

116 Stat. 238, without reference to the intervening amendments because of the extensive revision of the subchapter's provisions by Pub. L. 107-171.

§ 3831. Conservation reserve

(a) In general

Through the 2023 fiscal year, the Secretary shall formulate and carry out a conservation reserve program under which land is enrolled through the use of contracts to assist owners and operators of land specified in subsection (b) to conserve and improve the soil, water, and wildlife resources of such land and to address issues raised by State, regional, and national conservation initiatives.

(b) Eligible land

The Secretary may include in the program established under this subpart—

(1) highly erodible cropland that—

(A)(i) if permitted to remain untreated could substantially reduce the agricultural production capability for future generations; or

(ii) cannot be farmed in accordance with a plan that complies with the requirements of subchapter II; and

(B) the Secretary determines had a cropping history or was considered to be planted for 4 of the 6 years preceding December 20, 2018, on the condition that the Secretary shall consider to be planted cropland enrolled in the conservation reserve program;

(2) marginal pasture land to be devoted to appropriate vegetation, including trees, in or near riparian areas, or devoted to similar water quality purposes (including marginal pastureland converted to wetland or established as wildlife habitat);

(3) grasslands that—

(A) contain forbs or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

(B) are located in an area historically dominated by grasslands; and

(C) could provide habitat for animal and plant populations of significant ecological value if the land is retained in its current use or restored to a natural condition;

(4) cropland, marginal pasture land, and grasslands that will have a positive impact on water quality and will be devoted to—

(A) a grass sod waterway;

(B) a contour grass sod strip;

(C) a prairie strip;

(D) a filterstrip;

(E) a riparian buffer;

(F) a wetland or a wetland buffer;

(G) a saturated buffer;

(H) a bioreactor; or

(I) another similar water quality practice, as determined by the Secretary;

(5) cropland that is otherwise ineligible if the Secretary determines that—

(A) if permitted to remain in agricultural production, the land would—

(i) contribute to the degradation of soil, water, or air quality; or

(ii) pose an on-site or off-site environmental threat to soil, water, or air quality;

(B) the land is a—

(i) newly-created, permanent grass sod waterway; or

(ii) a contour grass sod strip established and maintained as part of an approved conservation plan;

(C) the land will be devoted to newly established living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, salt tolerant vegetation, field borders, or practices to benefit State or federally identified wellhead protection areas;

(D) the land poses an off-farm environmental threat, or a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production; or

(E) enrollment of the land would facilitate a net savings in groundwater or surface water resources of the agricultural operation of the producer;

(6) the portion of land in a field not enrolled in the conservation reserve in a case in which—

(A) more than 50 percent of the land in the field is enrolled as a buffer or filterstrip, or more than 75 percent of the land in the field is enrolled as a conservation practice other than as a buffer or filterstrip; and

(B) the remainder of the field is—

(i) infeasible to farm; and

(ii) enrolled at regular rental rates; or

(7) as determined by the Secretary, land—

(A) that was enrolled in the conservation reserve program under a 15-year contract that expired on September 30, 2017, or September 30, 2018;

(B) for which there was no opportunity for additional enrollment in that program; and

(C) on which the conservation practice under the expired contract under subparagraph (A) is maintained.

(c) Planting status of certain land

For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subpart, land shall be considered to be planted to an agricultural commodity during a crop year if, during the crop year, the land was devoted to a conserving use.

(d) Enrollment

(1) Maximum acreage enrolled

The Secretary may maintain in the conservation reserve at any one time during—

(A) fiscal year 2019, not more than 24,000,000 acres;

(B) fiscal year 2020, not more than 24,500,000 acres;

(C) fiscal year 2021, not more than 25,000,000 acres;

(D) fiscal year 2022, not more than 25,500,000 acres; and

(E) fiscal year 2023, not more than 27,000,000 acres.

(2) Grasslands

(A) Limitation

For purposes of applying the limitations in paragraph (1)—

(i) the Secretary shall enroll and maintain in the conservation reserve not fewer

than 2,000,000 acres of the land described in subsection (b)(3) by September 30, 2023; and (ii) in carrying out clause (i), to the maximum extent practicable, the Secretary shall maintain in the conservation reserve at any one time during—

- (I) fiscal year 2019, 1,000,000 acres;
- (II) fiscal year 2020, 1,500,000 acres; and
- (III) fiscal years 2021 through 2023, 2,000,000 acres.

(B) Priority

In enrolling acres under subparagraph (A), the Secretary may give priority to land, as determined by the Secretary—

- (i) with expiring conservation reserve contracts;
- (ii) at risk of conversion or development;
- or
- (iii) of ecological significance, including land that—

(I) may assist in the restoration of threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(II) may assist in preventing a species from being listed as a threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(III) improves or creates wildlife habitat corridors.

(C) Method of enrollment

(i) In general

In enrolling acres under subparagraph (A), the Secretary shall make the program available to owners or operators of eligible land on an annual enrollment basis with one or more ranking periods.

(ii) Timing of grassland ranking period

For purposes of grasslands described in subsection (b)(3), the Secretary shall announce at least 1 ranking period subsequent to the announcement of general enrollment offers.

(D) Reservation of unenrolled acres

If the Secretary is unable in a fiscal year to enroll enough acres of land described in subsection (b)(3) to meet the number of acres described in clause (ii) or (iii)¹ of subparagraph (A) for the fiscal year—

(i) the Secretary shall reserve the remaining number of acres for that fiscal year for the enrollment of land described in subsection (b)(3); and

(ii) that number of acres shall not be available for the enrollment of any other type of eligible land.

(3) Water quality practices to foster clean lakes, estuaries, and rivers (clear initiative)

(A) In general

The Secretary shall give priority within continuous enrollment under paragraph (6) to the enrollment of land described in subsection (b)(4).

(B) Sediment and nutrient loadings

In carrying out subparagraph (A), the Secretary shall give priority to the implementation of practices on land that, if enrolled, will help reduce sediment loadings, nutrient loadings, and harmful algal blooms, as determined by the Secretary.

(C) Acreage

(i) In general

Of the acres maintained in the conservation reserve in accordance with paragraph (1), to the maximum extent practicable, not less than 40 percent of acres enrolled in the conservation reserve using continuous enrollment under paragraph (6) shall be of land described in subsection (b)(4).

(ii) Limitation

The acres described in clause (i) shall not include grasslands described in subsection (b)(3).

(D) Report

The Secretary shall—

(i) in the monthly publication of the Secretary describing conservation reserve program statistics, include a description of enrollments through the priority under this paragraph; and

(ii) publish on the website of the Farm Service Agency an annual report describing a summary of, with respect to the enrollment priority under this paragraph—

- (I) new enrollments;
- (II) expirations;
- (III) geographic distribution; and
- (IV) estimated water quality benefits.

(4) State enrollment rates

At the beginning of each of fiscal years 2019 through 2023, to the maximum extent practicable, the Secretary shall allocate to the States proportionately 60 percent of the available number of acres each year for enrollment in the conservation reserve, in accordance with historical State enrollment rates, taking into consideration—

(A) the average number of acres of all land enrolled in the conservation reserve in each State during each of fiscal years 2007 through 2016;

(B) the average number of acres of all land enrolled in the conservation reserve nationally during each of fiscal years 2007 through 2016; and

(C) the acres available for enrollment during each of fiscal years 2019 through 2023, excluding acres described in paragraph (2).

(5) Frequency

In carrying out this subpart, for contracts that are not available on a continuous enrollment basis, the Secretary shall hold a sign-up and enrollment not less often than once each year.

(6) Continuous enrollment procedure

(A) In general

To the maximum extent practicable, the Secretary shall allow producers to submit applications on a continuous basis for enrollment in—

¹ So in original. There is no cl. (iii) of subpar. (A).

- (i) the conservation reserve of—
 - (I) marginal pasture land described in subsection (b)(2);
 - (II) land described in subsection (b)(4);
 - and
 - (III) cropland described in subsection (b)(5); and

(ii) the conservation reserve enhancement program under section 3831a of this title.

(B) Limitation

For purposes of applying the limitations in paragraph (1)—

- (i) the Secretary shall, to the maximum extent practicable, enroll and maintain not fewer than 8,600,000 acres of land under subparagraph (A) by September 30, 2023; and
- (ii) in carrying out clause (i), to the maximum extent practicable, the Secretary shall maintain in the conservation reserve at any one time during—
 - (I) fiscal year 2019, 8,000,000 acres;
 - (II) fiscal year 2020, 8,250,000 acres;
 - (III) fiscal year 2021, 8,500,000 acres; and
 - (IV) fiscal years 2022 and 2023, 8,600,000 acres.

(e) Duration of contract

(1) In general

For the purpose of carrying out this subpart, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

(2) Special rule for certain land

In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under a contract entered into under this subpart, the owner or operator of the land may, within the limitations prescribed under paragraph (1), specify the duration of the contract.

(f) Conservation priority areas

(1) Designation

On application by the appropriate State agency, the Secretary shall designate areas of special environmental sensitivity as conservation priority areas.

(2) Eligible areas

Areas eligible for designation under this subsection shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

(3) Expiration

Conservation priority area designation under this subsection shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw an area's designation if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.

(4) Duty of Secretary

In carrying out this subsection, the Secretary shall attempt to maximize water quality and habitat benefits in the watersheds de-

scribed in paragraph (1) by promoting a significant level of enrollment of land within the watersheds in the program under this subpart by whatever means the Secretary determines are appropriate and consistent with the purposes of this subpart.

(g) Multi-year grasses and legumes

(1) In general

For purposes of this subpart, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

(2) Cropping history

Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.

(h) Eligibility for consideration

(1) In general

On the expiration of a contract entered into under this subpart, the land subject to the contract shall be eligible to be considered for reenrollment in the conservation reserve.

(2) Reenrollment limitation for certain land

(A) In general

Except as provided in subparagraph (B), land subject to a contract entered into under this subpart shall be eligible for only one reenrollment in the conservation reserve under paragraph (1) if the land is devoted to hardwood trees.

(B) Exclusions

Subparagraph (A) shall not apply to—

- (i) riparian forested buffers;
- (ii) forested wetlands enrolled under subsection (d)(3) or the conservation reserve enhancement program under section 3831a of this title; and
- (iii) shelterbelts.

(i) Balance of natural resource purposes

In determining the acceptability of contract offers under this subpart, the Secretary shall ensure, to the maximum extent practicable, an equitable balance among the conservation purposes of soil erosion, water quality, and wildlife habitat.

(Pub. L. 99-198, title XII, §1231, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 238; amended Pub. L. 109-148, div. B, title I, §107(a), Dec. 30, 2005, 119 Stat. 2750; Pub. L. 109-234, title III, §3022, June 15, 2006, 120 Stat. 478; Pub. L. 110-28, title IV, §4101, May 25, 2007, 121 Stat. 152; Pub. L. 110-234, title II, §§2101-2105, 2106(a)(2), (b)(1), May 22, 2008, 122 Stat. 1028, 1029, 1031, 1032; Pub. L. 110-246, §4(a), title II, §§2101-2105, 2106(a)(2), (b)(1), June 18, 2008, 122 Stat. 1664, 1756, 1757, 1759, 1760; Pub. L. 112-240, title VII, §701(c)(1), Jan. 2, 2013, 126 Stat. 2363; Pub. L. 113-79, title II, §2001, Feb. 7, 2014, 128 Stat. 713; Pub. L. 115-334, title II, §2201, Dec. 20, 2018, 132 Stat. 4530.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (d)(2)(B)(iii)(I), (II), is Pub. L. 93-205, Dec. 28,

1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3831, Pub. L. 99-198, title XII, §1231, Dec. 23, 1985, 99 Stat. 1509; Pub. L. 99-500, §101(a) [title VI, §643], Oct. 18, 1986, 100 Stat. 1783, 1783-36, and Pub. L. 99-591, §101(a) [title VI, §643], Oct. 30, 1986, 100 Stat. 3341, 3341-36; Pub. L. 99-641, title II, §205, Nov. 10, 1986, 100 Stat. 3563; Pub. L. 101-624, title XIV, §§1432(2), 1447(a), Nov. 28, 1990, 104 Stat. 3577, 3605; Pub. L. 102-324, §1(a), July 22, 1992, 106 Stat. 447; Pub. L. 103-66, title I, §1402(b), Aug. 10, 1993, 107 Stat. 332; Pub. L. 104-127, title III, §332(a)(1), (b), Apr. 4, 1996, 110 Stat. 994; Pub. L. 106-387, §1(a) [title XI, §1102(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-75; Pub. L. 107-76, title VII, §758(a), Nov. 28, 2001, 115 Stat. 741, related to a conservation reserve program to be formulated and carried out by the Secretary through the 2002 calendar year, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §2201(a), substituted “2023” for “2018”.

Subsec. (b)(1)(B). Pub. L. 115-334, §2201(b)(1), substituted “4 of the 6 years preceding December 20, 2018, on the condition that the Secretary shall consider to be planted cropland enrolled in the conservation reserve program” for “4 of the 6 years preceding February 7, 2014 (except for land enrolled in the conservation reserve program as of that date)”.

Subsec. (b)(4). Pub. L. 115-334, §2201(b)(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 115-334, §2201(b)(2), (4)(A), redesignated par. (4) as (5) and substituted “salt tolerant vegetation, field borders, or practices to benefit State or federally identified wellhead protection areas” for “or filterstrips or riparian buffers devoted to trees, shrubs, or grasses” in subpar. (C). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 115-334, §2201(b)(2), redesignated par. (5) as (6).

Subsec. (b)(7). Pub. L. 115-334, §2201(b)(4)(B)–(6), added par. (7).

Subsec. (d)(1). Pub. L. 115-334, §2201(c)(1), added subpars. (A) to (E) and struck out former subpars. (A) to (E) which read as follows:

“(A) fiscal year 2014, no more than 27,500,000 acres;
“(B) fiscal year 2015, no more than 26,000,000 acres;
“(C) fiscal year 2016, no more than 25,000,000 acres;
“(D) fiscal year 2017, no more than 24,000,000 acres;
and
“(E) fiscal year 2018, no more than 24,000,000 acres.”

Subsec. (d)(2)(A). Pub. L. 115-334, §2201(c)(2)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “For purposes of applying the limitations in paragraph (1), no more than 2,000,000 acres of the land described in subsection (b)(3) may be enrolled in the program at any one time during the 2014 through 2018 fiscal years.”

Subsec. (d)(2)(B). Pub. L. 115-334, §2201(c)(2)(A), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: “In enrolling acres under subparagraph (A), the Secretary may give priority to land with expiring conservation reserve program contracts.”

Subsec. (d)(2)(C). Pub. L. 115-334, §2201(c)(2)(B), designated existing provisions as cl. (i), inserted heading, substituted “an annual enrollment basis” for “a continuous enrollment basis”, and added cl. (ii).

Subsec. (d)(2)(D). Pub. L. 115-334, §2201(c)(2)(C), added subpar. (D).

Subsec. (d)(3) to (6). Pub. L. 115-334, §2201(c)(3), added pars. (3) to (6).

Subsec. (h). Pub. L. 115-334, §2201(d), designated existing provisions as par. (1), inserted heading, and added par. (2).

2014—Subsec. (a). Pub. L. 113-79, §2001(a), substituted “2018” for “2012”.

Subsec. (b)(1)(B). Pub. L. 113-79, §2001(b)(1), substituted “February 7, 2014” for “the date of enactment of the Food, Conservation, and Energy Act of 2008”.

Subsec. (b)(2), (3). Pub. L. 113-79, §2001(b)(2), (3), redesignated par. (3) as (2), added par. (3), and struck out former par. (2) which read as follows: “marginal pasture land converted to wetland or established as wildlife habitat prior to November 28, 1990;”.

Subsec. (b)(4)(C). Pub. L. 113-79, §2001(b)(4), substituted “filterstrips or riparian buffers devoted to trees, shrubs, or grasses” for “filterstrips devoted to trees or shrubs”.

Subsec. (b)(5). Pub. L. 113-79, §2001(b)(5), added par. (5) and struck out former par. (5) which read as follows: “the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer, if—

“(A) the land is enrolled as part of the buffer; and
“(B) the remainder of the field is—
“(i) infeasible to farm; and
“(ii) enrolled at regular rental rates.”

Subsec. (c). Pub. L. 113-79, §2001(c), substituted “if, during the crop year, the land was devoted to a conserving use.” for “if—” and struck out pars. (1) and (2) which read as follows:

“(1) during the crop year, the land was devoted to a conserving use; or

“(2)(A) during the crop year or during any of the 2 years preceding the crop year, the land was enrolled in the water bank program; and

“(B) the contract of the owner or operator of the cropland expired or will expire in calendar year 2000, 2001, or 2002.”

Subsec. (d). Pub. L. 113-79, §2001(d), amended subsec. (d) generally. Prior to amendment, text read as follows: “The Secretary may maintain up to 39,200,000 acres in the conservation reserve at any 1 time during the 2002 through 2009 fiscal years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 3831 note; Public Law 101-624)). During fiscal years 2010, 2011, 2012, and 2013, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.”

Subsec. (e)(2), (3). Pub. L. 113-79, §2001(e), added par. (2) and struck out former pars. (2) and (3) which related to duration of contracts for certain land and 1-year extensions, respectively.

Subsec. (f)(1). Pub. L. 113-79, §2001(f)(1), struck out “watershed areas of the Chesapeake Bay Region, the Great Lakes Region, the Long Island Sound Region, and other” before “areas of special”.

Subsec. (f)(2). Pub. L. 113-79, §2001(f)(2), substituted “areas” for “watersheds” in heading and “Areas” for “Watersheds” in text.

Subsec. (f)(3). Pub. L. 113-79, §2001(f)(3), substituted “an area’s designation if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.” for “a watershed’s designation—” and struck out subpars. (A) and (B) which read as follows:

“(A) on application by the appropriate State agency; or

“(B) in the case of an area covered by this subsection, if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.”

2013—Subsec. (d). Pub. L. 112-240 substituted “2012, and 2013” for “and 2012”.

2008—Subsec. (a). Pub. L. 110-246, §2101, substituted “2012 fiscal year” for “2007 calendar year” and inserted “and to address issues raised by State, regional, and national conservation initiatives” before period at end.

Subsec. (b)(1)(B). Pub. L. 110-246, § 2102(1), substituted “the date of enactment of the Food, Conservation, and Energy Act of 2008” for “May 13, 2002” and substituted semicolon for period at end.

Subsec. (b)(4)(C) to (E). Pub. L. 110-246, § 2102(2), in subpar. (C) struck out “or” at end, in subpar. (D) substituted “or” for “and” at end, and in subpar. (E) inserted “or” at end.

Subsec. (d). Pub. L. 110-246, § 2103, substituted “2009 fiscal years” for “2007 calendar years” and “(16 U.S.C.” for “(16 U.S.C.” and inserted at end “During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.”

Subsec. (f)(1). Pub. L. 110-246, § 2104, substituted “the Chesapeake Bay Region” for “the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)”.

Subsec. (g). Pub. L. 110-246, § 2105, amended subsec. (g) generally. Prior to amendment, text read as follows: “For purposes of this subpart, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.”

Subsecs. (h) to (j). Pub. L. 110-246, § 2106(a)(2), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which related to pilot program for enrollment of wetland and buffer acreage in conservation reserve during 2002 through 2007 calendar years.

Subsec. (k). Pub. L. 110-246, § 2106(b)(1), renumbered subsec. (k) as section 3831a of this title.

2007—Subsec. (k)(2). Pub. L. 110-28 substituted “The” for “During calendar year 2006, the”.

2006—Subsec. (k)(3)(G). Pub. L. 109-234 substituted “\$504,100,000” for “\$404,100,000”.

2005—Subsec. (k). Pub. L. 109-148 added subsec. (k).

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

REGULATIONS

Pub. L. 106-387, § 1(a) [title XI, § 1105], Oct. 28, 2000, 114 Stat. 1549, 1549A-78, required the Secretary of Agriculture, as soon as practicable after Oct. 28, 2000, to promulgate regulations to implement the amendments by section 1(a) [title XI] of Pub. L. 106-387, amending former sections 3831 and 3832 of this title.

ELIGIBLE LAND; STATE LAW REQUIREMENTS

Pub. L. 115-334, title II, § 2209, Dec. 20, 2018, 132 Stat. 4551, provided that: “The Secretary shall revise paragraph (4) of section 1410.6(d) of title 7, Code of Federal Regulations, to provide that land enrolled under a Conservation Reserve Enhancement Program agreement initially established before January 1, 2014 (including an amended or successor Conservation Reserve Enhancement Program agreement, as determined by the Secretary), shall not be ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) under that paragraph if the Deputy Administrator (as defined in section 1410.2(b) of title 7, Code of Federal Regulations (or successor regulations)), on recommendation from and in consultation with the applicable State technical committee established under section 1261(a) of the Food Security Act of 1985 (16 U.S.C. 3861(a)) determines, under such terms and conditions as the Deputy Administrator, in consultation with the State

technical committee, determines to be appropriate, that making that land eligible for enrollment in that program is not contrary to the purposes of that program.”

EFFECT ON EXISTING CONTRACTS

Pub. L. 113-79, title II, § 2008, Feb. 7, 2014, 128 Stat. 720, provided that:

“(a) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this subtitle [subtitle A (§§ 2001–2008) of title II of Pub. L. 113-79, amending this section and sections 3831b and 3832 to 3835 of this title and repealing section 3835a of this title] shall not affect the validity or terms of any contract entered into by the Secretary of Agriculture under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], or any payments required to be made in connection with the contract.

“(b) UPDATING OF EXISTING CONTRACTS.—The Secretary shall permit an owner or operator of land subject to a contract entered into under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], to update the contract to reflect the activities and uses of land under contract permitted under the terms and conditions of section 1233(b) of that Act [16 U.S.C. 3833(b)] (as amended by section 2004), as determined appropriate by the Secretary.”

STUDY ON ECONOMIC EFFECTS

Pub. L. 107-171, title II, § 2101(b), May 13, 2002, 116 Stat. 252, provided that, not later than 18 months after May 13, 2002, the Secretary of Agriculture would submit to Congress a report, to include specified analyses, that describes the economic and social effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

STUDY OF IMPACT OF PILOT PROGRAM

Pub. L. 106-387, § 1(a) [title XI, § 1104], Oct. 28, 2000, 114 Stat. 1549, 1549A-78, required the Secretary of Agriculture to conduct a study of the impact of the pilot program established under former section 3831(h) of this title, as added by section 1(a) [title XI, § 1102(a)] of Pub. L. 106-387, and to report on the results of the study to committees of Congress not later than Mar. 1, 2003.

STUDY OF LAND USE FOR EXPIRING CONTRACTS AND EXTENSION OF AUTHORITY

Pub. L. 101-624, title XIV, § 1437, Nov. 28, 1990, 104 Stat. 3584, which required the Secretary of Agriculture to conduct a study of cropland subject to expiring conservation reserve contracts entered into prior to Nov. 28, 1990, and to report on the study to committees of Congress not later than Dec. 31, 1993, and authorized the Secretary, during calendar years 1996 to 2000, to extend up to 10 years contracts entered into under this subpart prior to Nov. 28, 1990, or to purchase long-term or permanent easements as provided for in former part III of this subchapter, at the option of the owner or operator on land that the Secretary has determined under the study should remain in conserving uses, was repealed by Pub. L. 115-334, title II, § 2815, Dec. 20, 2018, 132 Stat. 4602.

EXISTING CONSERVATION PROGRAMS

Pub. L. 99-263, Mar. 24, 1986, 100 Stat. 59, provided: “That the conservation reserve program shall not replace or reduce any existing conservation program.”

§ 3831a. Conservation reserve enhancement program

(a) Definitions

In this section:

(1) CREP

The term “CREP” means a conservation reserve enhancement program carried out under subsection (b)(1).

(2) Eligible land

The term “eligible land” means land that is eligible to be included in the program established under this subpart.

(3) Eligible partner

The term “eligible partner” means—

- (A) a State;
- (B) a political subdivision of a State;
- (C) an Indian tribe (as defined in section 5304 of title 25); or
- (D) a nongovernmental organization.

(4) Management

The term “management” means an activity conducted by an owner or operator under a contract entered into under this subpart after the establishment of a conservation practice on eligible land, to regularly maintain or enhance the vegetative cover established by the conservation practice—

- (A) throughout the term of the contract; and
- (B) consistent with the conservation plan that covers the eligible land.

(b) Agreements**(1) In general**

The Secretary may enter into an agreement with an eligible partner to carry out a conservation reserve enhancement program—

- (A) to assist in enrolling eligible land in the program established under this subpart; and
- (B) that the Secretary determines will advance the purposes of this subpart.

(2) Contents

An agreement entered into under paragraph (1) shall—

- (A) describe—
 - (i) 1 or more specific State or nationally significant conservation concerns to be addressed by the agreement;
 - (ii) quantifiable environmental goals for addressing the concerns under clause (i);
 - (iii) a suitable acreage goal for enrollment of eligible land under the agreement, as determined by the Secretary;
 - (iv) the location of eligible land to be enrolled in the project area identified under the agreement;
 - (v) the payments to be offered by the Secretary and eligible partner to an owner or operator; and
 - (vi) an appropriate list of conservation reserve program conservation practices that are appropriate to meeting the concerns described under clause (i), as determined by the Secretary in consultation with eligible partners;

(B) subject to subparagraph (C), require the eligible partner to provide matching funds—

- (i) in an amount determined during a negotiation between the Secretary and 1 or more eligible partners, if the majority of

the matching funds to carry out the agreement are provided by 1 or more eligible partners that are not nongovernmental organizations; or

(ii) in an amount not less than 30 percent of the cost required to carry out the conservation measures and practices described in the agreement, if a majority of the matching funds to carry out the agreement are provided by 1 or more nongovernmental organizations; and

(C) include procedures to allow for a temporary waiver of the matching requirements under subparagraph (B), or continued enrollment with a temporary suspension of incentives or eligible partner contributions for new agreements, during a period when an eligible partner loses the authority or ability to provide matching contributions, if the Secretary determines that the temporary waiver or continued enrollment with a temporary suspension will advance the purposes of this subpart.

(3) Effect on existing agreements**(A) In general**

Subject to subparagraph (B), an agreement under this subsection shall not affect, modify, or interfere with existing agreements under this subpart.

(B) Modification of existing agreements

To implement this section, the signatories to an agreement under this subsection may mutually agree to a modification of an agreement entered into before December 20, 2018, under the Conservation Reserve Enhancement Program established by the Secretary under this subpart.

(c) Payments**(1) Matching requirement**

Funds provided by an eligible partner may be in cash, in-kind contributions, or technical assistance, as determined by the Secretary.

(2) Marginal pastureland cost-share payments

The Secretary shall ensure that cost-share payments to an owner or operator to install stream fencing, crossings, and alternative water development on marginal pastureland under a CREP reflect the fair market value of the cost of installation.

(3) Cost-share and practice incentive payments**(A) In general**

On request of an owner or operator, the Secretary shall provide cost-share payments when a major component of a conservation practice is completed under a CREP, as determined by the Secretary.

(B) Exemption

For purposes of implementing conservation practices on land enrolled under a CREP, the Secretary may waive the contribution limitation described in section 3834(b)(2)(A) of this title.

(4) Riparian buffer management payments**(A) In general**

In the case of an agreement under subsection (b)(1) that includes riparian buffers

as an eligible practice, the Secretary shall make cost-share payments to encourage the regular management of the riparian buffer throughout the term of the agreement, consistent with the conservation plan that covers the eligible land.

(B) Limitation

The amount of payments received by an owner or operator under subparagraph (A) shall not be greater than 100 percent of the normal and customary projected management cost, as determined by the Secretary, in consultation with the applicable State technical committee established under section 3861(a) of this title.

(d) Forested riparian buffer practice

(1) Food-producing woody plants

In the case of an agreement under subsection (b)(1) that includes forested riparian buffers as an eligible practice, the Secretary shall allow an owner or operator—

(A) to plant food-producing woody plants in the forested riparian buffers, on the conditions that—

(i) the plants shall contribute to the conservation of soil, water quality, and wildlife habitat; and

(ii) the planting shall be consistent with—

(I) recommendations of the applicable State technical committee established under section 3861(a) of this title; and

(II) technical guide standards of the applicable field office of the Natural Resources Conservation Service; and

(B) to harvest from plants described in subparagraph (A), on the conditions that—

(i) the harvesting shall not damage the conserving cover or otherwise have a negative impact on the conservation concerns targeted by the CREP;

(ii) only native plant species appropriate to the region shall be used within 35 feet of the watercourse; and

(iii) the producer shall be subject to a reduction in the rental rate commensurate to the value of the crop harvested.

(2) Technical assistance

For the purpose of enrolling forested riparian buffers in a CREP, the Administrator of the Farm Service Agency shall coordinate with the applicable State forestry agency.

(e) Drought and water conservation agreements

In the case of an agreement under subsection (b)(1) to address regional drought concerns, in accordance with the conservation purposes of the CREP, the Secretary, in consultation with the applicable State technical committee established under section 3861(a) of this title, may—

(1) notwithstanding subsection (a)(2), enroll other agricultural land on which the resource concerns identified in the agreement can be addressed if the enrollment of the land is critical to the accomplishment of the purposes of the agreement;

(2) permit dryland agricultural uses with the adoption of best management practices on enrolled land if the agreement involves the sig-

nificant long-term reduction of consumptive water use and dryland production is compatible with the agreement; and

(3) calculate annual rental payments consistent with existing administrative practice for similar drought and water conservation agreements under this subchapter and ensure regional consistency in those rates.

(f) Status report

Not later than 180 days after the end of each fiscal year, the Secretary shall submit to Congress a report that describes, with respect to each agreement entered into under subsection (b)(1)—

(1) the status of the agreement;

(2) the purposes and objectives of the agreement;

(3) the Federal and eligible partner commitments made under the agreement; and

(4) the progress made in fulfilling those commitments.

(Pub. L. 99-198, title XII, §1231A, as added Pub. L. 115-334, title II, §2202(a), Dec. 20, 2018, 132 Stat. 4534.)

PRIOR PROVISIONS

A prior section 3831a, Pub. L. 99-198, title XII, §1231A, as added and amended Pub. L. 110-234, title II, §2106(b), May 22, 2008, 122 Stat. 1032, and Pub. L. 110-246, §4(a), title II, §2106(b), June 18, 2008, 122 Stat. 1664, 1760, related to emergency forestry conservation reserve program, prior to repeal by Pub. L. 113-79, title II, §2702(a), Feb. 7, 2014, 128 Stat. 766.

REPEAL OF FORMER SECTION 3831a; TRANSITIONAL PROVISIONS

Pub. L. 113-79, title II, §2702, Feb. 7, 2014, 128 Stat. 766, provided that:

“(a) REPEAL.—Except as provided in subsection (b), section 1231A of the Food Security Act of 1985 ([former] 16 U.S.C. 3831a) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The amendment made by this section shall not affect the validity or terms of any contract or agreement entered into by the Secretary of Agriculture under section 1231A of the Food Security Act of 1985 ([former] 16 U.S.C. 3831a) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], or any payments required to be made in connection with the contract or agreement.

“(2) FUNDING.—The Secretary [of Agriculture] may use funds made available to carry out the conservation reserve program under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) to continue to carry out contracts or agreements referred to in paragraph (1) using the provisions of law and regulation applicable to such contracts or agreements as in existence on the day before the date of enactment of the Agricultural Act of 2014.”

§ 3831b. Farmable wetland program

(a) Program required

(1) In general

During the 2008 through 2023 fiscal years, the Secretary shall carry out a farmable wetland program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

(2) Participation among States

The Secretary shall ensure, to the maximum extent practicable, that owners and operators

in each State have an equitable opportunity to participate in the program established under this section.

(b) Eligible acreage

(1) Wetland and related land

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

(A) that is wetland (including a converted wetland described in section 3822(b)(1)(A) of this title) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

(B) on which a constructed wetland is to be developed that will receive surface and subsurface flow from row crop agricultural production and is designed to provide nitrogen removal in addition to other wetland functions;

(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

(D) that, after January 1, 1990, and before December 31, 2002, was—

(i) cropped during at least 3 of 10 crop years; and

(ii) subject to the natural overflow of a prairie wetland.

(2) Buffer acreage

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

(i) is contiguous to such land;

(ii) is used to protect such land; and

(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

(c) Program limitations

(1) Acreage limitation

The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

(A) 100,000 acres in any State; and

(B) a total of 750,000 acres.

(2) Relationship to maximum enrollment

Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

(3) Relationship to other enrolled acreage

Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

(A) acreage enrolled to establish conservation buffers as part of the program an-

nounced on March 24, 1998 (63 Fed. Reg. 14109); or

(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

(4) Review; potential increase in enrollment acreage

The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

(d) Owner or operator enrollment limitations

(1) Wetland and related land

(A) Wetlands and constructed wetlands

The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

(B) Flooded farmland

The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

(C) Coverage

All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

(2) Buffer acreage

The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

(3) Tracts

Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

(e) Duties of owners and operators

During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

(3) to a general prohibition of commercial use of the enrolled land; and

(4) to carry out other duties described in section 3832 of this title.

(f) Duties of the Secretary

(1) In general

Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

(A) make payments to the owner or operator based on rental rates for cropland; and

(B) provide assistance to the owner or operator in accordance with sections 3833 and 3834 of this title.

(2) Contract offers and payments

The Secretary shall use the method of determination described in section 3834(d) of this title to determine the acceptability of contract offers and the amount of rental payments under this section.

(3) Incentives

The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 3834 of this title.

(Pub. L. 99-198, title XII, §1231B, as added Pub. L. 110-234, title II, §2106(a)(1), May 22, 2008, 122 Stat. 1029, and Pub. L. 110-246, §4(a), title II, §2106(a)(1), June 18, 2008, 122 Stat. 1664, 1757; amended Pub. L. 113-79, title II, §2002, Feb. 7, 2014, 128 Stat. 714; Pub. L. 115-334, title II, §§2203, 2821(c), Dec. 20, 2018, 132 Stat. 4538, 4603.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 3831(h) of this title prior to repeal by Pub. L. 110-246.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334, §2203(1), substituted “2023” for “2018”.

Subsec. (b)(2)(A)(i). Pub. L. 115-334, §2821(c), inserted semicolon at end.

Subsec. (f)(2). Pub. L. 115-334, §2203(2), substituted “3834(d)” for “3834(d)(2)(A)(ii)”.

2014—Pub. L. 113-79, §2002(d)(1), substituted “Farmable wetland program” for “Pilot program for enrollment of wetland and buffer acreage in conservation reserve” in section catchline.

Subsec. (a)(1). Pub. L. 113-79, §2002(a), substituted “2018” for “2012” and “a farmable wetland program” for “a program”.

Subsec. (b)(1)(B). Pub. L. 113-79, §2002(b), substituted “surface and subsurface flow from row crop agricultural production” for “flow from a row crop agriculture drainage system”.

Subsec. (c)(1)(B). Pub. L. 113-79, §2002(c), substituted “750,000” for “1,000,000”.

Subsec. (f)(2). Pub. L. 113-79, §2002(d)(2), substituted “section 3834(d)(2)(A)(ii)” for “section 3834(c)(2)(B)”.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

§ 3831c. Pilot programs

(a) CLEAR 30

(1) In general

(A) Enrollment

The Secretary shall establish a pilot program to enroll land in the conservation reserve program through a 30-year conservation reserve contract (referred to in this subsection as a “CLEAR 30 contract”) in accordance with this subsection.

(B) Inclusion of acreage limitation

For purposes of applying the limitations in section 3831(d)(1) of this title, the Secretary shall include acres of land enrolled under this subsection.

(2) Expired conservation contract election

(A) Definition of covered contract

In this paragraph, the term “covered contract” means a contract entered into under this subpart that—

(i) expires on or after December 20, 2018; and

(ii) covers land enrolled in the conservation reserve program under the clean lakes, estuaries, and rivers priority described in section 3831(d)(3) of this title (or the predecessor practices that constitute the priority, as determined by the Secretary).

(B) Election

On the expiration of a covered contract, an owner or operator party to the covered contract shall elect—

(i) not to reenroll the land under the contract;

(ii) to offer to reenroll the land under the contract if the land remains eligible under the terms in effect as of the date of expiration; or

(iii) not to reenroll the land under the contract and to enroll that land through a CLEAR 30 contract under this subsection.

(3) Eligible land

Only land that is subject to an expired covered contract shall be eligible for enrollment through a CLEAR 30 contract under this subsection.

(4) Term

The term of a CLEAR 30 contract shall be 30 years.

(5) Agreements

To be eligible to enroll land in the conservation reserve program through a CLEAR 30 contract, the owner of the land shall enter into an agreement with the Secretary—

(A) to implement a conservation reserve plan developed for the land;

(B) to comply with the terms and conditions of the contract and any related agreements; and

(C) to temporarily suspend the base history for the land covered by the contract.

(6) Terms and conditions of CLEAR 30 contracts

(A) In general

A CLEAR 30 contract shall include terms and conditions that—

(i) permit—

(I) repairs, improvements, and inspections on the land that are necessary to maintain existing public drainage systems; and

(II) owners to control public access on the land while identifying access routes to be used for restoration activities and management and contract monitoring;

(ii) prohibit—

(I) the alteration of wildlife habitat and other natural features of the land, unless specifically authorized by the Secretary as part of the conservation reserve plan;

(II) the spraying of the land with chemicals or the mowing of the land, except where the spraying or mowing is authorized by the Secretary or is necessary—

(aa) to comply with Federal or State noxious weed control laws;

(bb) to comply with a Federal or State emergency pest treatment program; or

(cc) to meet habitat needs of specific wildlife species;

(III) any activity to be carried out on the land of the owner or successor that is immediately adjacent to, and functionally related to, the land that is subject to the contract if the activity will alter, degrade, or otherwise diminish the functional value of the land; and

(IV) the adoption of any other practice that would tend to defeat the purposes of the conservation reserve program, as determined by the Secretary; and

(iii) include any additional provision that the Secretary determines is appropriate to carry out this section or facilitate the practical administration of this section.

(B) Violation

On the violation of a term or condition of a CLEAR 30 contract, the Secretary may require the owner to refund all or part of any payments received by the owner under the conservation reserve program, with interest on the payments, as determined appropriate by the Secretary.

(C) Compatible uses

Land subject to a CLEAR 30 contract may be used for compatible economic uses, including hunting and fishing, managed timber harvest, or periodic haying or grazing, if the use—

(i) is specifically permitted by the conservation reserve plan developed for the land; and

(ii) is consistent with the long-term protection and enhancement of the conservation resources for which the contract was established.

(7) Compensation

(A) Amount of payments

The Secretary shall provide payment under this subsection to an owner of land en-

rolled through a CLEAR 30 contract using 30 annual payments in an amount equal to the amount that would be used if the land were to be enrolled in the conservation reserve program under section 3831(d)(3) of this title.

(B) Form of payment

Compensation for a CLEAR 30 contract shall be provided by the Secretary in the form of a cash payment in an amount determined under subparagraph (A).

(C) Timing

The Secretary shall provide any annual payment obligation under subparagraph (A) as early as practicable in each fiscal year.

(D) Payments to others

The Secretary shall make a payment, in accordance with regulations prescribed by the Secretary, in a manner as the Secretary determines is fair and reasonable under the circumstances, if an owner who is entitled to a payment under this section—

(i) dies;

(ii) becomes incompetent;

(iii) is succeeded by another person or entity who renders or completes the required performance; or

(iv) is otherwise unable to receive the payment.

(8) Technical assistance

(A) In general

The Secretary shall assist owners in complying with the terms and conditions of a CLEAR 30 contract.

(B) Contracts or agreements

The Secretary may enter into 1 or more contracts with private entities or agreements with a State, nongovernmental organization, or Indian Tribe to carry out necessary maintenance of a CLEAR 30 contract if the Secretary determines that the contract or agreement will advance the purposes of the conservation reserve program.

(9) Administration

(A) Conservation reserve plan

The Secretary shall develop a conservation reserve plan for any land subject to a CLEAR 30 contract, which shall include practices and activities necessary to maintain, protect, and enhance the conservation value of the enrolled land.

(B) Delegation of contract administration

(i) Federal, State, or local government agencies

The Secretary may delegate any of the management, monitoring, and enforcement responsibilities of the Secretary under this subsection to other Federal, State, or local government agencies that have the appropriate authority, expertise, and resources necessary to carry out those delegated responsibilities.

(ii) Conservation organizations

The Secretary may delegate any management responsibilities of the Secretary under this subsection to conservation or-

ganizations if the Secretary determines the conservation organization has similar expertise and resources.

(b) Soil health and income protection pilot program

(1) Definition of eligible land

In this subsection:

(A) In general

The term “eligible land” means cropland that—

(i) is selected by the owner or operator of the land for proposed enrollment in the pilot program under this subsection; and

(ii) as determined by the Secretary—

(I) is located within 1 or more States that are part of the prairie pothole region, as selected by the Secretary based on consultation with State Committees of the Farm Service Agency and State technical committees established under section 3861(a) of this title from that region;

(II) had a cropping history or was considered to be planted during each of the 3 crop years preceding enrollment; and

(III) is verified to be less-productive land, as compared to other land on the applicable farm.

(B) Exclusion

The term “eligible land” does not include any land that was enrolled in a conservation reserve program contract in any of the 3 crop years preceding enrollment in the pilot program under this subsection.

(2) Establishment

(A) In general

The Secretary shall establish a voluntary soil health and income protection pilot program under which eligible land is enrolled through the use of contracts to assist owners and operators of eligible land to conserve and improve the soil, water, and wildlife resources of the eligible land.

(B) Deadline for participation

Eligible land may be enrolled in the program under this section through December 31, 2020.

(3) Contracts

(A) Requirements

A contract described in paragraph (2) shall—

(i) be entered into by the Secretary, the owner of the eligible land, and (if applicable) the operator of the eligible land; and

(ii) provide that, during the term of the contract—

(I) the lowest practicable cost perennial conserving use cover crop for the eligible land, as determined by the applicable State conservationist after considering the advice of the applicable State technical committee, shall be planted on the eligible land;

(II) except as provided in subparagraph (E), the owner or operator of the eligible land shall pay the cost of planting the

conserving use cover crop under subparagraph (I);

(III) subject to subparagraph (F), the eligible land may be harvested for seed, hayed, or grazed outside the primary nesting season established for the applicable county;

(IV) the eligible land may be eligible for a walk-in access program of the applicable State, if any; and

(V) a nonprofit wildlife organization may provide to the owner or operator of the eligible land a payment in exchange for an agreement by the owner or operator not to harvest the conserving use cover.

(B) Payments

Except as provided in subparagraphs (E) and (F)(ii)(II), the annual rental rate for a payment under a contract described in paragraph (2) shall be equal to 50 percent of the average rental rate for the applicable county under section 3834(d) of this title, as determined by the Secretary.

(C) Limitation on enrolled land

Not more than 15 percent of the eligible land on a farm may be enrolled in the pilot program under this subsection.

(D) Term

(i) In general

Except as provided in clause (ii), each contract described in paragraph (2) shall be for a term of 3, 4, or 5 years, as determined by the parties to the contract.

(ii) Early termination

(I) Secretary

The Secretary may terminate a contract described in paragraph (2) before the end of the term described in clause (i) if the Secretary determines that the early termination of the contract is necessary.

(II) Owners and operators

An owner and (if applicable) an operator of eligible land enrolled in the pilot program under this subsection may terminate a contract described in paragraph (2) before the end of the term described in clause (i) if the owner and (if applicable) the operator pay to the Secretary an amount equal to the amount of rental payments received under the contract.

(E) Beginning, limited resource, socially disadvantaged, or veteran farmers and ranchers

With respect to a beginning, limited resource, socially disadvantaged, or veteran farmer or rancher, as determined by the Secretary—

(i) a contract described in paragraph (2) shall provide that, during the term of the contract, of the actual cost of establishment of the conserving use cover crop under subparagraph (A)(ii)(I)—

(I) using the funds of the Commodity Credit Corporation, the Secretary shall pay 50 percent; and

(II) the beginning, limited resource, socially disadvantaged, or veteran farmer or rancher shall pay 50 percent; and

(ii) the annual rental rate for a payment under a contract described in paragraph (2) shall be equal to 75 percent of the average rental rate for the applicable county under section 3834(d) of this title, as determined by the Secretary.

(F) Harvesting, haying, and grazing outside applicable period

The harvesting for seed, haying, or grazing of eligible land under subparagraph (A)(ii)(III) outside of the primary nesting season established for the applicable county shall be subject to the conditions that—

(i) with respect to eligible land that is so hayed or grazed, adequate stubble height shall be maintained to protect the soil on the eligible land, as determined by the applicable State conservationist after considering the advice of the applicable State technical committee; and

(ii) with respect to eligible land that is so harvested for seed—

(I) the eligible land shall not be eligible to be insured or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(II) the rental payment otherwise applicable to the eligible land under this subsection shall be reduced by 25 percent.

(4) Acreage limitation

Of the number of acres available for enrollment in the conservation reserve under section 3831(d)(1) of this title, not more than 50,000 total acres of eligible land may be enrolled under the pilot program under this subsection.

(5) Report

The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the eligible land enrolled in the pilot program under this subsection, including—

(A) the estimated conservation value of the land; and

(B) estimated savings from reduced commodity payments, crop insurance indemnities, and crop insurance premium subsidies.

(Pub. L. 99-198, title XII, §1231C, as added Pub. L. 115-334, title II, §2204, Dec. 20, 2018, 132 Stat. 4538.)

REFERENCES IN TEXT

The Federal Crop Insurance Act, referred to in subsec. (b)(3)(F)(ii)(I), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

§ 3832. Duties of owners and operators

(a) In general

Under the terms of a contract entered into under this subpart, during the term of the con-

tract, an owner or operator of a farm or ranch shall agree—

(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting eligible land normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subpart;

(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

(4) to establish approved vegetative cover (which may include emerging vegetation in water), water cover for the enhancement of wildlife, or, where practicable, maintain existing cover on the land, except that—

(A) the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes; and

(B) the Secretary shall not terminate the contract for failure to establish approved vegetative or water cover on the land if—

(i) the failure to plant the cover was due to excessive rainfall or flooding;

(ii) the land subject to the contract that could practicably be planted to the cover is planted to the cover; and

(iii) the land on which the owner or operator was unable to plant the cover is planted to the cover after the wet conditions that prevented the planting subsides;

(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;

(6) on a violation of a term or condition of the contract at any time the owner or operator has control of the land—

(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Secretary, if the Secretary, after considering the recommendations of the soil conservation district and the Natural Resources Conservation Service, determines that the violation is of such nature as to warrant termination of the contract; or

(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

(7) on the transfer of the right and interest of the owner or operator in land subject to the contract—

(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subpart;

unless the transferee of the land agrees with the Secretary to assume all obligations of the contract, except that no refund of rental payments and cost sharing payments shall be required if the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree to modifications to the contract, in a case in which the modifications are consistent with the objectives of the program, as determined by the Secretary;

(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except as provided in subsection (b) or (c) of section 3833 of this title;

(9) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

(10) on land devoted to hardwood or other trees, excluding windbreaks and shelterbelts, to carry out proper thinning and other practices—

(A) to enhance the conservation benefits and wildlife habitat resources addressed by the conservation practice under which the land is enrolled; and

(B) to promote forest management;

(11) not to adopt any practice specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this subpart; and

(12) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this subpart or to facilitate the practical administration of this subpart.

(b) Conservation plans

The plan referred to in subsection (a)(1) shall set forth—

(1) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

(2) the commercial use, if any, to be permitted on the land during the term.

(c) Foreclosure

(1) In general

Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subpart may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment.

(2) Resumption of control

(A) In general

This subsection shall not void the responsibilities of an owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the period specified in the contract.

(B) Contract

On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(Pub. L. 99-198, title XII, §1232, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 242; amended Pub. L. 108-7, div. N, title II, §212, Feb. 20, 2003, 117 Stat. 545; Pub. L. 110-234, title II, §§2107, 2108, May 22, 2008, 122 Stat. 1032, 1033; Pub. L. 110-246, §4(a), title II, §§2107, 2108, June 18, 2008, 122 Stat. 1664, 1760, 1761; Pub. L. 113-79, title II, §2003, Feb. 7, 2014, 128 Stat. 715; Pub. L. 115-334, title II, §2205, Dec. 20, 2018, 132 Stat. 4543.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3832, Pub. L. 99-198, title XII, §1232, Dec. 23, 1985, 99 Stat. 1509; Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1919; Pub. L. 101-624, title XIV, §1433, 1447(a), Nov. 28, 1990, 104 Stat. 3579, 3605; Pub. L. 102-237, title II, §204(5), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 102-552, title V, §516(a), Oct. 28, 1992, 106 Stat. 4136; Pub. L. 104-127, title III, §332(a)(2), Apr. 4, 1996, 110 Stat. 994; Pub. L. 106-78, title VII, §§763, 769, Oct. 22, 1999, 113 Stat. 1173, 1174; Pub. L. 106-387, §1(a) [title VIII, §817, title XI, §1103], Oct. 28, 2000, 114 Stat. 1549, 1549A-58, 1549A-77; Pub. L. 107-76, title VII, §§758(b), 759(b)(2), Nov. 28, 2001, 115 Stat. 741, related to duties of owners and operators, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(10) to (12). Pub. L. 115-334 added par. (10) and redesignated former pars. (10) and (11) as (11) and (12), respectively.

2014—Subsec. (a)(8). Pub. L. 113-79, §2003(a), substituted “except as provided in subsection (b) or (c) of section 3833 of this title;” for “except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—” and struck out subpars. (A) to (D), which related to managed harvesting, commercial use in response to an emergency, grazing for the control of invasive species, and the installation of wind turbines, respectively.

Subsec. (b). Pub. L. 113-79, § 2003(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “The plan referred to in subsection (a)(1) of this section—

“(1) shall set forth—

“(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

“(B) the commercial use, if any, to be permitted on the land during the term; and

“(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.”

Subsec. (d). Pub. L. 113-79, § 2003(c), struck out subsec. (d). Text read as follows: “In the case of an authorized activity under subsection (a)(8) on land that is subject to a contract under this subpart, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.”

2008—Subsec. (a)(5) to (7). Pub. L. 110-246, § 2107, added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 110-246, § 2108(a), added par. (8) and struck out former par. (8) which related to prohibition against harvesting, grazing, or other commercial use of the forage, with exception authorizing Secretary to permit managed harvesting and grazing if appropriate requirements were developed and timeframes identified or in a drought or other emergency, and exception for the installation of wind turbines.

Pub. L. 110-246, § 2107(1), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9) to (11). Pub. L. 110-246, § 2107(1), redesignated pars. (8) to (10) as (9) to (11), respectively.

Subsec. (d). Pub. L. 110-246, § 2108(b), added subsec. (d).

2003—Subsec. (a)(7)(A)(iii). Pub. L. 108-7 inserted before semicolon “, except that this clause shall not apply to the 2002 calendar year, and the Secretary shall repay the owner or operator (in a manner determined by the Secretary) for any reduction in rental payments made to the owner or operator as the result of the application of this clause to the 2002 calendar year”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3833. Duties of the Secretary

(a) Cost-share and rental payments

In return for a contract entered into by an owner or operator under the conservation reserve program, the Secretary shall—

(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest, including the cost of fencing and other water distribution practices, if applicable; and

(2) for a period of years not in excess of the term of the contract, pay an annual rental payment, in accordance with section 3834(d) of this title, for—

(A) the conversion of highly erodible cropland, marginal pastureland, or other eligible lands normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; or

(B) the development and management of grasslands for multiple natural resource conservation benefits, including to soil, water, air, and wildlife.

(b) Specified activities permitted

(1) In general

The Secretary, in coordination with the applicable State technical committee established under section 3861(a) of this title, shall permit certain activities or commercial uses of established cover on land that is subject to a contract under the conservation reserve program if—

(A) those activities or uses—

(i) are consistent with the conservation of soil, water quality, and wildlife habitat;

(ii) are subject to appropriate restrictions during the primary nesting season for birds in the local area that are economically significant, in significant decline, or conserved in accordance with Federal or State law;

(iii) contribute to the health and vigor of the established cover; and

(iv) are consistent with a site-specific plan, including vegetative management requirements, stocking rates, and frequency and duration of activity, taking into consideration regional differences, such as climate, soil type, and natural resources; and

(B) the Secretary, in coordination with the State technical committee, includes contract modifications—

(i) without any reduction in the rental rate for—

(I) emergency haying, emergency grazing, or other emergency use of the forage in response to a localized or regional drought, flooding, wildfire, or other emergency, on all practices, outside the primary nesting season, when—

(aa) the county is designated as D2 (severe drought) or greater according to the United States Drought Monitor;

(bb) there is at least a 40 percent loss in forage production in the county; or

(cc) the Secretary, in coordination with the State technical committee, determines that the program can assist in the response to a natural disaster event without permanent damage to the established cover;

(II) emergency grazing on all practices during the primary nesting season if payments are authorized for a county under the livestock forage disaster program under clause (ii) of section 9081(c)(3)(D) of title 7, at 50 percent of the normal carrying capacity determined under clause (i) of that section, adjusted to the site-specific plan;

(III) emergency haying on certain practices, outside the primary nesting season, if payments are authorized for a county under the livestock forage disaster program under clause (ii) of section 9081(c)(3)(D) of title 7, on not more than 50 percent of contract acres, as identified in the site-specific plan;

(IV) grazing of all practices, outside the primary nesting season, if included as a mid-contract management practice under section 3832(a)(5) of this title;

(V) the intermittent and seasonal use of vegetative buffer established under paragraphs (4) and (5) of section 3831(b) of this title that are incidental to agricultural production on land adjacent to the buffer such that the permitted use—

(aa) does not destroy the permanent vegetative cover; and

(bb) retains suitable vegetative structure for wildlife cover and shelter outside the primary nesting season; or

(VI) grazing on all practices, outside the primary nesting season, if conducted by a beginning farmer or rancher; or

(ii) with a 25 percent reduction in the annual rental rate for the acres covered by the authorized activity, including—

(I) grazing not more frequently than every other year on the same land, except that during the primary nesting season, grazing shall be subject to a 50 percent reduction in the stocking rate specified in the site-specific plan;

(II) grazing of all practices during the primary nesting season, with a 50 percent reduction in the stocking rate specified in the site-specific plan;

(III) haying and other commercial use (including the managed harvesting of biomass and excluding the harvesting of vegetative cover), on the condition that the activity—

(aa) is completed outside the primary nesting season;

(bb) occurs not more than once every 3 years; and

(cc) maintains 25 percent of the total contract acres unharvested, in accordance with a site-specific plan that provides for wildlife cover and shelter;

(IV) annual grazing outside the primary nesting season if consistent with a site-specific plan that is authorized for the control of invasive species; and

(V) the installation of wind turbines and associated access, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

(aa) the location, size, and other physical characteristics of the land;

(bb) the extent to which the land contains threatened or endangered wildlife and wildlife habitat; and

(cc) the purposes of the conservation reserve program under this subpart.

(2) Conditions on haying and grazing

(A) In general

The Secretary may permit haying or grazing in accordance with paragraph (1) on any land or practice subject to a contract under the conservation reserve program.

(B) Exceptions

(i) Damage to vegetative cover

Haying or grazing described in paragraph (1) shall not be permitted on land subject

to a contract under the conservation reserve program, or under a particular practice, if haying or grazing for that year under that practice, as applicable, would cause long-term damage to vegetative cover on that land.

(ii) Special agreements

(I) In general

Except as provided in subclause (II), haying or grazing described in paragraph (1) shall not be permitted on—

(aa) land covered by a contract enrolled under the State acres for wildlife enhancement program established by the Secretary; or

(bb) land covered by a contract enrolled under a conservation reserve enhancement program established under section 3831a of this title or the Conservation Reserve Enhancement Program established by the Secretary under this subpart.

(II) Exception

Subclause (I) shall not apply to land on which haying or grazing is specifically permitted under the applicable conservation reserve enhancement program agreement or other partnership agreement entered into under this subpart.

(c) Authorized activities on grasslands

For eligible land described in section 3831(b)(3) of this title, the Secretary shall permit the following activities:

(1) Common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality.

(2) Haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are economically significant, in significant decline, or conserved in accordance with Federal or State law, as determined by the Secretary in consultation with the State technical committee.

(3) Fire suppression, fire-related rehabilitation, and construction of fire breaks.

(4) Grazing-related activities, such as fencing and livestock watering.

(d) Resource conserving use

(1) In general

Beginning on the date that is 1 year before the date of termination of a contract under the program, the Secretary shall allow an owner or operator to make conservation and land improvements for economic use that facilitate maintaining protection of enrolled land after expiration of the contract.

(2) Conservation plan

The Secretary shall require an owner or operator carrying out the activities described in paragraph (1) to develop and implement a conservation plan.

(3) Re-enrollment prohibited

Land improved under paragraph (1) may not be re-enrolled in the conservation reserve pro-

gram for 5 years after the date of termination of the contract.

(4) Payment reduction

In the case of an activity carried out under paragraph (1), the Secretary shall reduce the payment otherwise payable under the contract by an amount commensurate with the economic value of the activity.

(e) Natural disaster or adverse weather as mid-contract management

In the case of a natural disaster or adverse weather event that has the effect of a management practice consistent with the conservation plan, the Secretary shall not require further management practices pursuant to section 3832(a)(5) of this title that are intended to achieve the same effect.

(Pub. L. 99-198, title XII, § 1233, as added Pub. L. 107-171, title II, § 2101(a), May 13, 2002, 116 Stat. 245; amended Pub. L. 113-79, title II, § 2004, Feb. 7, 2014, 128 Stat. 715; Pub. L. 115-334, title II, § 2206, Dec. 20, 2018, 132 Stat. 4543.)

PRIOR PROVISIONS

A prior section 3833, Pub. L. 99-198, title XII, § 1233, Dec. 23, 1985, 99 Stat. 1511, related to duties of Secretary, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334, § 2206(a)(1), inserted “, including the cost of fencing and other water distribution practices, if applicable” after “in the public interest”.

Subsec. (a)(2). Pub. L. 115-334, § 2206(a)(2)(A), substituted “, in accordance with section 3834(d) of this title,” for “in an amount necessary to compensate” in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 115-334, § 2206(a)(2)(B) inserted “, marginal pastureland,” after “cropland” and “or” at end.

Subsec. (a)(2)(B), (C). Pub. L. 115-334, § 2206(a)(2)(C), (D), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “the retirement of any base history that the owner or operator agrees to retire permanently; and”.

Subsec. (b). Pub. L. 115-334, § 2206(b), added subsec. (b) and struck out former subsec. (b) which described certain activities or commercial uses that would be permitted on land subject to a contract under the conservation reserve program.

Subsec. (e). Pub. L. 115-334, § 2206(c), added subsec. (e).
2014—Pub. L. 113-79 amended section generally. Prior to amendment, section also related to duties of the Secretary.

§ 3834. Payments

(a) Timing

The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subpart—

(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

(2) with respect to any annual rental payment obligation incurred by the Secretary—

(A) as soon as practicable after October 1 of each calendar year; or

(B) at the option of the Secretary, at any time prior to such date during the year that the obligation is incurred.

(b) Cost sharing payments

(1) In general

In making cost sharing payments to an owner or operator under a contract entered into under this subpart, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under each contract for which the Secretary determines that cost sharing is appropriate and in the public interest.

(2) Limitations

(A) In general

The Secretary shall ensure, to the maximum extent practicable, that cost sharing payments to an owner or operator under this subpart, when combined with the sum of payments from all other funding sources for measures and practices described in paragraph (1), do not exceed 100 percent of the total actual cost of establishing those measures and practices, as determined by the Secretary.

(B) Mid-contract management grazing

The Secretary may not make any cost sharing payment to an owner or operator under this subpart pursuant to section 3832(a)(5) of this title.

(C) Seed cost

In the case of seed costs related to the establishment of cover, cost sharing payments under this subpart shall not exceed 50 percent of the actual cost of the seed mixture, as determined by the Secretary.

(3) Other Federal cost share assistance

Except in the case of incentive payments that are related to the cost of the establishment of a practice and received from eligible partners under the conservation reserve enhancement program under section 3831a of this title, an owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if the owner or operator receives any other Federal cost share assistance with respect to the land under any other provision of law.

(4) Practice incentives for continuous practices

In addition to the cost sharing payment described in this subsection, the Secretary shall make an incentive payment to an owner or operator of land enrolled under section 3831(d)(6) of this title in an amount not to exceed 50 percent of the actual cost of establishing all measures and practices described in paragraph (1), including seed costs related to the establishment of cover, as determined by the Secretary.

(c) Forest management incentive payments

(1) In general

Using funds made available under section 3841(a)(1)(A) of this title, the Secretary may make incentive payments to an owner or operator of eligible land in an amount sufficient to encourage proper thinning and other practices to improve the condition of resources, promote forest management, or enhance wildlife habitat on the land.

(2) Limitation

A payment described in paragraph (1) may not exceed 100 percent of the total cost of thinning and other practices conducted by the owner or operator.

(d) Annual rental payments**(1) In general**

In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland or other eligible lands normally devoted to the production of an agricultural commodity to less intensive use, the Secretary shall consider—

(A) the amount necessary to encourage owners or operators of highly erodible cropland or other eligible lands to participate in the program established by this subpart;

(B) the impact on the local farmland rental market; and

(C) such other factors as the Secretary determines to be appropriate.

(2) Methods of determination**(A) In general**

The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subpart may be determined through the submission of applications for such contracts by owners and operators in such manner as the Secretary may prescribe.

(B) Multiple enrollments**(i) In general**

Subject to clause (ii), if land subject to a contract entered into under this subpart is reenrolled under section 3831(h)(1) of this title or has been previously enrolled in the conservation reserve, the annual rental payment shall be in an amount that is not more than 85 percent in the case of general enrollment contracts, or 90 percent in the case of continuous enrollment contracts, of the applicable estimated average county rental rate published pursuant to paragraph (4) for the year in which the reenrollment occurs.

(ii) Conservation reserve enhancement program

The reduction in annual rental payments under clause (i) may be waived as part of the negotiation between the Secretary and an eligible partner to enter into a conservation reserve enhancement program agreement under section 3831a of this title.

(C) Grasslands

Notwithstanding subparagraph (A), in the case of eligible land described in section 3831(b)(3) of this title, the Secretary shall make annual payments in an amount that is not more than 75 percent of the grazing value of the land covered by the contract.

(D) Continuous sign-up incentives

The Secretary shall make an incentive payment to the owner or operator of land enrolled under section 3831(d)(6) of this title at the time of initial enrollment in an amount

equal to 32.5 percent of the amount of the first annual rental payment under subparagraph (A).

(3) Acceptance of contract offers**(A) Evaluation of offers**

In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

(B) Establishment of different criteria in various States and regions

The Secretary may establish different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

(C) Local preference

In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.

(4) Rental rates**(A) Annual estimates**

The Secretary (acting through the National Agricultural Statistics Service) shall annually conduct a survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland, and shall publish the estimates derived from the survey not later than September 15 of each year.

(B) Public availability of estimates

The estimates derived from the survey conducted under subparagraph (A) and the average current and previous soil rental rates for each county shall be maintained on a website of the Department of Agriculture for use by the general public.

(C) Use

The Secretary shall consider the estimates derived from the survey conducted under subparagraph (A) relating to dryland cash rental rates as a factor in determining rental rates under this section in a manner determined appropriate by the Secretary.

(D) Submission of additional information by State FSA offices and CREP partners**(i) In general**

The Secretary shall provide an opportunity for State Committees of the Farm Service Agency or eligible partners (as defined in section 3831a(a) of this title) in conservation reserve enhancement pro-

grams under section 3831a of this title to propose an alternative soil rental rate prior to finalizing new rates, on the condition that documentation described in clause (ii) is provided to support the proposed alternative.

(ii) Acceptable documentation

Documentation referred to in clause (i) includes—

(I) an average of cash rents from a random sample of lease agreements;

(II) cash rent estimates from a published survey;

(III) neighboring county estimate comparisons from the National Agricultural Statistics Service;

(IV) an average of cash rents from Farm Service Agency farm business plans;

(V) models that estimate cash rents, such as models that use returns to estimate crop production or land value data; or

(VI) other documentation, as determined by the Secretary.

(iii) Notification

Not less than 14 days prior to the announcement of new or revised soil rental rates, the Secretary shall offer a briefing to the Chairman and Ranking Member of the Committee on Agriculture of the House of Representatives and the Chairman and Ranking Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate, including information on and the rationale for the alternative rates proposed under clause (i) that were accepted or rejected.

(E) Rental rate limitation

Notwithstanding forest management incentive payments described in subsection (c), the county average soil rental rate (before any adjustments relating to specific practices, wellhead protection, or soil productivity) shall not exceed—

(i) 85 percent of the estimated rental rate determined under this paragraph for general enrollment; or

(ii) 90 percent of the estimated rental rate determined under this paragraph for continuous enrollment.

(e) Payment schedule

(1) In general

Except as otherwise provided in this section, payments under this subpart shall be made in cash in such amount and on such time schedule as is agreed on and specified in the contract.

(2) Advance payment

Payments under this subpart may be made in advance of determination of performance.

(f) Payments on death, disability, or succession

If an owner or operator that is entitled to a payment under a contract entered into under this subpart dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person that renders or

completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(g) Payment limitation for rental payments

(1) In general

Except as provided in paragraph (2), the total amount of rental payments received by a person or legal entity, directly or indirectly, under this subpart for any fiscal year may not exceed \$50,000.

(2) Wellhead protection

Paragraph (1) and section 1308-3a(b) of title 7 shall not apply to rental payments received by a rural water district or association for land that is enrolled under this subpart for the purpose of protecting a wellhead.

(h) Other State or local assistance

In addition to any payment under this subpart, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling land in the conservation reserve program.

(Pub. L. 99-198, title XII, §1234, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 245; amended Pub. L. 110-234, title II, §§2109, 2110(a), (b)(1), (c), May 22, 2008, 122 Stat. 1034, 1035; Pub. L. 110-246, §4(a), title II, §§2109, 2110(a), (b)(1), (c), June 18, 2008, 122 Stat. 1664, 1762, 1763; Pub. L. 113-79, title II, §2005, Feb. 7, 2014, 128 Stat. 718; Pub. L. 115-334, title II, §2207, Dec. 20, 2018, 132 Stat. 4546.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3834, Pub. L. 99-198, title XII, §1234, Dec. 23, 1985, 99 Stat. 1511; Pub. L. 100-387, title III, §322, Aug. 11, 1988, 102 Stat. 950; Pub. L. 101-624, title XIV, §§1434, 1447(a), Nov. 28, 1990, 104 Stat. 3581, 3605, related to payments for obligations, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (b)(2) to (5), Pub. L. 115-334, §2207(a), added par. (2), redesignated par. (5) as (3) and substituted “Except in the case of incentive payments that are related to the cost of the establishment of a practice and received from eligible partners under the conservation reserve enhancement program under section 3831a of this title, an owner” for “An owner”, added par. (4), and struck out former pars. (2) to (4) which related to limitation on payments, payments for land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, and extension of planting of hardwood trees over a 3-year period, respectively.

Subsec. (c), Pub. L. 115-334, §2207(b)(1), substituted “Forest management incentive payments” for “Incentive payments” in heading.

Subsec. (c)(1), Pub. L. 115-334, §2207(b)(2), substituted “Using funds made available under section 3841(a)(1)(A) of this title, the Secretary” for “The Secretary”.

Subsec. (c)(2). Pub. L. 115-334, §2207(b)(3), substituted “100 percent” for “150 percent”.

Subsec. (d)(1). Pub. L. 115-334, §2207(c)(1), substituted “the Secretary shall consider—” for “the Secretary may consider, among other things,” inserted subpar. (A) designation before “the amount” and substituted semicolon for period at end, and added subpars. (B) and (C).

Subsec. (d)(2)(A). Pub. L. 115-334, §2207(c)(2)(A), substituted “determined through the submission of applications for such contracts by owners and operators in such manner as the Secretary may prescribe.” for “determined through—

“(i) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

“(ii) such other means as the Secretary determines are appropriate.”

Subsec. (d)(2)(B). Pub. L. 115-334, §2207(c)(2)(B), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (d)(2)(C). Pub. L. 115-334, §2207(c)(2)(C), (D), redesignated subpar. (B) as (C) and substituted “Notwithstanding subparagraph (A), in the case” for “In the case”.

Subsec. (d)(2)(D). Pub. L. 115-334, §2207(c)(2)(D), added subpar. (D).

Subsec. (d)(4). Pub. L. 115-334, §2207(c)(3), (4), redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: “In the case of acreage enrolled in the conservation reserve established under this subpart that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.”

Subsec. (d)(4)(A). Pub. L. 115-334, §2207(c)(5)(A), substituted “annually” for “, not less frequently than once every other year,” and inserted “, and shall publish the estimates derived from the survey not later than September 15 of each year” before period at end.

Subsec. (d)(4)(B). Pub. L. 115-334, §2207(c)(5)(B), inserted “and the average current and previous soil rental rates for each county” before “shall be maintained”.

Subsec. (d)(4)(C). Pub. L. 115-334, §2207(c)(5)(C), substituted “shall consider” for “may use”.

Subsec. (d)(4)(D), (E). Pub. L. 115-334, §2207(c)(5)(D), added subpars. (D) and (E).

Subsec. (d)(5). Pub. L. 115-334, §2207(c)(4), redesignated par. (5) as (4).

Subsec. (g)(1). Pub. L. 115-334, §2207(d)(1), substituted “Except as provided in paragraph (2), the total” for “The total”.

Subsec. (g)(2). Pub. L. 115-334, §2207(d)(2), added par. (2) and struck out former par. (2) which related to applicability of payment limitations relative to agreements entered into under a special conservation reserve enhancement program.

2014—Subsec. (b). Pub. L. 113-79, §2005(b)(1)(A), struck out “Federal percentage of” before “cost sharing payments” in heading.

Subsec. (b)(3)(A). Pub. L. 113-79, §2005(a), amended subpar. (A) generally. Prior to amendment, text read as follows: “This paragraph applies to—

“(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subpart after November 28, 1990;

“(ii) land converted to such production under section 3835a of this title; and

“(iii) land on which an owner or operator agrees to conduct thinning authorized by section 3832(a)(9) of this title, if the thinning is necessary to improve the condition of resources on the land.”

Subsec. (b)(3)(B)(i). Pub. L. 113-79, §2005(b)(1)(B)(i), struck out “or thinning” before period at end.

Subsec. (b)(3)(B)(ii). Pub. L. 113-79, §2005(b)(1)(B)(ii), amended cl. (ii) generally. Prior to amendment, text read as follows: “The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

“(I) the planting of the trees or shrubs; or

“(II) the thinning of existing stands to improve the condition of resources on the land.”

Subsecs. (c), (d). Pub. L. 113-79, §2005(b)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 113-79, §2005(c)(1), inserted “or other eligible lands” after “highly erodible cropland” in two places.

Subsec. (d)(2). Pub. L. 113-79, §2005(c)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subpart may be determined through—

“(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

“(B) such other means as the Secretary determines are appropriate.”

Subsec. (d)(5)(A). Pub. L. 113-79, §2005(c)(3)(A), substituted “, not less frequently than once every other year, conduct a survey” for “conduct an annual survey”.

Subsec. (d)(5)(B). Pub. L. 113-79, §2005(c)(3)(B), struck out “annual” before “survey”.

Subsec. (d)(5)(C). Pub. L. 113-79, §2005(c)(3)(C), added subpar. (C).

Subsec. (e). Pub. L. 113-79, §2005(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to cash or in-kind payments.

Pub. L. 113-79, §2005(b)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 113-79, §2005(b)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively. Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 113-79, §2005(e)(1), struck out “, including rental payments made in the form of in-kind commodities,” after “total amount of rental payments”.

Subsec. (g)(2) to (4). Pub. L. 113-79, §2005(e)(2), (3), redesignated par. (4) as (2) and struck out par. (3). Prior to amendment, text of par. (3) read as follows: “Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under the Farm Security and Rural Investment Act of 2002.”

Subsec. (h). Pub. L. 113-79, §2005(b)(2), redesignated subsec. (g) as (h).

2008—Subsec. (b)(3). Pub. L. 110-246, §2109, added par. (3) and struck out former par. (3) which related to the making of payments to an owner or operator of land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

Subsec. (c)(3). Pub. L. 110-246, §2110(a), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “In determining the acceptability of contract offers, the Secretary may—

“(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, wildlife habitat, or provide other environmental benefits; and

“(B) establish different criteria in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.”

Subsec. (c)(5). Pub. L. 110-246, §2110(b)(1), added par. (5).

Subsec. (f)(1). Pub. L. 110-246, §2110(c)(1), substituted “received by a person or legal entity, directly or indirectly,” for “made to a person”.

Subsec. (f)(2). Pub. L. 110-246, §2110(c)(2), struck out par. (2) which related to promulgation of regulations defining the term “person” as used in subsec. (f) and providing terms and conditions determined necessary to ensure a fair and reasonable application of the subsec. (f) limitation.

Subsec. (f)(4)(A). Pub. L. 110-246, §2110(c)(3), substituted “any person or legal entity” for “any person”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

FIRST SURVEY PURSUANT TO SUBSECTION (c)(5)

Pub. L. 110-234, title II, §2110(b)(2), May 22, 2008, 122 Stat. 1035, and Pub. L. 110-246, §4(a), title II, §2110(b)(2), June 18, 2008, 122 Stat. 1664, 1763, provided that: “The first survey required by paragraph (5) of section 1234(c) [now 1234(d)] of the Food Security Act of 1985 (16 U.S.C. 3834(c) [now 16 U.S.C. 3834(d)]), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

CONSERVATION RESEARCH APPLICATION

For provisions directing that enumerated provisions of the Food Security Act of 1985 shall apply to the conservation reserve program under this subchapter with respect to rental payments to persons under contracts entered into after Dec. 22, 1987, with certain exceptions, see section 1305(d) of Pub. L. 100-203, set out as a note under section 1308 of Title 7, Agriculture.

§ 3835. Contracts**(a) Ownership or operation requirements****(1) In general**

Except as provided in paragraph (2), no contract shall be entered into under this subpart concerning land with respect to which the ownership has changed in the 1-year period preceding the first year of the contract period unless—

(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(B) the new ownership was acquired before January 1, 1985;

(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subpart; or

(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.

(2) Exceptions

Paragraph (1) shall not—

(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subpart; or

(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

(i) has operated the land to be covered by a contract under this section for at least 1 year preceding the date of the contract or since January 1, 1985, whichever is later; and

(ii) controls the land for the contract period.

(b) Sales or transfers

If, during the term of a contract entered into under this subpart, an owner or operator of land

subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

(1) continue the contract under the same terms or conditions;

(2) enter into a new contract in accordance with this subpart; or

(3) elect not to participate in the program established by this subpart.

(c) Modifications**(1) In general**

The Secretary may modify a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the modification; and

(B) the Secretary determines that the modification is desirable—

(i) to carry out this subpart;

(ii) to facilitate the practical administration of this subpart;

(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or

(iv) to achieve such other goals as the Secretary determines are appropriate, consistent with this subpart.

(2) Production of agricultural commodities

The Secretary may modify or waive a term or condition of a contract entered into under this subpart in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

(d) Termination**(1) In general**

The Secretary may terminate a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the termination; and

(B) the Secretary determines that the termination would be in the public interest.

(2) Notice to congressional committees

At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subpart, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate written notice of the action.

(e) Early termination by owner or operator**(1) Early termination****(A) In general**

During fiscal year 2015, the Secretary shall allow a participant that entered into a contract under this subpart to terminate the

contract at any time if the contract has been in effect for at least 5 years.

(B) Liability for contract violation

The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination.

(C) Notice to Secretary

The participant shall provide the Secretary with reasonable notice of the desire of the participant to terminate the contract.

(2) Certain land excepted

The following land shall not be subject to an early termination of contract under this subsection:

(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

(B) Land with an erodibility index of more than 15.

(C) Land devoted to hardwood trees.

(D) Wildlife habitat, duck nesting habitat, pollinator habitat, upland bird habitat buffer, wildlife food plots, State acres for wildlife enhancement, shallow water areas for wildlife, and rare and declining habitat.

(E) Farmable wetland and restored wetland.

(F) Land that contains diversions, erosion control structures, flood control structures, contour grass strips, living snow fences, salinity reducing vegetation, cross wind trap strips, and sediment retention structures.

(G) Land located within a federally designated wellhead protection area.

(H) Land that is covered by an easement under the conservation reserve program.

(I) Land located within an average width, according to the applicable Natural Resources Conservation Service field office technical guide, of a perennial stream or permanent water body.

(J) Land enrolled under the conservation reserve enhancement program.

(3) Effective date

The contract termination shall become effective upon approval by the Secretary.

(4) Prorated rental payment

If a contract entered into under this subpart is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

(5) Renewed enrollment

The termination of a contract entered into under this subpart shall not affect the ability of the owner or operator that requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

(6) Conservation requirements

If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subchapters II and III shall apply to the use of

the land to the extent that the requirements are similar to those requirements imposed on other similar land in the area, except that the requirements may not be more onerous than the requirements imposed on other land.

(f) Transition option for certain farmers or ranchers

(1) Transition to covered farmer or rancher

In the case of a contract modification approved in order to facilitate the transfer of land subject to a contract from a contract holder to a beginning farmer or rancher, a veteran farmer or rancher (as defined in section 2279(e)¹ of title 7), or a socially disadvantaged farmer or rancher (in this subsection referred to as a “covered farmer or rancher”), the Secretary shall—

(A) beginning on the date that is 2 years before the date of termination of the contract—

(i) allow the covered farmer or rancher, in conjunction with the contract holder, to make conservation and land improvements, including preparing to plant an agricultural crop; and

(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

(B) beginning on the date of termination of the contract, require the contract holder to sell or lease (under a long-term lease or a lease with an option to purchase, including a lease with a term of less than 5 years and an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

(C) require the covered farmer or rancher to develop and implement a conservation plan;

(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the covered farmer or rancher takes possession of the land through ownership or lease;

(E) give priority to the enrollment of the land covered by the contract in—

(i) the environmental quality incentives program established under subpart A of part IV;

(ii) the conservation stewardship program established under subpart B of part IV; or

(iii) the agricultural conservation easement program established under subchapter VII; and

(F) continue to make annual payments to the contract holder for not more than an additional 2 years after the date of termination of the contract, if the contract holder is not a family member (as defined in section 1308 of title 7) of the covered farmer or rancher.

(2) Reenrollment

To the extent that the maximum number of acres permitted to be enrolled under the con-

¹ See References in Text note below.

servation reserve program has not been met, the Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

(A)(i) is carried out on land described in paragraph (4) or (5) of section 3831(b) of this title; and

(ii) is eligible for continuous enrollment under section 3831(d)(6) of this title; and

(B) is part of an approved conservation plan.

(g) End of contract considerations

The Secretary shall not consider an owner or operator to be in violation of a term or condition of the conservation reserve contract if—

(1) during the year prior to expiration of the contract, the owner or operator—

(A)(i) enters into a contract under the environmental quality incentives program established under subpart A of part IV; and

(ii) begins the establishment of a practice under that contract; or

(B)(i) enters into a contract under the conservation stewardship program established under subpart B of part IV; and

(ii) begins the establishment of a practice under that contract; or

(2) during the 3 years prior to the expiration of the contract, the owner or operator begins the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(h) Land enrolled in agricultural conservation easement program

The Secretary may terminate or modify a contract entered into under this subpart if eligible land that is subject to such contract is transferred into the agricultural conservation easement program under subchapter VII.

(Pub. L. 99-198, title XII, §1235, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 249; amended Pub. L. 110-234, title II, §2111, May 22, 2008, 122 Stat. 1035; Pub. L. 110-246, §4(a), title II, §2111, June 18, 2008, 122 Stat. 1664, 1763; Pub. L. 113-79, title II, §2006, Feb. 7, 2014, 128 Stat. 719; Pub. L. 115-334, title II, §2208, Dec. 20, 2018, 132 Stat. 4549.)

REFERENCES IN TEXT

Section 2279(e) of title 7, referred to in subsec. (f)(1), was redesignated section 2279(a) of title 7 by Pub. L. 115-334, title XII, §12301(b)(3), Dec. 20, 2018, 132 Stat. 4951.

The Organic Foods Production Act of 1990, referred to in subsecs. (f)(1)(A)(ii) and (g)(2), is title XXI of Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3835, Pub. L. 99-198, title XII, §1235, Dec. 23, 1985, 99 Stat. 1513; Pub. L. 100-233, title VIII,

§801, Jan. 6, 1988, 101 Stat. 1710; Pub. L. 101-624, title XIV, §1447(a), Nov. 28, 1990, 104 Stat. 3605; Pub. L. 104-127, title III, §332(c), Apr. 4, 1996, 110 Stat. 994, related to contracts, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (f)(1). Pub. L. 115-334, §2208(a)(1)(A), substituted “contract holder” for “retired farmer or rancher” in introductory provisions.

Subsec. (f)(1)(A). Pub. L. 115-334, §2208(a)(1)(C), substituted “2 years” for “1 year” in introductory provisions.

Subsec. (f)(1)(A)(i). Pub. L. 115-334, §2208(a)(1)(B), substituted “contract holder” for “retired or retiring owner or operator”.

Subsec. (f)(1)(B). Pub. L. 115-334, §2208(a)(1)(B), (D), substituted “contract holder” for “retired or retiring owner or operator” and inserted “, including a lease with a term of less than 5 years and an option to purchase” after “lease with an option to purchase”.

Subsec. (f)(1)(E). Pub. L. 115-334, §2208(a)(1)(E), (G), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 115-334, §2208(a)(1)(B), substituted “contract holder” for “retired or retiring owner or operator” in two places.

Subsec. (f)(1)(F). Pub. L. 115-334, §2208(a)(1)(F), redesignated subpar. (E) as (F).

Subsec. (f)(2). Pub. L. 115-334, §2208(a)(2)(A), substituted “To the extent that the maximum number of acres permitted to be enrolled under the conservation reserve program has not been met, the Secretary” for “The Secretary” in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 115-334, §2208(a)(2)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “is eligible for enrollment under the continuous signup option pursuant to section 3834(d)(2)(A)(ii) of this title; and”.

Subsec. (g). Pub. L. 115-334, §2208(b), amended subsec. (g) generally. Prior to amendment, text read as follows: “The Secretary shall not consider an owner or operator to be in violation of a term or condition of the conservation reserve contract if—

“(1) during the year prior to expiration of the contract, the land is enrolled in the conservation stewardship program; and

“(2) the activity required under the conservation stewardship program pursuant to such enrollment is consistent with this subpart.”

2014—Subsec. (e)(1)(A). Pub. L. 113-79, §2006(a)(1), substituted “During fiscal year 2015, the Secretary” for “The Secretary” and struck out “before January 1, 1995,” after “under this subpart”.

Subsec. (e)(2)(C) to (J). Pub. L. 113-79, §2006(a)(2), added subpars. (C) to (J) and struck out former subpar. (C) which read as follows: “Other land of high environmental value (including wetland), as determined by the Secretary.”

Subsec. (e)(3). Pub. L. 113-79, §2006(a)(3), substituted “upon approval by the Secretary” for “60 days after the date on which the owner or operator submits the notice required under paragraph (1)(C)”.

Subsec. (f)(1). Pub. L. 113-79, §2006(b)(1)(A), substituted “Transition to covered farmer or rancher” for “Duties of the Secretary” in heading and, in introductory provisions, substituted “In the case of a contract modification approved in order to facilitate the transfer of land subject to a contract from a retired farmer or rancher to a beginning farmer or rancher, a veteran farmer or rancher (as defined in section 2279(e) of title 7), or a” for “In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or”.

Subsec. (f)(1)(A)(i). Pub. L. 113-79, §2006(b)(1)(B), inserted “, including preparing to plant an agricultural crop” after “improvements”.

Subsec. (f)(1)(D). Pub. L. 113-79, §2006(b)(1)(C), substituted “the covered farmer or rancher” for “the farmer or rancher”.

Subsec. (f)(1)(E). Pub. L. 113-79, §2006(b)(1)(D), substituted “section 1308” for “section 1308-1(b)(3)(B)”.

Subsec. (f)(2)(A). Pub. L. 113-79, §2006(b)(2), substituted “option pursuant to section 3834(d)(2)(A)(ii)” for “requirement of section 3831(h)(4)(B)”.

Subsecs. (g), (h). Pub. L. 113-79, §2006(c), added subsecs. (g) and (h).

2008—Subsec. (c)(1)(B)(iii), (iv). Pub. L. 110-246, §2111(a), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (f). Pub. L. 110-246, §2111(b), added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CONSERVATION RESERVE

Pub. L. 100-45, §10, May 27, 1987, 101 Stat. 323, provided that: “Section 1235(a) of the Food Security Act of 1985 [16 U.S.C. 3835(a)] should be reviewed by the Secretary of Agriculture to ensure that the provisions thereof relating to exceptions to the three-year ownership requirement with respect to eligibility for the conservation reserve are being implemented in a manner to encourage inclusion of producer-owned land in the conservation reserve. However, any such exception to the three-year requirement should be made only if the Secretary determines that the land involved (1) was not acquired for the purpose of placing the land in the conservation reserve or (2) otherwise meets the criteria for exceptions made under section 1235(a).”

§ 3835a. Repealed. Pub. L. 113-79, title II, § 2007, Feb. 7, 2014, 128 Stat. 720

Section, Pub. L. 99-198, title XII, §1235A, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 251, related to conversion of land subject to contract to other conserving uses.

Prior sections 3835a and 3836 were omitted in the general amendment of this subpart by Pub. L. 107-171.

Section 3835a, Pub. L. 99-198, title XII, §1235A, as added Pub. L. 101-624, title XIV, §1435, Nov. 28, 1990, 104 Stat. 3582; amended Pub. L. 102-324, §1(b), July 22, 1992, 106 Stat. 447, related to conversion of land subject to contract to other conserving uses.

Section 3836, Pub. L. 99-198, title XII, §1236, Dec. 23, 1985, 99 Stat. 1514; Pub. L. 101-624, title XIV, §§1436, 1447(a), Nov. 28, 1990, 104 Stat. 3583, 3605; Pub. L. 107-76, title VII, §759(b)(1), Nov. 28, 2001, 115 Stat. 741, related to cropland base and allotment history.

A prior section 3836a, Pub. L. 104-127, title III, §387, Apr. 4, 1996, 110 Stat. 1020, related to Wildlife Habitat Incentive Program, prior to repeal by Pub. L. 107-171, title II, §2502(b), May 13, 2002, 116 Stat. 267.

SUBPART C—WETLANDS RESERVE PROGRAM

§§ 3837 to 3837f. Repealed. Pub. L. 113-79, title II, § 2703(a), Feb. 7, 2014, 128 Stat. 767

Section 3837, Pub. L. 99-198, title XII, §1237, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3584; amended Pub. L. 102-237, title II, §204(6), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 103-66, title I, §1402(c), Aug. 10, 1993, 107 Stat. 333; Pub. L. 104-127, title III, §333(a)-(c), Apr. 4, 1996, 110 Stat. 995; Pub. L. 105-277, div. A, §101(a) [title VII, §752], Oct. 21, 1998, 112 Stat. 2681, 2681-32; Pub. L. 107-171, title II, §§2201, 2202, May 13, 2002, 116 Stat. 252; Pub. L. 110-234, title II, §§2201-2203(a), May 22, 2008, 122 Stat. 1036, 1037; Pub. L. 110-246, §4(a), title II, §§2201-2203(a), June 18, 2008, 122 Stat. 1664, 1764, 1765, related to establishment of wetlands reserve program by Secretary.

Section 3837a, Pub. L. 99-198, title XII, §1237A, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3585; amended Pub. L. 104-127, title III, §333(d),

Apr. 4, 1996, 110 Stat. 996; Pub. L. 107-171, title II, §2203, May 13, 2002, 116 Stat. 252; Pub. L. 110-234, title II, §§2204-2206, May 22, 2008, 122 Stat. 1038, 1039; Pub. L. 110-246, §4(a), title II, §§2204-2206, June 18, 2008, 122 Stat. 1664, 1766, 1767, related to easements and agreements.

Section 3837b, Pub. L. 99-198, title XII, §1237B, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3587, related to duties of owners.

Section 3837c, Pub. L. 99-198, title XII, §1237C, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3587; amended Pub. L. 104-127, title III, §333(e), Apr. 4, 1996, 110 Stat. 996; Pub. L. 110-234, title II, §2207, May 22, 2008, 122 Stat. 1039; Pub. L. 110-246, §4(a), title II, §2207, June 18, 2008, 122 Stat. 1664, 1767, related to duties of Secretary.

Section 3837d, Pub. L. 99-198, title XII, §1237D, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3588; amended Pub. L. 105-277, div. A, §101(a) [title VII, §751], Oct. 21, 1998, 112 Stat. 2681, 2681-32; Pub. L. 110-234, title II, §§2208, 2209, May 22, 2008, 122 Stat. 1040; Pub. L. 110-246, §4(a), title II, §§2208, 2209, June 18, 2008, 122 Stat. 1664, 1768, related to payments.

Section 3837e, Pub. L. 99-198, title XII, §1237E, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3589; amended Pub. L. 107-171, title II, §2204, May 13, 2002, 116 Stat. 253; Pub. L. 110-234, title II, §2203(b), May 22, 2008, 122 Stat. 1037; Pub. L. 110-246, §4(a), title II, §2203(b), June 18, 2008, 122 Stat. 1664, 1765, related to changes in ownership; agreement modification; termination.

Section 3837f, Pub. L. 99-198, title XII, §1237F, as added Pub. L. 101-624, title XIV, §1438, Nov. 28, 1990, 104 Stat. 3589; Pub. L. 110-234, title II, §2203(c), May 22, 2008, 122 Stat. 1037; Pub. L. 110-246, §4(a), title II, §2203(c), June 18, 2008, 122 Stat. 1664, 1765, related to administration and funding.

REPEAL; TRANSITIONAL PROVISIONS

Pub. L. 113-79, title II, §2703, Feb. 7, 2014, 128 Stat. 767, provided that:

“(a) REPEAL.—Except as provided in subsection (b), subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS, AGREEMENTS, AND EASEMENTS.—The amendment made by this section [repealing sections 3837 to 3837f of this title] shall not affect the validity or terms of any contract, agreement, or easement entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 [former] 16 U.S.C. 3837 et seq.) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], or any payments required to be made in connection with the contract, agreement, or easement.

“(2) FUNDING.—

“(A) USE OF PRIOR YEAR FUNDS.—Notwithstanding the repeal of subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 ([former] 16 U.S.C. 3837 et seq.), any funds made available from the Commodity Credit Corporation to carry out the wetlands reserve program under that subchapter for fiscal years 2009 through 2013 shall be made available to carry out contracts, agreements, or easements referred to in paragraph (1) that were entered into prior to the date of enactment of the Agricultural Act of 2014 (including the provision of technical assistance), provided that no such contract, agreement, or easement is modified so as to increase the amount of the payment received.

“(B) OTHER.—The Secretary [of Agriculture] may use funds made available to carry out the agricultural conservation easement program under subtitle H of title XII of the Food Security Act of 1985 [16 U.S.C. 3865 et seq.], as added by section 2301, to continue to carry out contracts, agreements, and easements referred to in paragraph (1) using the provisions of law and regulation applicable to such