

“(a) REPEAL.—Except as provided in subsection (b), section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa-9) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The amendment made by this section [repealing section 3839aa-9 of this title] shall not affect the validity or terms of any contract or agreement entered into by the Secretary of Agriculture under section 1240I of the Food Security Act of 1985 ([former] 16 U.S.C. 3839aa-9) 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.—

“(A) USE OF PRIOR YEAR FUNDS.—Notwithstanding the repeal of section 1240I of the Food Security Act of 1985 ([former] 16 U.S.C. 3839aa-9), any funds made available from the Commodity Credit Corporation to carry out the agricultural water enhancement program under that section for fiscal years 2009 through 2013 shall be made available to carry out contracts and agreements 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).

“(B) OTHER.—On exhaustion of funds made available under subparagraph (A), the Secretary [of Agriculture] may use funds made available to carry out the regional conservation partnership program under subtitle I of title XII of the Food Security Act of 1985 [16 U.S.C. 3871 et seq.], as added by section 2401, to continue to carry out contracts and agreements referred to in paragraph (1) using the provisions of law and regulation applicable to such contracts and agreements as in existence on the day before the date of enactment of the Agricultural Act of 2014.”

SUBPART B—CONSERVATION STEWARDSHIP PROGRAM

§ 3839aa-21. Definitions

In this subpart:

(1) Agricultural operation

The term “agricultural operation” means all eligible land, whether or not contiguous, that is—

- (A) under the effective control of a producer at the time the producer enters into a contract under the program; and
- (B) operated with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

(2) Conservation activities

(A) In general

The term “conservation activities” means conservation systems, practices, or management measures.

(B) Inclusions

The term “conservation activities” includes—

- (i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary;
- (ii) planning needed to address a priority resource concern;
- (iii) development of a comprehensive conservation plan, as defined in section 3839aa-24(e)(1) of this title;

- (iv) soil health planning, including planning to increase soil organic matter; and
- (v) activities that will assist a producer to adapt to, or mitigate against, increasing weather volatility.

(3) Conservation stewardship plan

The term “conservation stewardship plan” means a plan that—

- (A) identifies and inventories priority resource concerns;
- (B) establishes benchmark data and conservation objectives;
- (C) describes conservation activities to be implemented, managed, or improved; and
- (D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

(4) Eligible land

(A) In general

The term “eligible land” means—

- (i) private or tribal land on which agricultural commodities, livestock, or forest-related products are produced; and
- (ii) lands associated with the land described in clause (i) on which priority resource concerns could be addressed through a contract under the program.

(B) Inclusions

The term “eligible land” includes—

- (i) cropland;
- (ii) grassland;
- (iii) rangeland;
- (iv) pasture land;
- (v) nonindustrial private forest land; and
- (vi) other land in agricultural areas (including cropped woodland, marshes, and agricultural land used or capable of being used for the production of livestock), as determined by the Secretary.

(5) Priority resource concern

The term “priority resource concern” means a natural resource concern or problem, as determined by the Secretary, that—

- (A) is identified at the national, State, or local level as a priority for a particular area of a State;
- (B) represents a significant concern in a State or region; and
- (C) is likely to be addressed successfully through the implementation of conservation activities under this program.

(6) Program

The term “program” means the conservation stewardship program established by this subpart.

(7) Stewardship threshold

The term “stewardship threshold” means the level of management required, as determined by the Secretary, to conserve and improve the quality and condition of a natural resource through the use of—

- (A) quality criteria under a resource management system;
- (B) predictive analytics tools or models developed or approved by the Natural Resources Conservation Service;

(C) data from past and current enrollment in the program; and

(D) other methods that measure conservation and improvement in priority resource concerns, as determined by the Secretary.

(Pub. L. 99-198, title XII, §1240I, formerly §1238D, as added Pub. L. 110-234, title II, §2301(a)(2), May 22, 2008, 122 Stat. 1040, and Pub. L. 110-246, §4(a), title II, §2301(a)(2), June 18, 2008, 122 Stat. 1664, 1768; Pub. L. 113-79, title II, §2101(a), Feb. 7, 2014, 128 Stat. 721; renumbered §1240I and amended Pub. L. 115-334, title II, §§2301(b), 2308(a), Dec. 20, 2018, 132 Stat. 4551, 4564.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3838d of this title prior to renumbering by Pub. L. 115-334.

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.

AMENDMENTS

2018—Par. (2)(B)(iii)-(v). Pub. L. 115-334, §2308(a)(1), added cls. (iii) to (v).

Par. (7). Pub. L. 115-334, §2308(a)(2), substituted “resource through the use of—” and subpars. (A) to (D) for “resource.”

2014—Pub. L. 113-79 amended section generally. Prior to amendment, section defined terms for this subpart.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment of this subpart 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.

EFFECT ON EXISTING CONTRACTS BY PUB. L. 115-334

Pub. L. 115-334, title II, §2301(c)(3)-(5), Dec. 20, 2018, 132 Stat. 4552, 4553, provided that:

“(3) TRANSITIONAL PROVISIONS.—

“(A) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The cessation of effectiveness under paragraph (2) [enacting provisions set out as a note under former section 3838d of this title] shall not affect—

“(i) the validity or terms of any contract entered into by the Secretary [of Agriculture] under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838d et seq.) before the date of enactment of this Act [Dec. 20, 2018], or any payments, modifications, or technical assistance required to be made in connection with the contract; or

“(ii) subject to subparagraph (D), any agreement entered into by the Secretary under the regional conservation partnership program under subtitle I of title XII of the Food Security Act of 1985 (16 U.S.C. 3871 et seq.) on or before September 30, 2018, under which conservation stewardship program acres and associated funding have been allocated to the agreement for the purpose of entering into a contract under subchapter B of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838d et seq.) (as in effect on the day before the date of enactment of this Act).

“(B) EXTENSION PERMITTED.—Notwithstanding paragraph (2), the Secretary may extend for 1 year a contract described in subparagraph (A)(i) if that contract expires on or before December 31, 2019, under the terms and payment rate of the existing contract and in accordance with subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16

U.S.C. 3838d et seq.) (as in effect on the day before the date of enactment of this Act).

“(C) RENEWAL NOT PERMITTED.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), and subject to clause (ii), the Secretary may not renew a contract or agreement described in that subparagraph.

“(ii) EXCEPTION.—The Secretary may renew a contract described in subparagraph (A)(i)—

“(I) if that contract expires on or after December 31, 2019;

“(II) under the terms of the conservation stewardship program under subchapter B of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa-21 et seq.] (as added by subsections (a)(2) and (b)); and

“(III) subject to the limitation on funding for that subchapter under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841).

“(D) RCPP CONTRACTS.—

“(i) TREATMENT OF ACREAGE.—In the case of an agreement described in subparagraph (A)(ii), the Secretary may provide an amount of funding that is equivalent to the value of any acres covered by the agreement.

“(ii) FUNDS AND ACRES NOT OBLIGATED.—In the case of an agreement described in subparagraph (A)(ii) to which program acres and associated funding have been allocated but not yet obligated to enter into a contract under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838d et seq.) (as in effect on the day before the date of enactment of this Act)—

“(I) the Secretary shall modify the agreement to authorize the entrance into a contract under subchapter B of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa-21 et seq.] (as added by subsections (a)(2) and (b)); and

“(II) the funds associated with the conservation stewardship program acres allocated under that agreement, on modification under subclause (I), may be used to enter into conservation stewardship program contracts with producers under subchapter B of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa-21 et seq.] (as added by subsections (a)(2) and (b)).

“(4) CONTRACT ADMINISTRATION.—Subject to paragraphs (3)(C) and (3)(D)(ii)(II), the Secretary shall administer each contract and agreement described in clauses (i) and (ii) of paragraph (3)(A) until the expiration of the contract or agreement in accordance with the regulations to carry out the conservation stewardship program under subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838d et seq.) (as in effect on the day before the date of enactment of this Act) that are in effect on the day before that date of enactment.

“(5) FUNDING.—Notwithstanding paragraphs (1) and (2), any funds made available from the Commodity Credit Corporation under section 1241(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(4)) for fiscal years 2014 through 2018 shall be available to carry out—

“(A) any contract or agreement described in paragraph (3)(A)(i) for fiscal year 2019;

“(B) any contract or agreement described in paragraph (3)(A)(ii);

“(C) any contract extended under paragraph (3)(B); and

“(D) any contract or agreement under subchapter B of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa-21 et seq.] (as added by subsections (a)(2) and (b)).”

EFFECT ON EXISTING CONTRACTS BY PUB. L. 113-79

Pub. L. 113-79, title II, §2101(b), Feb. 7, 2014, 128 Stat. 728, provided that:

“(1) IN GENERAL.—The amendment made by this section [amending sections 3838d to 3838g 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 2 of subtitle D of title XII of the Food Security Act of 1985 (former] 16 U.S.C. 3838d 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.

“(2) CONSERVATION STEWARDSHIP PROGRAM.—Funds made available under section 1241(a)(4) of the Food Security Act of 1985 (16 U.S.C. 384(a)(4)) (as amended by section 2601(a) of this title) may be used to administer and make payments to program participants that enrolled into contracts during any of fiscal years 2009 through 2013.”

§ 3839aa–22. Conservation stewardship program

(a) Establishment and purpose

During each of fiscal years 2019 through 2031, the Secretary shall carry out a conservation stewardship program to encourage producers to address priority resource concerns and improve and conserve the quality and condition of natural resources in a comprehensive manner—

- (1) by undertaking additional conservation activities; and
- (2) by improving, maintaining, and managing existing conservation activities.

(b) Exclusions

(1) Land enrolled in other conservation programs

Subject to paragraph (2), the following land (even if covered by the definition of eligible land) is not eligible for enrollment in the program:

- (A) Land enrolled in the conservation reserve program, unless—
 - (i) the conservation reserve contract will expire at the end of the fiscal year in which the land is to be enrolled in the program; and
 - (ii) conservation reserve program payments for land enrolled in the program cease before the first program payment is made to the applicant under this subpart.
- (B) Land enrolled in a wetland reserve easement through the agricultural conservation easement program.

(2) Conversion to cropland

Eligible land used for crop production after December 20, 2018, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet such requirement because—

- (A) the land had previously been enrolled in the conservation reserve program;
- (B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or
- (C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

(Pub. L. 99–198, title XII, §1240J, formerly §1238E, as added Pub. L. 110–234, title II, §2301(a)(2), May 22, 2008, 122 Stat. 1041, and Pub. L. 110–246, §4(a), title II, §2301(a)(2), June 18, 2008, 122 Stat. 1664, 1769; amended Pub. L. 112–55, div. A, title VII, §716(b), Nov. 18, 2011, 125 Stat. 582; Pub. L. 113–79, title II, §2101(a), Feb. 7, 2014,

128 Stat. 722; renumbered §1240J and amended Pub. L. 115–334, title II, §§2301(b), (d)(1)(C), 2308(b), Dec. 20, 2018, 132 Stat. 4551, 4554, 4565; Pub. L. 117–169, title II, §21001(c)(3), Aug. 16, 2022, 136 Stat. 2017.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3838e of this title prior to renumbering by Pub. L. 115–334.

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.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–169 substituted “2031” for “2023” in introductory provisions.

2018—Subsec. (a). Pub. L. 115–334, §2308(b)(1), substituted “2019 through 2023” for “2014 through 2018” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 115–334, §2301(d)(1)(C), struck out subpar. (C) which read as follows: “Land enrolled in the conservation security program.”

Subsec. (b)(2). Pub. L. 115–334, §2308(b)(2), substituted “December 20, 2018” for “February 7, 2014”.

2014—Pub. L. 113–79 amended section generally. Prior to amendment, section related to conservation stewardship program.

2011—Subsec. (a). Pub. L. 112–55 substituted “2014” for “2012”.

§ 3839aa–23. Stewardship contracts

(a) Submission of contract offers

To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary a contract offer for the agricultural operation that—

- (1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, meets or exceeds the stewardship threshold for at least 2 priority resource concerns; and
- (2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 additional priority resource concern by the end of the stewardship contract by—

- (A) installing and adopting additional conservation activities; and
- (B) improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract offer is accepted by the Secretary.

(b) Evaluation of contract offers

(1) Ranking of applications

(A) In general

In evaluating contract offers submitted under subsection (a) and contract renewals under subsection (e), the Secretary shall rank applications based on—

- (i) the natural resource conservation and environmental benefits that result from the conservation treatment on all applicable priority resource concerns at the time of submission of the application;
- (ii) the degree to which the proposed conservation activities increase natural resource conservation and environmental benefits; and

(iii) other consistent criteria, as determined by the Secretary.

(B) Additional criterion

If 2 or more applications receive the same ranking under subparagraph (A), the Secretary shall rank those contracts based on the extent to which the actual and anticipated conservation benefits from each contract are provided at the lowest cost relative to other similarly beneficial contract offers.

(2) Prohibition

The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

(3) Additional criteria

The Secretary may develop and use such additional criteria that the Secretary determines are necessary to ensure that national, State, and local priority resource concerns are effectively addressed.

(c) Entering into contracts

After a determination that a producer is eligible for a contract or contract renewal under this section, and a determination that the contract or contract renewal offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract or contract renewal with the producer to enroll the eligible land to be covered by the contract or contract renewal.

(d) Contract provisions

(1) Term

A conservation stewardship contract shall be for a term of 5 years.

(2) Required provisions

The conservation stewardship contract of a producer shall—

(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 3839aa-24(c) of this title;

(B) require the producer—

(i) to implement a conservation stewardship plan that describes the program purposes to be achieved through 1 or more conservation activities;

(ii) to maintain and supply information as required by the Secretary to determine compliance with the conservation stewardship plan and any other requirements of the program; and

(iii) not to conduct any activities on the agricultural operation that would tend to defeat the purposes of the program;

(C) permit all economic uses of the eligible land that—

(i) maintain the agricultural nature of the land; and

(ii) are consistent with the conservation purposes of the conservation stewardship contract;

(D) include a provision to ensure that a producer shall not be considered in violation

of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary;

(E) include provisions requiring that upon the violation of a term or condition of the contract at any time the producer has control of the land—

(i) if the Secretary determines that the violation warrants termination of the contract—

(I) the producer shall forfeit all rights to receive payments under the contract; and

(II) the producer shall refund all or a portion of the payments received by the producer under the contract, including any interest on the payments, as determined by the Secretary; or

(ii) if the Secretary determines that the violation does not warrant termination of the contract, the producer shall refund or accept adjustments to the payments provided to the producer, as the Secretary determines to be appropriate;

(F) include provisions in accordance with paragraphs (3) and (4); and

(G) include any additional provisions the Secretary determines are necessary to carry out the program.

(3) Change of interest in land subject to a contract

(A) In general

At the time of application, a producer shall have control of the eligible land to be enrolled in the program. Except as provided in subparagraph (B), a change in the interest of a producer in eligible land covered by a contract under the program shall result in the termination of the contract with regard to that land.

(B) Transfer of duties and rights

Subparagraph (A) shall not apply if—

(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in eligible land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee for the portion of the land transferred;

(ii) the transferee meets the eligibility requirements of the program; and

(iii) the Secretary approves the transfer of all duties and rights under the contract.

(4) Modification and termination of contracts

(A) Voluntary modification or termination

The Secretary may modify or terminate a contract with a producer if—

(i) the producer agrees to the modification or termination; and

(ii) the Secretary determines that the modification or termination is in the public interest.

(B) Involuntary termination

The Secretary may terminate a contract if the Secretary determines that the producer violated the contract.

(5) Repayment

If a contract is terminated, the Secretary may, consistent with the purposes of the program—

- (A) allow the producer to retain payments already received under the contract; or
- (B) require repayment, in whole or in part, of payments received and assess liquidated damages.

(e) Contract renewal

The Secretary may provide the producer an opportunity to renew an existing contract in the first half of the fifth year of the contract period if the producer—

- (1) demonstrates compliance with the terms of the existing contract;
- (2) agrees to adopt and continue to integrate new or improved conservation activities across the entire agricultural operation, demonstrating continued improvement during the additional 5-year period, as determined by the Secretary; and
- (3) agrees, by the end of the contract period—
 - (A) to meet the stewardship threshold of at least 2 additional priority resource concerns on the agricultural operation; or
 - (B) to adopt or improve conservation activities, as determined by the Secretary, to achieve higher levels of performance with respect to not less than 2 existing priority resource concerns that are specified by the Secretary in the initial contract.

(Pub. L. 99-198, title XII, §1240K, formerly §1238F, as added Pub. L. 110-234, title II, §2301(a)(2), May 22, 2008, 122 Stat. 1042, and Pub. L. 110-246, §4(a), title II, §2301(a)(2), June 18, 2008, 122 Stat. 1664, 1770; Pub. L. 113-79, title II, §2101(a), Feb. 7, 2014, 128 Stat. 723; renumbered §1240K and amended Pub. L. 115-334, title II, §§2301(b), 2308(c), Dec. 20, 2018, 132 Stat. 4551, 4565.)

Editorial Notes**CODIFICATION**

Section was formerly classified to section 3838f of this title prior to renumbering by Pub. L. 115-334.

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.

AMENDMENTS

Subsec. (b)(1). Pub. L. 115-334, §2308(c)(1), added par. (1) and struck out former par. (1) which provided criteria for ranking of applications.

Subsec. (c). Pub. L. 115-334, §2308(c)(2), substituted “a contract or contract renewal under this section” for “the program under subsection (a)” and inserted “or contract renewal” after “determination that the contract”, after “conservation stewardship contract”, and after “covered by the contract”.

Subsec. (d)(2)(A). Pub. L. 115-334, §2308(c)(3), substituted “section 3839aa-24(c)” for “section 3838g(d)”.

Subsec. (e). Pub. L. 115-334, §2308(c)(4)(A), substituted “The Secretary may provide the producer an opportunity to renew an existing contract in the first half of

the fifth year of the contract period” for “At the end of the initial 5-year contract period, the Secretary may allow the producer to renew the contract for 1 additional 5-year period” in introductory provisions.

Subsec. (e)(1). Pub. L. 115-334, §2308(c)(4)(B), substituted “existing contract” for “initial contract”.

Subsec. (e)(2). Pub. L. 115-334, §2308(c)(4)(C), inserted “new or improved” before “conservation activities” and “demonstrating continued improvement during the additional 5-year period,” before “as determined by the Secretary”.

Subsec. (e)(3)(B). Pub. L. 115-334, §2308(c)(4)(D), substituted “to adopt or improve conservation activities, as determined by the Secretary, to achieve higher levels of performance with respect to not less than 2” for “to exceed the stewardship threshold of 2”.

2014—Pub. L. 113-79 amended section generally. Prior to amendment, section related to stewardship contracts.

§ 3839aa-24. Duties of the Secretary**(a) In general**

To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

- (1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, 1 of which shall occur in the first quarter of each fiscal year;
- (2) identify not less than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and
- (3) establish a science-based stewardship threshold for each priority resource concern identified under paragraph (2).

(b) Allocation to States

The Secretary shall allocate funding to States for enrollment, based—

- (1) primarily on each State’s proportion of eligible land to the total acreage of eligible land in all States; and
- (2) also on consideration of—
 - (A) the extent and magnitude of the conservation needs associated with agricultural production in each State;
 - (B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and
 - (C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

(c) Conservation stewardship payments**(1) Availability of payments**

The Secretary shall provide annual payments under the program to compensate the producer for—

- (A) installing and adopting additional conservation activities; and
- (B) improving, maintaining, and managing conservation activities in place at the agricultural operation of the producer at the time the contract offer is accepted by the Secretary.

(2) Payment amount

The amount of the annual payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

(B) Income forgone by the producer.

(C) Expected conservation benefits.

(D) The extent to which priority resource concerns will be addressed through the installation and adoption of conservation activities on the agricultural operation.

(E) The level of stewardship in place at the time of application and maintained over the term of the contract.

(F) The degree to which the conservation activities will be integrated across the entire agricultural operation for all applicable priority resource concerns over the term of the contract.

(G) Such other factors as are determined appropriate by the Secretary.

(3) Exclusions

A payment to a producer under this subsection shall not be provided for—

(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

(B) conservation activities for which there is no cost incurred or income forgone to the producer.

(4) Delivery of payments

In making payments under this subsection, the Secretary shall, to the extent practicable—

(A) prorate conservation performance over the term of the contract so as to accommodate, to the extent practicable, producers earning equal annual payments in each fiscal year; and

(B) make such payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

(5) Payment for cover crop activities

The amount of a payment under this subsection for cover crop activities shall be not less than 125 percent of the annual payment amount determined by the Secretary under paragraph (2).

(d) Supplemental payments for resource-conserving crop rotations and advanced grazing management

(1) Definitions

In this subsection:

(A) Advanced grazing management

The term “advanced grazing management” means the use of a combination of grazing practices (as determined by the Secretary), which may include management-intensive rotational grazing, that provide for—

(i) improved soil health and carbon sequestration;

(ii) drought resilience;

(iii) wildlife habitat;

(iv) wildfire mitigation;

(v) control of invasive plants; and

(vi) water quality improvement.

(B) Management-intensive rotational grazing

The term “management-intensive rotational grazing” means a strategic, adaptively managed multipasture grazing system in which animals are regularly and systematically moved to fresh pasture in a manner that—

(i) maximizes the quantity and quality of forage growth;

(ii) improves manure distribution and nutrient cycling;

(iii) increases carbon sequestration from greater forage harvest;

(iv) improves the quality and quantity of cover for wildlife;

(v) provides permanent cover to protect the soil from erosion; and

(vi) improves water quality.

(C) Resource-conserving crop rotation

The term “resource-conserving crop rotation” means a crop rotation that—

(i) includes at least 1 resource-conserving crop (as defined by the Secretary);

(ii) reduces erosion;

(iii) improves soil fertility and tilth;

(iv) interrupts pest cycles;

(v) builds soil organic matter; and

(vi) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

(2) Availability of payments

The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt or improve, manage, and maintain—

(A) resource-conserving crop rotations; or

(B) advanced grazing management.

(3) Eligibility

To be eligible to receive a payment described in paragraph (2), a producer shall agree to adopt or improve, manage, and maintain resource-conserving crop rotations or advanced grazing management for the term of the contract.

(4) Amount of payment

An additional payment provided under paragraph (2) shall be not less than 150 percent of the annual payment amount determined by the Secretary under subsection (c)(2).

(e) Payment for comprehensive conservation plan

(1) Definition of comprehensive conservation plan

In this subsection, the term “comprehensive conservation plan” means a conservation plan that meets or exceeds the stewardship threshold for each priority resource concern identified by the Secretary under subsection (a)(2).

(2) Payment for comprehensive conservation plan

The Secretary shall provide a 1-time payment to a producer that develops a comprehensive conservation plan.

(3) Amount of payment

The Secretary shall determine the amount of payment under paragraph (2) based on—

(A) the number of priority resource concerns addressed in the comprehensive conservation plan; and

(B) the number of types of land uses included in the comprehensive conservation plan.

(f) Payment limitations

A person or legal entity may not receive, directly or indirectly, payments under the program that, in the aggregate, exceed \$200,000 under all contracts entered into during fiscal years 2019 through 2023, excluding funding arrangements with Indian tribes, regardless of the number of contracts entered into under the program by the person or legal entity.

(g) Specialty crop and organic producers

The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

(h) Organic certification

(1) Coordination

The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) while participating in a contract under the program.

(2) Allocation

(A) In general

Using funds made available for the program for each of fiscal years 2019 through 2031, the Secretary shall allocate funding to States to support organic production and transition to organic production through paragraph (1).

(B) Determination

The Secretary shall determine the allocation to a State under subparagraph (A) based on—

(i) the number of certified and transitioning organic operations within the State; and

(ii) the number of acres of certified and transitioning organic production within the State.

(i) Regulations

The Secretary shall promulgate regulations that—

(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (f); and

(2) otherwise enable the Secretary to carry out the program.

(j) Streamlining and coordination

To the maximum extent feasible, the Secretary shall provide for streamlined and coordinated procedures for the program and the environmental quality incentives program under subpart A, including applications, contracting, conservation planning, conservation practices, and related administrative procedures.

(k) Soil health

To the maximum extent feasible, the Secretary shall manage the program to enhance soil health.

(I) Annual report

Each fiscal year, 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 a report describing the payment rates for conservation activities offered to producers under the program and an analysis of whether payment rates can be reduced for the most expensive conservation activities.

(Pub. L. 99-198, title XII, §1240L, formerly §1238G, as added Pub. L. 110-234, title II, §2301(a)(2), May 22, 2008, 122 Stat. 1045, and Pub. L. 110-246, §4(a), title II, §2301(a)(2), June 18, 2008, 122 Stat. 1664, 1773; Pub. L. 113-79, title II, §2101(a), Feb. 7, 2014, 128 Stat. 726; renumbered §1240L and amended Pub. L. 115-334, title II, §2301(b), 2308(d), Dec. 20, 2018, 132 Stat. 4551, 4566; Pub. L. 117-169, title II, §21001(c)(4), Aug. 16, 2022, 136 Stat. 2017.)

Editorial Notes

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (h)(1), 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

Section was formerly classified to section 3838g of this title prior to renumbering by Pub. L. 115-334.

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.

AMENDMENTS

2022—Subsec. (h)(2)(A). Pub. L. 117-169 substituted “2031” for “2023”.

2018—Subsec. (b). Pub. L. 115-334, §2308(d)(1), substituted “allocate funding” for “allocate acres” in introductory provisions.

Subsec. (c). Pub. L. 115-334, §2308(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “During the period beginning on February 7, 2014, and ending on September 30, 2022, the Secretary shall, to the maximum extent practicable—

“(1) enroll in the program an additional 10,000,000 acres for each fiscal year; and

“(2) manage the program to achieve a national average rate of \$18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.”

Subsec. (c)(5). Pub. L. 115-334, §2308(d)(4), added par. (5).

Subsec. (d). Pub. L. 115-334, §2308(d)(3), (5)(A), redesignated subsec. (e) as (d) and inserted “and advanced grazing management” after “crop rotations” in heading. Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 115-334, §2308(d)(5)(D), inserted par. designation, heading, and introductory provisions, added subpars. (A) and (B), designated existing provisions of par. (1) as subpar. (C), and, in subpar. (C), substituted “The term” for “In this subsection, the term”, redesignated former subpars. (A) to (D) and (E) of par. (1) as cls. (i) to (iv) and (vi), respectively, realigned margins, and added cl. (v).

Pub. L. 115-334, §2308(d)(5)(C), redesignated par. (4) as (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 115-334, §2308(d)(5)(C), (E), redesignated par. (1) as (2), substituted “agree to adopt or

improve, manage, and maintain—” for “agree to adopt or improve resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the eligible land of the producers.”, and added subpars. (A) and (B).

Pub. L. 115-334, § 2308(d)(5)(B), struck out par. (2). Text read as follows: “The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1) based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.”

Subsec. (d)(3). Pub. L. 115-334, § 2308(d)(5)(F), substituted “paragraph (2)” for “paragraph (1)” and “agree to adopt or improve, manage, and maintain resource-conserving crop rotations or advanced grazing management for the term of the contract” for “agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract”.

Subsec. (d)(4). Pub. L. 115-334, § 2308(d)(5)(G), added par. (4). Former par. (4) redesignated (1).

Subsec. (e). Pub. L. 115-334, § 2308(d)(6), added subsec. (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 115-334, § 2308(d)(7), substituted “2019 through 2023” for “2014 through 2018”.

Subsec. (h). Pub. L. 115-334, § 2308(d)(8), substituted “Organic certification” for “Coordination with organic certification” in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, and added par. (2).

Subsecs. (j) to (l). Pub. L. 115-334, § 2308(d)(9), added subsecs. (j) to (l).

2014—Pub. L. 113-79 amended section generally. Prior to amendment, section related to duties of the Secretary.

§ 3839aa-25. Grassland conservation initiative

(a) Definitions

In this section:

(1) Eligible land

Notwithstanding sections 3839aa-21(4) and 3839aa-22(b)(2) of this title, the term “eligible land” means cropland on a farm for which base acres have been maintained by the Secretary under section 9012(d)(3) of title 7.

(2) Initiative

The term “initiative” means the grassland conservation initiative established under subsection (b).

(b) Establishment and purpose

The Secretary shall establish within the program a grassland conservation initiative for the purpose of assisting producers in protecting grazing uses, conserving and improving soil, water, and wildlife resources, and achieving related conservation values by conserving eligible land through grassland conservation contracts under subsection (e).

(c) Election

Beginning in fiscal year 2019, the Secretary shall provide a 1-time election to enroll eligible land in the initiative under a contract described in subsection (e).

(d) Method of enrollment

The Secretary shall—

(1) notwithstanding subsection (b) of section 3839aa-23 of this title, determine under subsection (c) of that section that eligible land ranks sufficiently high under the evaluation criteria described in subsection (b) of that section; and

(2) enroll the eligible land in the initiative under a contract described in subsection (e).

(e) Grassland conservation contract

(1) In general

Notwithstanding section 3839aa-23(a)(1) of this title, to enroll eligible land in the initiative under a grassland conservation contract, a producer shall agree—

(A) to meet or exceed the stewardship threshold for not less than 1 priority resource concern by the date on which the contract expires; and

(B) to comply with the terms and conditions of the contract.

(2) Terms

A grassland conservation contract entered into under this section shall—

(A)(i) be for a single 5-year term; and

(ii) not be subject to renewal or reenrollment under section 3839aa-23(e) of this title; and

(B) be subject to section 3839aa-23(d) of this title.

(3) Early termination

The Secretary shall allow a producer that enters into a grassland conservation contract under this section—

(A) to terminate the contract at any time; and

(B) to retain payments already received under the contract.

(f) Grassland conservation plan

The grassland conservation plan developed for eligible land shall be limited to—

(1) eligible land; and

(2) resource concerns and activities relating to grassland.

(g) Payments

(1) In general

Beginning in fiscal year 2019, of the funds made available for this subpart under section 3841(a)(3)(B) of this title, and notwithstanding any payment under title I of the Agriculture Improvement Act of 2018, an amendment made by that title, or section 3839aa-24(c) of this title, the Secretary shall make annual grassland conservation contract payments to the producer of any eligible land that is the subject of a grassland conservation contract under this section.

(2) Payment noneligibility

A grassland conservation contract under this section shall not be—

(A) eligible for payments under section 3839aa-24(d) of this title; or

(B) subject to the payment limitations under this subpart.

(3) Limitation

The amount of an annual payment under this subsection shall be \$18 per acre, not to exceed the number of base acres on a farm.

(h) Considered planted

The Secretary shall consider land enrolled under a grassland conservation contract under this section during a crop year to be planted or

considered planted to a covered commodity (as defined in section 9011 of title 7) during that crop year.

(i) Other contracts

A producer with an agricultural operation that contains land eligible under this section and land eligible under section 3839aa-23 of this title—

(1) may enroll the land eligible under this section through a contract under this section or under section 3839aa-23 of this title; and

(2) shall not be prohibited from enrolling the land eligible under section 3839aa-23 of this title through a contract under section 3839aa-23 of this title.

(Pub. L. 99-198, title XII, §1240L-1, as added Pub. L. 115-334, title II, §2309, Dec. 20, 2018, 132 Stat. 4569.)

Editorial Notes

REFERENCES IN TEXT

The Agriculture Improvement Act of 2018, referred to in subsec. (g)(1), is Pub. L. 115-334, Dec. 20, 2018, 132 Stat. 4490. Title I of the Act enacted section 9071 of Title 7, Agriculture, amended sections 608c, 1308, 1308-3a, 1359bb, 1359ll, 4504, 4553, 7272, 7333, 8737, 8772, 9011 to 9017, 9031, 9032, 9034 to 9039, 9051 to 9060, 9081, 9091, 9092, and 9097 of Title 7, repealed section 9019 and former section 9071 of Title 7, and enacted provisions set out as notes under sections 608c, 1308, 1308-3a, 6932, 9051, 9052, and 9081 of Title 7 and section 6101 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 9001 of Title 7 and Tables.

PART V—OTHER CONSERVATION PROGRAMS

§ 3839bb. Conservation of private grazing land

(a) Purpose

It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(b) Definitions

In this section:

(1) Department

The term “Department” means the Department of Agriculture.

(2) Private grazing land

The term “private grazing land” means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(c) Private grazing land conservation assistance

(1) Assistance to grazing landowners and others

Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing land;

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises; and

(I) encouraging the use of sustainable grazing systems, such as year-round, rotational, or managed grazing.

(2) Program elements

(A) Funding

If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) Technical assistance and education

Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and edu-