508E has been revised to incorporate new policy. The attached policy will be followed to implement the rehabilitation program.

Subparts 508A, B, C, D, F, and G have been updated and reprinted so the entire Part 508 can be replaced by the attachments.

THOMAS A. WEBER
Deputy Chief for Programs

Attachments

DIST: NWSM

The Natural Resources Conservation Service (NRCS),
formerly the Soil Conservation Service, is an agency of the
Department of Agriculture

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PART 508 – POST INSTALLATION ASSISTANCE

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Subpart 508A - Introduction

508.00 Introduction

Part 508 provides Natural Resources Conservation Service (NRCS) policy in administering the operation and maintenance (O&M) requirements for any practice installed with NRCS assistance. It also includes provisions for remedial, rehabilitation, and completion of Federal interest work.

Watershed projects installed under Public Law 83-566 contain land treatment, structural, and nonstructural practices that are planned to solve related soil, water, air, plant, and animal resource problems. The projects are planned to function over a period of generally not less than 25 years or more than 100 years.

Before obtaining Federal financial assistance for installation or rehabilitation of project measures, the Sponsoring Local Organizations (SLO) must satisfactorily assure NRCS that installed practices will be operated and maintained properly. Arrangements for O&M must be documented. Satisfactory assurance consists of the development and signing of an O&M agreement between the SLO and NRCS or, in the case of land treatment, between the NRCS and the SLO/land user.

Many of the problems affecting installed structural measures are associated with the age of the structure, change in land use, and the lack of conformance to current engineering standards, safety and stability.

Where a determination of the type of post-installation assistance is needed, the SLO will initiate such a request to NRCS. If in making that determination a program report will be developed, the SLO will assist in the development of such a report.

Subpart 508B - Operation and maintenance

508.10 Introduction

(a) Operation

Operation includes the administration, management, and performance of non-maintenance actions needed to keep a completed practice safe and functioning as planned. This includes being cognizant of changes in watershed conditions, both above and below completed practices, which alter the overall function of the project, so appropriate actions can be taken promptly.

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(b) Maintenance

Maintenance includes routine work required to prevent deterioration of practices, to repair damage, or to replace practice components. It includes recurring needs, such as repainting, fertilizing, and managing vegetation for dams and channels and repairing or replacing side channels and drop structures associated with a channel. Maintenance also includes repairing damages to completed practices caused by normal deterioration, drought, vandalism, or flooding from other than a catastrophic event.

508.11 Responsibilities

Responsibilities for O&M of watershed works of improvement are described in the National Operations and Maintenance Manual, 180-500. The O&M requirements must be documented in an O&M agreement with the SLO. State conservationists (STC) should be familiar with these responsibilities and requirements and provide follow-up to ensure that an effective O&M program is carried out.

508.12 Inspection and follow-up

The O&M plan shall identify the practice covered by the agreement, the SLO who will inspect and finance the O&M of each practice, and the duration of the agreement. It will establish a schedule for performing inspections. The SLO/land user is responsible for making the necessary inspections and may request NRCS assistance. NRCS responsibility for assisting in inspections and follow-up is designated by (STC).

Where two or more States are concerned, responsibility will be determined jointly by the STCs.

It is recommended that NRCS and the SLO make joint inspections

- During or immediately after the initial filling of a reservoir,
- Annually during the first 3 years after construction, and
- After major storms, major earthquakes, or other unusual conditions that might adversely affect the measure.

The SLOs are responsible for continuing inspections after the third year. They are to prepare a report and send a copy to the NRCS STC. NRCS may assist for special situations as determined by the STC.

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STCs are to prepare a report to the SLO when structural measures reach their evaluated life and/or when the O&M agreement has expired. The report is to outline options available to the relative need to continue O&M of the project measures.

508.13 Technical assistance

NRCS may provide technical assistance to the SLO in the O&M of installed measures. The following kinds of assistance are normally considered as O&M technical assistance:

- Coordination and training of the SLO on local responsibilities and development of financial methods of assuring availability of funds.
- Assisting with annual inspections and reports.
- Preparing or reviewing plans, designs, and specifications for proposed changes. This may include such items as emergency action plans.

Subpart 508C - Remedial work

508.20 Kinds of remedial work

Remedial work is defined as work needed to correct problems caused as a result of a mistake or misjudgment by NRCS during the installation of a measure or as a result of latent site conditions unknown to NRCS or the sponsor/land user at the time of installation. Changes in policy, technical standards or engineering concepts developed subsequent to the installation of the original measure are not considered mistakes or misjudgments by NRCS. The following kinds of work may be considered as remedial work:

- Repair of a measure's components that deteriorate more rapidly than planned or do not perform as expected because of unusual or latent conditions.
- Reconstruction or repair of a completed measures that malfunctioned or failed because of a design or construction deficiency.
- Modification of a structure, property relocation, or addition of nonstructural measure, which is the most cost effective to meet the criteria for a higher hazard classification where a structure was misclassified before installation.

508.21 Procedure

Remedial work may be necessary in operational or completed watershed projects. The need for remedial work is to be documented by a program report. The preparation of the report is to be completed under the direction of the STC. The report should contain the following:

- What caused the situation?
- Alternatives considered (including doing nothing and determining methods for sponsor solutions and alternative engineering solutions).
- Analysis of the cost effectiveness of alternatives.
- Estimated costs, benefits, and environmental effects.
- Recommended solutions.

Technical input from the appropriate State Technical Specialist will be included in the report. An informational copy of the final report is to be sent to the director, Watersheds and Wetlands Division (WWD) for all work authorized by the STC. A copy of the final report will accompany all requests for authorization for remedial work exceeding the STC's authority.

NRCS may provide cost-sharing assistance for needed remedial work up to the same cost sharing rate used for the original installation. Waivers to the cost-share policy can be granted for unusual or extenuating circumstances. STC must request waivers from the Director, WWD. The STCs may approve cost sharing for remedial work if:

- The estimated Federal construction cost of the remedial work does not exceed \$150,000.
- The necessary program report has been completed.
- The project is an operational project or the STC has taken the necessary actions to reopen the project.
- The director, WWD, has been notified.

Where the estimated Federal construction cost of the remedial work exceeds \$150,000, the STC must request authorization to proceed from the Chief. The letter of request must include a copy of the program report.

Subpart 508D - Additional work

508.30 Additional work

Additional work may be considered in watershed projects. This includes installing land treatment, structural measures or nonstructural measures to benefit new beneficiaries or the same beneficiaries to a different degree. It may include measures to serve an additional purpose.

Additional work considered for operational and completed projects will follow the policies in part 506.

508.31 Procedure

Authorization to reopen a project must be granted by the Chief. A letter of request must support the request by the SLO and a report. The report should indicate that the additional work meets program objectives and shall outline the need for additional work, proposed measures, estimated cost, and anticipated environmental effects. A copy of the letter of request and the report are to be sent to the director, WWD.

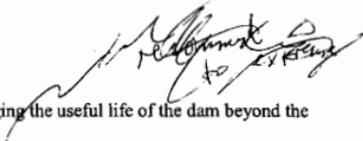
Upon notification from the Chief that additional planning is authorized, the STC may proceed with the necessary studies and the preparation of the documents.

Subpart 508E - Rehabilitation work

508.40 Introduction

This sub-part refers to work authorized by Section 14 of Public Law 83-566 (enacted by Section 313 of Public Law 106-472, otherwise known as "The Small Watershed Rehabilitation Amendments of 2000").

Rehabilitation work on a dam constructed as part of a covered water resource project (PL-566, PL-534, Pilot Watershed, or Resource Conservation and Development (RC&D), is defined as all work necessary to extend the service life of a dam and meet applicable safety and performance standards. A dam is defined as a physical improvement that impounds water, including the impoundment area and flood pool area. Rehabilitation work will result in changes to the dam's "as-built" condition. This may include:

- 
1. Protecting the integrity of the dam or prolonging the useful life of the dam beyond the original evaluated life expectancy;
 2. Correcting damage to the dam from a catastrophic event (100-year frequency rainfall event or the storm event that produces a flow in the emergency spillway of at least two feet or more in depth).
 3. Correcting the deterioration of structural components that are deteriorating at an abnormal rate;
 4. Upgrading the dam to meet changed land use conditions in a watershed served by the dam or changed safety criteria applicable to the dam; or
 5. Decommissioning (removal) of the structure and stabilizing the site.

Rehabilitation work does not include activities that are operation and maintenance (O&M): see Subpart 508B.

Rehabilitation work may be considered in completed or operational watershed projects. Rehabilitation projects that also add additional purposes or beneficiaries shall follow the policies and guidelines in Part 506. Rehabilitation projects shall be planned in conformance with policies set forth in Parts 504 and 505.

The completion of rehabilitation work on any project measure will redefine that measure's evaluated life and the O&M responsibilities of the Sponsoring Local Organization (SLO) relative to that measure.

508.41 Assessment assistance

(a) Introduction

This section applies to assistance for assessment of a dam being considered for potential rehabilitation. This assistance is intended to provide the SLO with information to help them decide if they should pursue rehabilitation of their aging dam. This assessment is not required for all potential rehabilitation projects. The SLO may submit an application for rehabilitation assistance (508.42) prior to an assessment being conducted.

(b) Request for assistance

A request for assistance for assessment of a dam shall be signed and submitted by at least one of the SLOs with O&M responsibility. The request may be in the form of a letter to the STC.

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Each request for assistance shall involve only one dam that was originally planned and installed under PL-566, PL-534, Pilot Watershed Program or RC&D. If the State Dam Safety Agency has ordered any action on the dams, the SLO shall attach a copy of the order to the request for assistance.

(c) Preliminary investigation

A preliminary investigation should be conducted for each request received. As part of this, an environmental evaluation (7 CFR 650) shall be initiated. The preliminary investigation can be a brief study, using existing data to the extent possible. The purpose of the preliminary investigation is to describe the potential scope of a rehabilitation project and to determine if the dam is eligible for rehabilitation.

(d) Assessment report

The STC shall prepare a report to respond to the SLO's request for an assessment. As a minimum, the report shall include:

- Description of the existing condition of the dam,
- Original and current NRCS hazard classification,
- Rehabilitation needs,
- Adequacy of O&M for the dam,
- Eligibility of the dam for rehabilitation,
- Potential for addressing other resource needs during rehabilitation of the dam, and
- Potential scope of a rehabilitation project including estimated costs.

The STC shall furnish a copy of the report to all SLOs of the watershed project.

508.42 Application for rehabilitation assistance

(a) Introduction

This section sets forth procedures for preparing and submitting an application for rehabilitation assistance authorized by Public Law 83-566, Sec. 14.

(b) Notification of intent to apply for Federal assistance

The SLO shall follow State developed procedures for coordination of proposed Federal financial assistance and must notify the State Single Point of Contact for Federal assistance of their intent to apply for assistance under Public Law 83-566, Sec. 14.

(c) Application content

Application for rehabilitation assistance shall be made on Form SF-424 "Application for Federal Assistance" (Exhibit 503-1). The following information shall be attached to the application:

- Project name,
- Dam number,
- Original project authority,
- Dam location (legal description),
- A list of the current SLOs,
- The name(s), address(es), and contact information for the person(s) designed as the contact(s) for each of the SLO(s),
- Year dam was constructed,
- Description of existing condition and known rehabilitation needs of the dam, and
- Description of the current benefits provided by the dam.
- Dam Safety Agency information, permit needs, comments, and recommendations on rehabilitation needs for the specific dam. If the State Dam Safety Agency ordered any action on the dam, attach a copy of the order,
- Statements that the SLO(s) commit to:
 - Assist in leading locally-led planning effort,
 - Obtain needed landrights including the use of power of eminent domain, if necessary,
 - Provide local cost-share funds and/or in-kind services to provide the required 35 percent of total project costs,
 - Enter into a new O&M Agreement with Natural Resources Conservation Service (NRCS),
 - Provide funds for continuing O&M actions,
 - Obtain required permits and approvals at their cost,
 - Provide leadership to assure appropriate land use controls are enacted or acquired for downstream areas prior to construction if a low or significant hazard dam is involved, and

- Provide leadership to assure adequate land treatment measures have been installed on at least 50 percent of the watershed area above the dam.
- Statement that the SLO(s) that plan to provide in-kind services and/or acquire landrights will sign a MOU with NRCS before being credited with the value of any in-kind contribution

(d) Submission of application

The application shall be submitted by the SLOs to the STC with copies provided to the designated State agency, the State Dam Safety Agency (if State permits and approvals are required) and to the State Single Point of Contact for Federal assistance. The designated State agency is the agency having responsibility to set work priorities for programs provided for in the Act, or the Governor, if no State agency has such responsibility.

(e) Acknowledging the application

The STC shall provide the SLO with written acknowledgement receipt of the application after ascertaining that the application is valid.

(f) Requirements of a valid application

A valid application must include:

- Documentation that appropriate clearinghouse procedures has been followed.
- Only one dam installed under PL-566, PL-534, Pilot Watershed or RC&D Programs.
- Attachment of all information listed in 508.42(c).
- Signatures by all current SLO's of the watershed project.
- Assurances that the SLO(s) have the authority under State statutes to acquire landrights, acquire funding, and O&M works of improvement.

(g) Return of application

If the STC determines that the application is not valid or there is little possibility to implement a feasible rehabilitation project, the STC shall return the application to the SLO(s) with a letter explaining why it is being returned. Copies of the letter shall be provided to the designated State agency and the State Dam Safety Agency.

(h) Withdrawal of application

If the SLO(s) decide to withdraw their original application for rehabilitation assistance, their request must be by letter to the STC, with a copy provided to the designated State agency and State Dam Safety Agency. Upon receipt of such request, the STC shall return the application.

508.43 Application ranking and selection

(a) Introduction

This section sets forth procedures for ranking and selecting rehabilitation projects authorized by Public Law 83-566, Section 14.

(b) Evaluation of applications

The STC shall evaluate each valid application that meets the sponsor readiness test by computing a failure index for each dam, and preparing an evaluation of consequences of failure for each dam. The failure index and consequences of failure shall be evaluated using the process prescribed by the worksheets in Exhibit 508-1.

After the failure index is computed and the consequences of failure are evaluated, the results shall be displayed on the summary worksheet shown in Exhibit 508-2. The STC shall evaluate this information in consultation with the designated State agency and the State Dam Safety Agency (if State permits are required). The State Dam Safety Agency shall be requested to provide written documentation of their input. The STC shall then assign a consecutive priority ranking (1,2,3,...) for each valid application received that meets the sponsor readiness test.

(c) Request for technical assistance funds

The STC shall submit the summary worksheet(s) including the priority ranking for each application to the director, Watersheds and Wetlands Division with a request for technical assistance (TA) funds for planning specific rehabilitation projects as a subset of the Future Obligation Database (See NWSM 507.31)

The STC shall only request funds when a commitment is made to provide or acquire technical resources for planning of the rehabilitation project.

(d) Allocation of funds for rehabilitation projects

National Headquarters (NHQ) shall provide allocations of TA funds for specific rehabilitation projects as budget limitations allow.

508.44 Development of rehabilitation plan

(a) Introduction

Planning of rehabilitation projects will follow the planning procedures contained in Parts 503, 504, and 506. This section provides specific-planning considerations associated with rehabilitation. Exceptions contained in this section only apply to rehabilitation activities funded under Public Law 83-566, Section 14.

The rehabilitation plan may address rehabilitation of one or more dams in a watershed. Information for installed, or remaining to be installed, works of improvement in the project area will not be updated or displayed.

(b) Scoping process

The scoping process for rehabilitation projects shall follow the general procedures contained in Section 504.37 of the NWSM.

Environmental and cultural resources shall be considered early in the planning process, by an interdisciplinary team of technical specialists, in consultation with all interested parties and Tribal governments (if applicable). The State Historic Preservation Office and Tribal governments shall be consulted to identify cultural resource issues.

(c) Alternatives to be evaluated

The following alternatives and expected consequences shall be evaluated:

- No action (without project condition).
- Decommissioning (removal of the dam and stabilizing the site).
- Rehabilitation of the existing dam, (minimum 50-year evaluated life).
- National Economic Development (NED) alternative (may be one of the other alternatives or combination of alternatives).

The following alternatives (in conjunction with the alternatives listed above) shall be evaluated where applicable:

- Relocation of "at-risk" dwellings and non-structural alternatives if inhabitable property exists in the downstream breach inundation area.

- Rehabilitation of the existing dam with added purposes.
- Additional alternatives as appropriate.

For the purpose of conducting evaluations of alternatives of rehabilitation projects, the "without project condition" will be based on the probability of dam failure and/or loss of design function, the condition of the dam, and actions by the State Dam Safety Agency, sponsors, and others.

(d) Nonstructural measures

Nonstructural measures for the purpose of rehabilitation alternatives may include:

- Relocation or flood-proofing of homes, businesses, or other structures downstream from a dam that constitutes a risk or potential threat to loss of life from a sudden dam failure.
- Purchase of development rights or zoning within the breach inundation area downstream from the dam.
- The treatment of critically eroding areas that significantly affects the design of a structural measure that is necessary to extend the service life of the structural measure. Land treatment measures (see 502.11a and 502.12, NWSM) for the purpose of rehabilitation may be included if they are part of a most cost-effective alternative and are included in the SLO O&M Agreement for the evaluated life of the rehabilitation project.
- Conservation easements required to implement non-structural components of a rehabilitation alternative.
- The SLO shall be responsible for implementing all non-structural measures.

(e) Discount rates

Rehabilitation works of improvement shall be evaluated using the current discount rate established annually for use in evaluating Federal water projects.

(f) Compliance with National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) provisions

Rehabilitation projects shall be in compliance with all (NEPA) and (NHPA) provisions (see 503.43.NWSM). The minimum requirements for an Environmental Assessment (EA) or Environmental Impact Statement (EIS) are set forth in the Council on Environmental Quality (CEQ) and NRCS regulations (40 CFR 1500-1508 and 7 CFR 650). Rehabilitation plan format and content (Plan-EA and Plan-EIS) shall comply with Part 504 NWSM.

NRCS will adhere to the Federal agency requirements set forth in the Endangered Species Act regarding endangered, threatened, and proposed species. Regulations governing consultations are found in 50 CFR 402 and 7 CFR 650. These regulations apply to all actions in which there is discretionary Federal involvement or control (see NWSM 503.01(e)).

Compliance requirements of Section 106 of the NHPA are outlined in 36 CFR Part 800. Revisions of these regulations (May 18, 1999) issued by the Advisory Council on Historic Preservation (ACHP) requires consultation with Tribal governments and greater public involvement in the consultation process for all Federal actions.

(g) Computation of total cost of rehabilitation projects

The total cost of the rehabilitation project shall include all costs associated with all components of the project, including acquisition of land, easements, rights-of-way, project administration, non-Federal TA, non structural measures, contracting, and construction. The cost of TA, provided by NRCS, shall not be considered as part of total cost of the rehabilitation project. If the SLO provides or obtains professional services for TA for planning, design, and/or construction of the rehabilitation project, the cost of this TA shall be included in the computation of total cost of the rehabilitation project.

The SLO shall be responsible for the cost of all water, mineral, and other resource rights and all Federal, State, and local permits, which are not, considered part of the total cost of the rehabilitation project.

(h) Maximum Federal cost-share limitations

The amount of Federal funds that may be made available for rehabilitation projects shall be equal to 65 percent of the total rehabilitation costs, but shall not exceed 100 percent of the actual construction costs incurred in the rehabilitation. The construction costs shall include the reconstruction or decommissioning of the dam, and the relocation or flood-proofing of downstream property. Costs associated with new purposes added to the rehabilitation project will be cost-shared according to NWSM Part 502.

(i) Non-Federal contributions

The SLO shall be responsible for the non-Federal share of the cost of the rehabilitation project. The value of in-kind contributions provided by non-Federal entities may be credited to the SLO when determining the total cost of the rehabilitation project and the 35 percent cost-share requirement. SLO may provide their share of the cost in the form of:

- Cash,
- In-kind services,
- Value of landrights in addition to those acquired for the current project, or
- Any combination of the above.

Only non-Federal in-kind contributions of services performed and landrights acquired by the SLO after November 9, 2000 (date of enactment of PL-106-472), may be credited. The SLO will not receive cash reimbursement for in-kind contributions that exceed the 35 percent cost-share amount. No credit will be given for SLO actions needed for carrying out their previously assigned responsibilities of the project.

Examples of in-kind contributions include:

- Value of landrights, in addition to, those acquired for the current project,
- Data collection for planning and design of the rehabilitation project,
- Cultural resource surveys,
- Breach analysis to determine hazard classification of the dam,
- Sedimentation studies of the reservoir,
- Contract solicitation and award,
- Contract administration,
- SLO activities in addition to their responsibilities defined in the current project plan and O&M Agreement,
- Design,
- Geologic investigation, and
- Soil mechanics testing.

The STC must concur in the services provided prior to credit being given.

An MOU shall be prepared between NRCS and the SLO that defines and establishes a maximum value of the non-Federal in-kind contributions. An application for rehabilitation assistance (508.42) must be submitted prior to preparation of a MOU. All SLOs providing

in-kind services and/or landrights acquisition for the rehabilitation project shall sign the MOU. Only costs accrued for activities included in this MOU shall be considered as part of the non-Federal in-kind contribution. Determination of the final amount to be credited shall be at the sole discretion of NRCS. See Exhibit 508-3 for a sample MOU.

(j) Plan review, approval, and authorization

Each rehabilitation plan shall be reviewed by the National Water Management Center (NWMC) with appropriate input and assistance from the National Design, Construction, and Soil Mechanics Center (NDCSMC).

The interagency review shall be in accordance with sections 505.22 - 23. If an exception to the NED plan requirement is needed, it must be provided by the Chief, before the interagency review.

Final plan approval shall be in accordance with section 505.24. After considering all review comments received, the STC may approve the rehabilitation plan. (Table 500-2; NWSM 500.21 does not apply to rehabilitation projects).

The STC shall submit the following to the director, Watersheds and Wetlands Division:

- Two copies of the approved plan,
- NWMC review comments and disposition of each comment, and
- Request for the Chief's authorization of the rehabilitation project.

Plan authorization for each rehabilitation project, is required by the Chief, prior to funds being utilized for implementation.

508.45 Project implementation

Project implementation shall be in accordance with Part 507.

The STC shall submit a request for technical and financial assistance funds for specific rehabilitation projects as a subset of the Future Obligation Database (See NWSM 507.31)

The STC shall only request funds when:

- A commitment is made to provide or acquire technical resources for implementation of the rehabilitation plan.
- A determination is made that the SLO(s) will have the required landrights and financing for the 35 percent non-Federal cost-share at the time of implementation.

Implementation of all work associated with the rehabilitation project shall conform to current policy as outlined in the National Engineering Manual (NEM), Sections 511 and 512, and the National Contract Grants and Agreement Manual. Current NRCS engineering criteria will be used (506.10 (c)). Work will meet all applicable Federal, State and local laws, regulations and codes (210-501.03).

Prior to construction of hazard class "c" dams, the STC will verify that the SLO has prepared a current Emergency Action Plan (See NEM 210-520.27). For inventory-size dams (as defined in NEM, Section 210-520.21) with a hazard class of "a" or "b", the STC will verify that the SLO has certified that adequate controls on future development within the breach inundation area (as defined in 210-520.28) are in force. The controls must limit improvements within the breach inundation area such that the hazard class does not increase during the evaluated project life.

508.46 Operation and maintenance

The STC shall develop a new O&M agreement and plan that covers the new evaluated life of the rehabilitation project.

O&M of rehabilitation work shall be performed in accordance with Subpart 508B and the National O&M Manual, 180-500.

508.47 Data management

The STC shall submit data for the national Watersheds Benefits Database.

The STC shall update the NRCS Dams Inventory information upon completion of rehabilitation work.

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The SLO shall prepare and submit a completion report as described in 507.20-21 to the STC within 90 days of completion of rehabilitation work. The STC will forward the completion report to the director, Watersheds and Wetlands Division

Subpart 508F – Completion of Federal interest

508.50 Introduction

Completion of Federal interest is taking a measure out of service in an environmentally sound and safe manner or converting it to a non-project purpose. For example, changing from flood control to recreation may require transferring responsibility from the original entity to another. Completion of Federal interest can be considered for all installed works of improvement.

508.51 Procedure

The need for Completion of Federal interest is to be documented by a program report. The report is to contain specifics as to what caused the situation, alternatives considered, estimated cost, and selected alternative. An informational copy of the final report is to be sent to director, WWD for all work authorized by the STC. A copy of the final report will accompany all requests for authorization for Completion of Federal interest exceeding the STC's authority.

Appropriate modification shall be made to the O&M agreement to reflect the Completion of Federal interest of the installed measures. In the case where responsibility is transferred to another entity, an exchange of correspondence shall be completed to document the change. Copies of the agreement shall be provided to the SLO.

508.52 Technical assistance

NRCS may provide technical assistance for Completion of Federal interest work.

Subpart 508G – Closed projects

508.60 Closed projects

Projects are considered closed when watershed plan commitments for Public Law 83-566 assistance are satisfied as follows:

(a) Projects that include structural or nonstructural measures

These projects are considered closed when:

- All planned work has been installed, and
- The O&M agreement has expired.

(b) Watershed protection projects

These projects are considered closed when:

- All planned works have been installed, and
- All contracts have expired.
-

Both water resource projects and watershed protection projects are considered closed when a project has been de-authorized.

Exhibits

Exhibit 508.1 Evaluation of potential rehabilitation projects Priority ranking spreadsheet (1 of 5) consequences

EVALUATION OF POTENTIAL REHABILITATION PROJECTS							
STATE	DAM	BY	DATE				
YEAR BUILT		DESIGN HAZARD CLASS	DRAINAGE AREA			mi ²	
WORK PLAN DATE		CURRENT HAZARD CLASS	DAM HEIGHT			ft	
sheet 1 of 5		CONSEQUENCES OF DAM FAILURE				ver 100101	
POTENTIAL DAM FAILURE:							
Total Failure Index						<input type="text"/>	A
POTENTIAL LOSS OF LIFE:							
Maximum Population-at-Risk [PAR]						(number) <input type="text"/>	B
Total Risk index						<input type="text"/>	C
POTENTIAL LOSS OF PROPERTY:							
Identify major community affected by breach and rate impact as High (H), Medium (M), Low (L) or None (blank)							
Community _____						(H,M,L,-) <input type="text"/>	D
Number of homes, businesses, major buildings _____						(number) <input type="text"/>	E
POTENTIAL LIFELINE DISRUPTION:							
Water supply, identify community disrupted by dam failure, and estimate number/amount							
Municipal sole source _____ Users						(number) <input type="text"/>	F
Supplemental source _____ Users						(number) <input type="text"/>	G
Irrigation water _____ Storage						(Ac-Ft) <input type="text"/>	H
POTENTIAL INFRASTRUCTURE DISRUPTION:							
Transportation system crossings, identify major crossing rendered unusable by dam failure, and estimate number							
Major/Interstate _____ Roads						(number) <input type="text"/>	I
Secondary/County _____ Roads						(number) <input type="text"/>	J
POTENTIAL ADVERSE IMPACTS ON THE ENVIRONMENT:							
Describe impacts and rate each as High (H), Medium (M), Low (L), or None (blank)							
Threatened & endangered species _____						(H,M,L,-) <input type="text"/>	K
Sensitive riparian areas _____						(H,M,L,-) <input type="text"/>	L
Contaminated reservoir sediment _____						(H,M,L,-) <input type="text"/>	M
Wetland and wildlife habitat _____						(H,M,L,-) <input type="text"/>	N
Other _____						(H,M,L,-) <input type="text"/>	O
POTENTIAL ADVERSE SOCIAL IMPACTS:							
Describe impacts and rate each as High (H), Medium (M), Low (L) or None (blank)							
Known cultural resources _____						(H,M,L,-) <input type="text"/>	P
Historic preservation issues _____						(H,M,L,-) <input type="text"/>	Q
Socially disadvantaged community _____						(H,M,L,-) <input type="text"/>	R
POTENTIAL ADVERSE ECONOMIC IMPACTS:							
Average annual benefits attributed to this dam, updated workplan value						(\$) <input type="text"/>	S
Changes in benefits since workplan; Increase(I), No change(NC), Decrease(D)						(I,NC,D) <input type="text"/>	T
Low income families impacted						(number) <input type="text"/>	U
INPUT BY STATE DAM SAFETY AGENCY:							
State dam safety order issued for repair, modification, removal issued, Yes(Y), No(N)						(Y,N) <input type="text"/>	V
State Dam Safety Agency Priority, High(H), Medium(M), Low(L), None(blank)						(H,M,L,-) <input type="text"/>	W
OTHER CONSIDERATIONS:							
Identify any other considerations and rate as High(H), Medium(M), Low(L) or None(blank)						(H,M,L,-) <input type="text"/>	X
						(H,M,L,-) <input type="text"/>	Y

Priority ranking spreadsheet (2 of 5) failure and risk indexes (continued)

EVALUATION OF POTENTIAL REHABILITATION PROJECTS						
STATE	DAM	BY			DATE	
sheet 2 of 5		FAILURE & RISK INDEXES				ver 102201
Adopted from Bureau of Reclamation "Risk Based Profile System"						
see: http://www.usbr.gov/dsls/risk/rbpsdocumentation.pdf						
LIFE LOSS:						
Population-at-Risk [PAR], see NRCS dams inventory definition (number of people)						
Estimate PAR for static loading failure, typically assume water at top of dam						
Estimate PAR for hydrologic loading failure, typically assume water at top of dam						
Estimate PAR for seismic loading failure, typically assume water at ES crest (sunny day failure)						
Fatality Rates [FR] from dam breach						
Adopted from BuRec "A Procedure for Estimating Loss of Life Caused by Dam Failure" DSO-99-06						
see: http://www.usbr.gov/research/dam_safety/documents/dso-99-06.pdf						
Flood Severity/Lethality [DV] is the average depth [D] times velocity [V] across flood plain (ft2/sec)						
DV= (breach discharge - bank full discharge) / breach floodplain width						
Warning Time [T] between failure warning and flood wave at population (minutes)						
Flood Severity Understanding [U] of the warning issuer of the likely flooding magnitude						
	breach discharge	bankfull discharge	breach width	DV	warning time	under- standing
	(cfs)	(cfs)	(ft)	(ft2/sec)	(minutes)	(N/A or Vague)
Static						
Hydrologic						
Seismic						
For DV>50	T=0	U=N/A (no warning)		FR=0.15		
For DV>50	T<60	U=vague		FR=0.04		
For DV>50	T>60	U=vague		FR=0.03		
For DV<50	T=0	U=N/A (no warning)		FR=0.01		
For DV<50	T<60	U=vague		FR=0.007		
For DV<50	T>60	U=vague		FR=0.0003		
Estimate FR for static loading failure scenario						
Estimate FR for hydrologic loading failure scenario						
Estimate FR for seismic loading failure scenario						
	Load Factor	Response Factor	Failure Index	Fatality Rate	PAR	Risk Index
Static	1					
Hydrologic	*	*				
Seismic						
TOTAL=					TOTAL=	

Priority ranking spreadsheet (3 of 5) static failure index (continued)

EVALUATION OF POTENTIAL REHABILITATION PROJECTS				
STATE	DAM	BY	DATE	
sh1 3 of 5		STATIC FAILURE INDEX		ver 100101
PRINCIPAL SPILLWAY SYSTEM (60 points max): (total points) _____				A
Downstream filter or filter zone around conduit (yes=0 or no=10)				B
Conduit trench deep (>2d) and narrow (<3d) and steep sideslope (<2:1) (no=0 or yes=10)				C
Principal spillway system (inlet, pipe, or outlet) in deteriorated condition (no=0 or yes=10)				D
Conduit has seepage cutoff collars or other compaction adverse features (no=0 or yes=10)				E
Conduit contains open joints, open cracks, steady seepage (no=0 or yes=10)				F
Conduit founded on competent bedrock (yes=0 or no=10)				G
Reservoir control gate located at outlet of conduit (no=0 or yes=10)				H
RESERVOIR FILLING HISTORY (75 points max): (total points) _____				I
Reservoir has filled to x% of effective height (earth spillway crest minus original streambed)				J
(<50%=75 or 51-75%=50 or 76-90%=25 or 91-95%=10 or 96-100%=5 or >100%=0)				K
SEEPAGE AND DEFORMATION (85 points max): (total points) _____				L
Seepage carrying lines, or seepage increases with reservoir elevation increases, or sinkholes/jugholes exist in embankment (no=0 or yes=80)				M
Large amounts of seepage (no=0 or yes=6)				N
Visible and significant slope movement or sloughing (no=0 or yes=6)				O
Longitudinal or transverse embankment cracking greater than one foot in depth (no=0 or yes=6)				P
Sinkholes/depressions within two times effective height of the dam, either face (no=0 or yes=6)				Q
Poor top of dam condition, eroded, trees, rodent holes, settlement (no=0 or yes=6)				R
Abnormally wet areas at downstream toe/groin of embankment (no=0 or yes=6)				S
Inadequate slope protection against erosion by rainfall or waves (no=0 or yes=6)				T
FOUNDATION GEOLOGY (41 points max): (total points) _____				U
Highly fractures rock under core (no=0 or treated=3 or untreated=30)				V
Karst terrain and soluble rock (gypsum or limestone) (no=0 or treated=3 or untreated=30)				W
Collapsible soils (no=0 or treated=3 or untreated=30)				X
Significant stress relief fractures in abutments (no=0 or treated=3 or untreated=30)				Y
History of underground mining under embankment area (no=0 or treated=3 or untreated=30)				Z
Coarse grained and highly permeable soils (no=0 or yes=3)				AA
Presence of weak layers/conditions diminishing embankment stability (no=0 or yes=3)				AB
Erodible soils (sandy/silty materials) or weakly cemented rock (no=0 or yes=3)				AC
Reservoir area prone to landslides that could cause overtopping (no=0 or yes=3)				AD
EMBANKMENT DESIGN AND CONSTRUCTION (24 points max): (total points) _____				AE
Filters for core or foundation or incompatibility between zones (no=3 or yes=0)				AF
Embankment or foundation drainage system (yes=0 or no=4)				AG
Erodible core material (sands, silts, dispersive clays) (no=0 or yes=4)				AH
Incomplete or no foundation cutoff of shallow permeable layers (no=0 or yes=4)				AI
Poorly placed earthfill, inadequate density (no=0 or yes=4)				AJ
Gate features to drain reservoir (yes=0 or no=4)				AK
EMBANKMENT MONITORING (15 points max): (total points) _____				AL
Instruments (except surficial survey points) installed at dam (yes=0 or no=3)				AM
Installed instruments routinely read and evaluated (yes=0 or no=3)				AN
Visual inspection of dam by engineer less often than yearly (no=0 or yes=3)				AO
Good physical/visual access to downstream groin/toe for inspection (yes=0 or no=3)				AP
STATIC FAILURE INDEX: A+I+U+AE+AL				AQ

Priority ranking spreadsheet (4 of 5) hydrologic failure index (continued)

EVALUATION OF POTENTIAL REHABILITATION PROJECTS						
STATE	DAM	BY	DATE			
sh4 of 5	HYDROLOGIC FAILURE INDEX				ver 100101	
HYDROLOGIC LOADING:						
Total Spillway Capacity (PS&ES) for 6hr storm [Pfb], Work Plan Tbl 3 (rainfall inches)					<input type="text"/>	A
Obtained from Work Plan Tbl 3, or dams inventory data, or computer routings						
100 year, 6hr rainfall [P100] (inches)					<input type="text"/>	B
Probable Maximum Precipitation [PMP] (inches)					<input type="text"/>	C
if Pfb < P100 = <input type="text"/> enter 40						
if Pfb = P100+0.2(PMP-P100) = <input type="text"/> enter 25						
if Pfb = P100+0.4(PMP-P100) = <input type="text"/> enter 15						
if Pfb = P100+0.6(PMP-P100) = <input type="text"/> enter 7						
if Pfb = P100+0.8(PMP-P100) = <input type="text"/> enter 3						
if Pfb = PMP = <input type="text"/> enter 1						
Enter interpolated value					<input type="text"/>	D
HYDROLOGIC UNCERTAINTY:						
Drainage Area [DA] (square miles)					<input type="text"/>	E
DA<10 enter 1.5 ; 10<DA<20 enter 1.4 ; 20<DA<50 enter 1.3 ; DA=>50 enter 1.2					<input type="text"/>	F
PIPE SPILLWAY PLUGGING:						
Pipe Diameter [D] (inches)					<input type="text"/>	G
D<12 enter 1.1; 12<=D<24 enter 1.0; 24<=D enter 0.9					<input type="text"/>	H
Riser & trash rack type:						
Non-standardized inlet enter 1.1, Open Top riser enter 1.0; Covered or Baffle Top enter 0.9					<input type="text"/>	I
EARTH SPILLWAY FLOW:						
Earth spillway flow depth [Des] from top of dam to spillway crest (feet)(10' max)					<input type="text"/>	J
DAM EROSION RESISTANCE:						
Non-plastic (Pl<10) fill enter 2.0 ; Plastic core enter 1.7 ; Overtopping armoring enter 0.8					<input type="text"/>	K
Vegetal Cover Factor [Cf], see SITES or AH667					<input type="text"/>	L
http://www.pswcr.ars.usda.gov/ah667/ah667.htm						
Cf <0.4 enter 1.1; Cf < 0.7 enter 1.0; Cf<1.0 enter 0.9; larger Cf enter 0.8					<input type="text"/>	M
EARTH SPILLWAY EROSION RESISTANCE:						
Low, can be excavated with hand tools, enter 2.0						
Pl>10 and SPT blows<8, Pl<10 and SPT blows>8, Kh<0.10, seismic velocity<2000fps						
Moderate, can be excavated with construction equipment, easy ripping, enter 1.2						
Pl>10 and SPT blows>8, Pl<10 and SPT blows>30, Kh<10, seismic velocity<7000fps						
High, very hard ripping, requires drilling and blasting, enter 0.2						
moderately hard rock, Kh>10, seismic velocity>7000fps					<input type="text"/>	N
Vegetal Cover Factor [Cf], see SITES or AH667					<input type="text"/>	O
Cf <0.4 enter 1.1; Cf < 0.7 enter 1.0; Cf<1.0 enter 0.9; larger Cf enter 0.8					<input type="text"/>	P
HYDROLOGIC FAILURE INDEX:						
dam overtopping breach: (2)(D)(F)(H)(I)(K)(M)					<input type="text"/>	Q
earth spillway breach: (D+5J)(F)(H)(I)(N)(P)					<input type="text"/>	R
larger of (2)(D)(F)(H)(I)(K)(M) or (D+5J)(F)(H)(I)(N)(P), but less than 300					<input type="text"/>	S

Priority ranking spreadsheet (5 of 5) seismic failure index (continued)

EVALUATION OF POTENTIAL REHABILITATION PROJECTS			
STATE	DAM	BY	DATE
sheet 5 of 5	SEISMIC FAILURE INDEX		ver 102201
SEISMIC LOADING:			
Latitude (degrees.decimal)			<input type="text"/> A
Longitude (degrees.decimal)			<input type="text"/> B
See "http://eqint.cr.usgs.gov/eq/html/lookup.shtml"			
PGA [peak ground acceleration] for 2% chance in 50 years. see NEHRP maps (%g)			<input type="text"/> C
if PGA is less than 10% g, enter 0			
if PGA is between 10% g and 19% g, enter 0.15			
if PGA is between 20% g and 39% g, enter 0.30			
if PGA is between 40% g and 59% g, enter 0.65			
if PGA is greater than 60% g, enter 1.0			<input type="text"/> D
FOUNDATION LIQUEFACTION:			
Select only one of the following foundation conditions which best represents the site			
Loose alluvium, lacustrine, loess materials (no=0 or yes=10)			<input type="text"/> E
Bedrock, glacial till, highly clayey materials (no=0 or yes=5)			<input type="text"/> F
EMBANKMENT FREEBOARD FOR FOUNDATION LIQUEFACTION:			
Dam height for seismic event is the height from top of dam to downstream channel bottom (ft)			<input type="text"/> G
Freeboard for seismic event is the depth from top of dam to assumed pool surface (ft)			<input type="text"/> H
Freeboard percent of dam height (%)			<input type="text"/> I
if Freeboard is less than 25% of dam height, enter 10			
if Freeboard is 25% to 50% of dam height, enter 5			
if Freeboard is more than 50% of dam height, enter 1			<input type="text"/> J
EMBANKMENT FREEBOARD FOR EMBANKMENT CRACKING:			
Freeboard is less than or equal to 15 feet (no=0 or yes=1)			<input type="text"/> K
EMBANKMENT CRACKING:			
Embankment contains self-healing filter zones (no=4 or yes=0)			<input type="text"/> L
SEISMIC FAILURE INDEX:			
(D) + (E)(J) + (F)(K+1)(I+1) but less than 100			<input type="text"/> M
<hr/> State Conservation Engineer's Signature concurring with technical content of sheets 2 thru 5			

508-23

(390-V-NWSM, November 2001)

Exhibit 508.2 Summary priority ranking of potential rehabilitation projects

STATE	SUMMARY OF PRIORITY RANKING OF				
sh1.1 of 1	POTENTIAL REHABILITATION PROJECTS				ver 100101
Watershed Name					
Dam Number					
POTENTIAL DAM FAILURE					
Total Failure Index					A
POTENTIAL LOSS OF LIFE					
Maximum Population-at-Risk [PAR]					B
Total Risk Index					C
POTENTIAL PROPERTY LOSS					
Impact of breach on local community (H,M,L,-)					D
Homes, businesses, major bldgs impacted (number)					E
POTENTIAL LIFELINE DISRUPTION					
Water supply:					
Municipal sole source (no. of users)					F
Municipal supplemental source (no. of users)					G
Irrigation water (acre feet)					H
POTENTIAL INFRASTRUCTURE DISRUPTION					
Transportation system crossings:					
Major/Interstate highways (number)					I
Secondary/County highways (number)					J
POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS					
Threatened & endangered species (H,M,L,-)					K
Sensitive riparian areas (H,M,L,-)					L
Contaminated sediment in reservoir (H,M,L,-)					M
Wetland and wildlife habitat (H,M,L,-)					N
Other (H,M,L,-)					O
POTENTIAL ADVERSE SOCIAL IMPACTS					
Known cultural resources (H,M,L,-)					P
Historic preservation issues (H,M,L,-)					Q
Socially disadvantaged community (H,M,L,-)					R
POTENTIAL ADVERSE ECONOMIC IMPACTS					
Average annual benefits attributed to dam (\$)					S
Changes in benefits since workplan (I,NC,D)					T
Low income families impacted (number)					U
INPUT BY STATE DAM SAFETY AGENCY STAFF					
State dam safety order issued? (Y/N)					V
State Dam Safety Agency Priority (H,M,L,-)					W
OTHER CONSIDERATIONS (H,M,L,-)					X
(H,M,L,-)					Y
ASSIGNED PRIORITY (1,2,3,...)					Z
_____					_____
State Conservationist's Signature					Date

MEMORANDUM OF UNDERSTANDING (MOU)
Between the
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
and
THE Insert name(s) of Sponsor(s)
Sponsor(s) for
Insert name of project Project, Dam No. Insert no. of dam

This MOU is between the USDA, NRCS, and the Insert name(s) of Sponsor(s), Sponsoring Local Organization(s) for this project, hereinafter referred to as Sponsor.

AUTHORITIES, STATUTES, LAWS

The authority of NRCS to enter into this MOU is Section 14 of The Watershed Protection and Flood Prevention Act, 16 U.S.C. 1012, as added by Section 313 of Public Law 106-472. This section authorizes NRCS to provide technical assistance (TA) and financial assistance (FA) to local project Sponsors for rehabilitation of aging dams constructed under the Watershed Protection and Flood Prevention Act (Public Law 83-566), the Flood Control Act of 1944 (Public Law 78-534), the Pilot Watershed Program, and the Resource Conservation and Development (RC&D) Program.

STATEMENT OF PURPOSE

Previously the NRCS provided TA and/or FA to the Sponsor for works of improvement known as dam no. Insert no. of dam in the Insert name of project Project. This project was originally authorized and installed under the Insert name of program Program. NRCS has determined that this dam is eligible for rehabilitation under the authorities cited above.

According to the project plan and Operation and Maintenance (O&M) agreement for this project, the Sponsor is responsible for the O&M of this dam to assure it will function as designed and constructed. The Sponsor has an interest in extending the service life of the dam and meeting applicable safety and performance standards. The Sponsor recognizes that the process of rehabilitating a dam takes significant advance preparation, and would like to initiate work on specific areas of planning and design of a rehabilitation project.

Exhibit 508.3 Sample memorandum of under (continued)

Although NRCS has the authority to assist the Sponsor with rehabilitation of the dam identified above, NRCS resources cannot be committed to this project at this time. However, NRCS concurs with the Sponsor initiating work on specific areas of planning and design of the rehabilitation project.

Federal funds for a particular rehabilitation project will be equal to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. Also, the Sponsor will be responsible for acquisition of all landrights and permits. The value of non-Federal in-kind contributions can be credited to the Sponsor's 35 percent share of the total cost of the rehabilitation project.

GOAL

The primary goal of this MOU is to establish a framework under which the Sponsor may proceed with work on specific aspects of the proposed rehabilitation project.

This MOU establishes a basis for cooperation between the parties to define acceptable in-kind contributions for this project. Therefore, the parties pledge to work together with the mutual goal of rehabilitation of this project within the current limits of their respective authorities and available funding.

SCOPE OF MOU

The Sponsor may provide all or a portion of the Sponsor's 35 percent share of the total cost of the rehabilitation project by providing an in-kind contribution of services and land rights acquisition. NRCS and Sponsors agree that the following services and the maximum in-kind credit values may be considered for credit to the Sponsor's share of the total rehabilitation cost of this project:

- | | |
|--|---|
| • <u>Landrights acquisition</u> | <u>Insert \$ value of in-kind contribution</u> |
| • <u>Insert name of service performed</u> | <u>Insert \$ value of in-kind service</u> |
| • <u>Insert name of service performed</u> | <u>Insert \$ value of in-kind service</u> |

The Sponsor shall provide NRCS with documentation of the actual costs incurred for the services and land rights acquisition for determination of final credit values.

LIMITATIONS

- The in-kind credit values shown above will be the maximum to be considered for the above stated services and landrights (unless later amended and agreed to by both parties).
- The technical quality of the services provided must be concurred in by NRCS prior to in-kind credit being given.
- Only services and landrights acquisition provided by the Sponsor after November 9, 2000 (date of enactment of PL-106-472) will be credited.
- The value of in-kind credit values will be determined as set forth in the NRCS National Contract Grants and Agreements Manual, Sections 510.64 through 510.67.
- The in-kind credit values will not exceed 35 percent of the total costs of the rehabilitation project described above. The Sponsors will receive no cash reimbursement or credit for in-kind contributions that exceed this amount.
- No credit for in-kind contributions will be given for Sponsors' actions normally needed for carrying out their previously assigned responsibilities for this project.
- This MOU is not a fund obligating document.
- There is no guarantee that funds will be appropriated by Congress for the dam rehabilitation project described in this MOU.
- There is no guarantee that, if funds are appropriated by Congress, the dam rehabilitation project described in this MOU will be given any priority for completion by NRCS.
- There is no guarantee that, if the dam rehabilitation project described in this MOU is selected as a NRCS priority rehabilitation project, the alternatives currently considered by the Sponsor will be the NRCS recommended or the final alternative selected by the Sponsor.
- Determination of the final amounts to be credited shall be at the sole discretion of NRCS.

Exhibit 508.3 Sample memorandum of under (continued)

- All actions taken and costs incurred by the Sponsor prior to the time of the approval of the rehabilitation plan will be entirely at its own risk. Therefore, there is no guarantee, implied
- or otherwise, that any services or landrights provided by the sponsor will be credited as an in-kind contribution.

CIVIL RIGHTS

The parties will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance USDA or any agency thereof.

TERMINATION

This MOU can be modified or terminated at any time by mutual consent of both parties or can be terminated by either party giving 60 days written notice to the other party.

By: _____

Title: STC _____

Date: _____

Insert name(s) of Sponsor(s)

By: _____

Title: _____

Date: _____

Text
Sec. 313 PL – 106 – 472

The following is the text of Section 313 of PL-106-472 which amended PL-83-566 "The Watershed Protection and Flood Prevention Act" by adding a new Section 14:

SEC. 313. 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. (NOTE: 16 USC 1012) 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 is authorized to be appropriated to the Secretary to provide financial and technical assistance under this section--
 - (1) \$5,000,000 for fiscal year 2001;
 - (2) \$10,000,000 for fiscal year 2002;
 - (3) \$15,000,000 for fiscal year 2003;
 - (4) \$25,000,000 for fiscal year 2004; and
 - (5) \$35,000,000 for fiscal year 2005.
- (i) Assessment of Rehabilitation Needs. - The Secretary, in concert with the responsible State agencies, shall 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 database 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 (NOTE: Deadline) 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."