

**(3) Agricultural land easements**

A farmer or rancher who owns eligible land subject to an agricultural land easement may enter into a contract under subpart B of part I of subchapter IV.

**(e) Compliance with certain requirements**

The Secretary may not provide assistance under this subchapter to an eligible entity or owner of eligible land unless the eligible entity or owner agrees, during the crop year for which the assistance is provided—

- (1) to comply with applicable conservation requirements under subchapter II; and
- (2) to comply with applicable wetland protection requirements under subchapter III.

(Pub. L. 99-198, title XII, §1265D, as added Pub. L. 113-79, title II, §2301(a), Feb. 7, 2014, 128 Stat. 742; amended Pub. L. 115-334, title II, §2605, Dec. 20, 2018, 132 Stat. 4591.)

**Editorial Notes**

## REFERENCES IN TEXT

The Agricultural Act of 2014, referred to in subsec. (d)(2), is Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 649. Subtitle H (§§2701-2713) of title II of the Act amended sections 3801, 3811, and 3842 of this title, repealed sections 3830, 3831a, 3837 to 3837f, 3838h to 3838j, 3838n to 3838q, 3839 to 3839d, 3839aa-9, 3839bb-1, 3839bb-3, and 3839bb-4 of this title, and enacted provisions set out as notes under sections 3801, 3831a, 3837, 3838h, 3838n, 3839aa-9, 3839bb-1, 3839bb-4, and 3843 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9001 of Title 7, Agriculture, and Tables.

## AMENDMENTS

2018—Subsec. (a)(4). Pub. L. 115-334, §2605(1), substituted “permitted” for “proposed”.

Subsec. (c). Pub. L. 115-334, §2605(2), added subsec. (c) and struck out former subsec. (c) which allowed the Secretary to subordinate, exchange, modify, or terminate interests in land subject to certain determination, consultation, and notice requirements.

Subsec. (d)(1). Pub. L. 115-334, §2605(3)(A), substituted “enrolled in an easement under section 3865c(b) of this title” for “transferred into the program”.

Subsec. (d)(3). Pub. L. 115-334, §2605(3)(B), added par. (3).

**SUBCHAPTER VIII—REGIONAL  
CONSERVATION PARTNERSHIP PROGRAM**

**§ 3871. Establishment and purposes****(a) Establishment**

The Secretary shall establish a regional conservation partnership program to implement eligible activities on eligible land through—

- (1) partnership agreements, including partnership agreements funded through alternative funding arrangements or grant agreements under section 3871c(d) of this title, with eligible partners; and
- (2) program contracts with producers.

**(b) Purposes**

The purposes of the program are as follows:

- (1) To carry out eligible activities to accomplish purposes and functions similar to those of the following programs, as in effect on the day before February 7, 2014:

(A) The agricultural water enhancement program established under section 3839aa-9<sup>1</sup> of this title.

(B) The Chesapeake Bay watershed program established under section 3839bb-4<sup>1</sup> of this title.

(C) The cooperative conservation partnership initiative established under section 3843<sup>1</sup> of this title.

(D) The Great Lakes basin program for soil erosion and sediment control established under section 3839bb-3<sup>1</sup> of this title.

(2) To further the conservation, protection, restoration, and sustainable use of soil, water (including sources of drinking water and groundwater), wildlife, agricultural land, and related natural resources on eligible land on a regional or watershed scale.

(3) To encourage eligible partners to cooperate with producers in—

(A) meeting or avoiding the need for national, State, and local natural resource regulatory requirements related to production on eligible land, including through alignment of partnership projects with other national, State, and local agencies and programs addressing similar natural resource or environmental concerns; and

(B) implementing projects that will result in the adoption, installation, and maintenance of eligible activities that affect multiple agricultural or nonindustrial private forest operations on a local, regional, State, or multistate basis.

(4) To encourage the flexible and streamlined delivery of conservation assistance to producers through partnership agreements.

(5) To engage producers and eligible partners in conservation projects to achieve greater conservation outcomes and benefits for producers than would otherwise be achieved.

(Pub. L. 99-198, title XII, §1271, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 744; amended Pub. L. 115-334, title II, §2701, Dec. 20, 2018, 132 Stat. 4592.)

**Editorial Notes**

## REFERENCES IN TEXT

Sections 3839aa-9, 3839bb-3, 3839bb-4, and 3843 of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 113-79, title II, §§2706(a), 2708, 2709(a), 2710(a), Feb. 7, 2014, 128 Stat. 768, 770.

## AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334, §2701(1)(A), inserted “, including partnership agreements funded through alternative funding arrangements or grant agreements under section 3871c(d) of this title,” after “partnership agreements”.

Subsec. (a)(2). Pub. L. 115-334, §2701(1)(B), substituted “program contracts with producers” for “contracts with producers”.

Subsec. (b)(1). Pub. L. 115-334, §2701(2)(A), substituted “To carry out eligible activities” for “To use covered programs” in introductory provisions.

Subsec. (b)(2). Pub. L. 115-334, §2701(2)(B), added par. (2) and struck out former par. (2) which read as follows: “To further the conservation, restoration, and sustainable use of soil, water, wildlife, and related natural re-

<sup>1</sup> See References in Text note below.

sources on eligible land on a regional or watershed scale.”

Subsec. (b)(3)(A). Pub. L. 115-334, §2701(2)(C)(i), inserted “, including through alignment of partnership projects with other national, State, and local agencies and programs addressing similar natural resource or environmental concerns” after “production on eligible land”.

Subsec. (b)(3)(B). Pub. L. 115-334, §2701(2)(C)(ii), substituted “adoption, installation, and maintenance” for “installation and maintenance”.

Subsec. (b)(4), (5). Pub. L. 115-334, §2701(2)(D), added pars. (4) and (5).

### § 3871a. Definitions

In this subchapter:

#### (1) Covered program

The term “covered program” means the following:

(A) The agricultural conservation easement program.

(B) The environmental quality incentives program.

(C) The conservation stewardship program, not including the grassland conservation initiative under section 3839aa-25 of this title.

(D) The healthy forests reserve program established under section 6571 of this title.

(E) The conservation reserve program established under subpart B of part I of subchapter IV.

(F) The programs established by the Secretary to carry out the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.), except for any program established by the Secretary to carry out section 14 (16 U.S.C. 1012) of that Act.

#### (2) Eligible activity

The term “eligible activity” means a practice, activity, agreement, easement, or related conservation measure that is available under the statutory authority for a covered program.

#### (3) Eligible land

The term “eligible land” means any agricultural or nonindustrial private forest land or associated land on which the Secretary determines an eligible activity would help achieve conservation benefits.

#### (4) Eligible partner

The term “eligible partner” means any of the following:

(A) An agricultural or silvicultural producer association or other group of producers.

(B) A State or unit of local government.

(C) An Indian tribe.

(D) A farmer cooperative.

(E) A water district, irrigation district, acequia, rural water district or association, or other organization with specific water delivery authority to producers on agricultural land.

(F) A municipal water or wastewater treatment entity.

(G) An institution of higher education.

(H) An organization or entity with an established history of working cooperatively with producers on agricultural land, as determined by the Secretary, to address—

(i) local conservation priorities related to agricultural production, wildlife habitat development, or nonindustrial private forest land management; or

(ii) critical watershed-scale soil erosion, water quality, sediment reduction, or other natural resource issues.

(I) An organization described in section 3865a(3)(B) of this title.

(J) A conservation district.

#### (5) Partnership agreement

The term “partnership agreement” means the programmatic agreement entered into between the Secretary and an eligible partner, subject to the terms and conditions under section 3871b of this title.

#### (6) Program

The term “program” means the regional conservation partnership program established by this subchapter.

#### (7) Program contract

##### (A) In general

The term “program contract” means the contract between the Secretary and a producer entered into under this subchapter.

##### (B) Exclusion

The term “program contract” does not include a contract under a covered program.

(Pub. L. 99-198, title XII, §1271A, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 745; amended Pub. L. 115-334, title II, §2702, Dec. 20, 2018, 132 Stat. 4593.)

### Editorial Notes

#### REFERENCES IN TEXT

The Watershed Protection and Flood Prevention Act, referred to in par. (1)(F), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, which is classified principally to chapter 18 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

#### AMENDMENTS

2018—Par. (1)(C). Pub. L. 115-334, §2702(1)(A), inserted “, not including the grassland conservation initiative under section 3839aa-25 of this title” before period at end.

Par. (1)(E), (F). Pub. L. 115-334, §2702(1)(B), added subpars. (E) and (F).

Pars. (2), (3). Pub. L. 115-334, §2702(2), added pars. (2) and (3) and struck out former pars. (2) and (3), which defined “eligible activity” as a conservation activity for specified purposes and types of projects and “eligible land” as specified types of land or associated lands on which agricultural commodities, livestock, or forest-related products are produced.

Par. (4)(E). Pub. L. 115-334, §2702(3)(A), inserted “acequia,” after “irrigation district.”

Par. (4)(I), (J). Pub. L. 115-334, §2702(3)(B), added subpars. (I) and (J).

Par. (5). Pub. L. 115-334, §2702(4), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “The term ‘partnership agreement’ means an agreement entered into under section 3871b of this title between the Secretary and an eligible partner.”

Par. (7). Pub. L. 115-334, §2702(5), added par. (7).

### § 3871b. Regional conservation partnerships

#### (a) Partnership agreements authorized

The Secretary may enter into a partnership agreement with an eligible partner to imple-

ment a project that will assist producers with installing and maintaining an eligible activity on eligible land.

**(b) Length**

**(1) In general**

A partnership agreement shall be—

- (A) for a period not to exceed 5 years; or
- (B) for a period that is longer than 5 years, if the longer period is necessary to meet the objectives of the program, as determined by the Secretary.

**(2) Renewal**

A partnership agreement may be renewed under subsection (e)(5) for a period not to exceed 5 years.

**(3) Extension**

A partnership agreement, or any renewal of a partnership agreement, may each be extended 1 time for a period not longer than 12 months, as determined by the Secretary.

**(c) Duties of partners**

**(1) In general**

Under a partnership agreement, the eligible partner shall—

(A) define the scope of a project, including—

- (i) 1 or more conservation benefits that the project shall achieve;
- (ii) the eligible activities on eligible land to be conducted under the project to achieve conservation benefits;
- (iii) the implementation timeline for carrying out the project, including any interim milestones;
- (iv) the local, State, multistate, or other geographic area covered; and
- (v) the planning, outreach, implementation, and assessment to be conducted;

(B) conduct outreach and education to producers for potential participation in the project;

(C) at the request of a producer, act on behalf of a producer participating in the project in applying for assistance under section 3871c of this title;

(D) leverage financial or technical assistance provided by the Secretary with additional contributions to help achieve the project objectives;

(E) conduct an assessment of—

- (i) the progress made by the project in achieving each conservation benefit defined in the partnership agreement, including in a quantified form to the extent practicable; and
- (ii) as appropriate, other outcomes of the project; and

(F) at the conclusion of the project, report to the Secretary on its results and funds leveraged.

**(2) Contribution**

**(A) In general**

An eligible partner shall provide a significant portion of the overall costs of the scope of the project that is the subject of the agreement entered into under subsection (a), as determined by the Secretary.

**(B) Form**

A contribution of an eligible partner under this paragraph may be in the form of—

- (i) direct funding;
- (ii) in-kind support; or
- (iii) a combination of direct funding and in-kind support.

**(C) Treatment**

Any amounts expended during the period beginning on the date on which the Secretary announces the approval of an application under subsection (e) and ending on the day before the effective date of the partnership agreement by an eligible partner for staff salaries or development of the partnership agreement may be considered to be a part of the contribution of the eligible partner under this paragraph.

**(d) Duties of Secretary**

The Secretary shall—

(1) establish a timeline for carrying out the duties of the Secretary under a partnership agreement, including—

- (A) entering into program contracts with producers;
- (B) providing financial assistance to producers; and

(C) in the case of a partnership agreement that is funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title, providing the payments to the eligible partner for carrying out eligible activities;

(2) identify in each State a program coordinator for the State, who shall be responsible for providing assistance to eligible partners under the program;

(3) establish guidance to assist eligible partners with carrying out the assessment required under subsection (c)(1)(E);

(4) provide to each eligible partner that has entered into a partnership agreement that is not funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title—

- (A) a semiannual report describing the status of each pending and obligated contract under the project of the eligible partner; and
- (B) an annual report describing how the Secretary used amounts reserved by the Secretary for that year for technical assistance under section 3871d(f)<sup>1</sup> of this title; and

(5) ensure that any eligible activity effectively achieves the conservation benefits identified in the partnership agreement under subsection (c)(1)(A)(i).

**(e) Applications**

**(1) Competitive process**

The Secretary shall conduct a simplified competitive process to select applications for partnership agreements and may assess and rank applications with similar conservation purposes as a group.

**(2) Criteria used**

In carrying out the process described in paragraph (1), the Secretary shall make public the criteria used in evaluating applications.

<sup>1</sup> So in original. Probably should be "section 3871d(e)".

**(3) Contents**

The Secretary shall develop a simplified application that includes a description of—

(A) the scope of the project, as described in subsection (c)(1)(A);

(B) the plan for monitoring, evaluating, and reporting on progress made toward achieving the project's objectives;

(C) the program resources requested for the project and estimated funding needed from the Secretary;

(D) each eligible partner collaborating to achieve project objectives, including their roles, responsibilities, capabilities, and contribution; and

(E) any other elements the Secretary considers necessary to adequately evaluate and competitively select applications for funding under the program.

**(4) Priority to certain applications**

The Secretary may give a higher priority to applications that—

(A) assist producers in meeting or avoiding the need for a natural resource regulatory requirement;

(B) have a high percentage of producers in the area to be covered by the agreement;

(C) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or national efforts;

(D) build new partnerships with local, State, and private entities to include a diversity of stakeholders in the project;

(E) deliver a high percentage of applied conservation—

(i) to achieve conservation benefits; or

(ii) in the case of a project in a critical conservation area under section 3871f of this title, to address the priority resource concern for that critical conservation area;

(F) implement the project consistent with existing watershed, habitat, or other area restoration plans;

(G) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

(H) meet other factors that are important for achieving the purposes of the program, as determined by the Secretary.

**(5) Renewals**

If the Secretary determines that a project that is the subject of a partnership agreement has met or exceeded the objectives of the project, the Secretary may renew the partnership agreement through an expedited non-competitive process if the 1 or more eligible partners that are parties to the partnership agreement request the renewal in order—

(A) to continue to implement the project under a renewal of the partnership agreement; or

(B) to expand the scope of the project under a renewal of the partnership agreement, as long as the expansion is within the objectives and purposes of the original partnership agreement.

**(f) Nonapplicability of adjusted gross income limitation**

The adjusted gross income limitation described in section 1308-3a(b)(1) of title 7 shall not apply to an eligible partner under the program.

(Pub. L. 99-198, title XII, §1271B, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 746; amended Pub. L. 115-334, title II, §2703, Dec. 20, 2018, 132 Stat. 4594.)

**Editorial Notes****AMENDMENTS**

2018—Subsec. (b). Pub. L. 115-334, §2703(1), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “A partnership agreement shall be for a period not to exceed 5 years, except that the Secretary may extend the agreement one time for up to 12 months when an extension is necessary to meet the objectives of the program.”

Subsec. (c)(1)(A). Pub. L. 115-334, §2703(2)(A)(i), added cls. (i) to (iii), redesignated former cls. (iii) and (iv) as (iv) and (v), respectively, and struck out former cls. (i) and (ii) which read as follows:

“(i) the eligible activities to be implemented;

“(ii) the potential agricultural or nonindustrial private forest land operations affected;”.

Subsec. (c)(1)(D). Pub. L. 115-334, §2703(2)(A)(ii), substituted “contributions” for “funds”.

Subsec. (c)(1)(E). Pub. L. 115-334, §2703(2)(A)(iii), substituted “of—” for “of the project's effects; and” and added cls. (i) and (ii).

Subsec. (c)(2). Pub. L. 115-334, §2703(2)(B), designated existing provisions as subpar. (A), inserted heading, and added subpars. (B) and (C).

Subsecs. (d), (e). Pub. L. 115-334, §2703(3), (4), added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e)(1). Pub. L. 115-334, §2703(5)(A), inserted “simplified” before “competitive process”.

Subsec. (e)(3). Pub. L. 115-334, §2703(5)(B)(i), substituted “Contents” for “Content” in heading and “The Secretary shall develop a simplified application that includes a description of—” for “An application to the Secretary shall include a description of—” in introductory provisions.

Subsec. (e)(3)(C). Pub. L. 115-334, §2703(5)(B)(ii), struck out “, including the covered programs to be used” after “resources requested for the project”.

Subsec. (e)(3)(D). Pub. L. 115-334, §2703(5)(B)(iii), struck out “financial” before “contribution”.

Subsec. (e)(4)(D) to (H). Pub. L. 115-334, §2703(5)(C), added subpars. (D) to (F), redesignated former subpars. (E) and (F) as (G) and (H), respectively, and struck out former subpar. (D) which read as follows: “deliver high percentages of applied conservation to address conservation priorities or regional, State, or national conservation initiatives;”.

Subsec. (e)(5). Pub. L. 115-334, §2703(5)(D), added par. (5).

Subsec. (f). Pub. L. 115-334, §2703(6), added subsec. (f).

**§ 3871c. Assistance to producers****(a) In general**

A producer may receive financial or technical assistance to conduct eligible activities on eligible land through a program contract entered into with the Secretary.

**(b) Program contracts****(1) In general**

The Secretary shall establish a program contract to be entered into with a producer to conduct eligible activities on eligible land, subject to such terms and conditions as the Secretary may establish.

**(2) Application bundles****(A) In general**

An eligible partner may submit to the Secretary, on behalf of producers, a bundle of applications for assistance under the program through program contracts to address a substantial portion of the conservation benefits to be achieved by the project, as defined in the partnership agreement.

**(B) Priority**

The Secretary may give priority to applications described in subparagraph (A).

**(c) Payments****(1) In general**

Subject to section 3871d of this title, the Secretary may make payments to a producer in an amount determined by the Secretary to be necessary to achieve the purposes of the program.

**(2) Payments to certain producers**

The Secretary may provide payments for a period of 5 years—

(A) to producers participating in a project that addresses water quantity concerns and in an amount sufficient to encourage conversion from irrigated to dryland farming; and

(B) to producers participating in a project that addresses water quality concerns and in an amount sufficient to encourage adoption of conservation practices and systems that improve nutrient management.

**(3) Waiver authority**

To assist in the implementation of the program, the Secretary may waive the applicability of the limitation in section 1308-3a(b)(2) of title 7 for producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

**(d) Funding through alternative funding arrangements or grant agreements****(1) In general**

A partnership agreement entered into with an eligible partner may be funded through an alternative funding arrangement or grant in accordance with this subsection.

**(2) Duties of the Secretary**

The Secretary shall—

(A) under a funding agreement under paragraph (1)—

(i) use funding made available to carry out this subchapter to provide funding directly to the eligible partner; and

(ii) provide technical and administrative assistance, as mutually agreed by the parties; and

(B) enter into not more than 15 alternative funding arrangements or grant agreements with 1 or more eligible partners each fiscal year.

**(3) Duties of eligible partners**

Under a funding agreement under paragraph (1), the eligible partner shall—

(A) carry out eligible activities on eligible land in agreement with producers to achieve conservation benefits on a regional or watershed scale, such as—

(i) infrastructure investments relating to agricultural or nonindustrial private forest production that would—

(I) benefit multiple producers; and

(II) address natural resource concerns such as drought, wildfire, or water quality impairment on the land covered by the project;

(ii) projects addressing natural resources concerns in coordination with producers, including the development and implementation of watershed, habitat, or other area restoration plans;

(iii) projects that use innovative approaches to leveraging the Federal investment in conservation with private financial mechanisms, in conjunction with agricultural production or forest resource management, such as—

(I) the provision of performance-based payments to producers; and

(II) support for an environmental market; or

(iv) other projects for which the Secretary determines that the goals and objectives of the program would be easier to achieve through the funding agreement under paragraph (1); and

(B) submit to the Secretary, in addition to any information that the Secretary requires to prepare the report under section 3871e(b) of this title, an annual report that describes the status of the project, including a description of—

(i) the use of the funds awarded under paragraph (1);

(ii) any subcontracts awarded;

(iii) the producers receiving funding through the funding agreement under paragraph (1);

(iv)(I) the progress made by the project in addressing each natural resource concern defined in the funding agreement under paragraph (1), including in a quantified form to the extent practicable; and

(II) as appropriate, other outcomes of the project; and

(v) any other reporting data the Secretary determines are necessary to ensure compliance with the program rules.

(Pub. L. 99-198, title XII, §1271C, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 747; amended Pub. L. 115-334, title II, §2704, Dec. 20, 2018, 132 Stat. 4596.)

**Editorial Notes**

## AMENDMENTS

2018—Subsecs. (a), (b). Pub. L. 115-334, §2704(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which authorized the Secretary to enter into contracts with producers to provide financial and technical assistance and set forth provisions relating to terms and conditions, respectively.

Subsec. (c)(1). Pub. L. 115-334, §2704(2)(A), substituted “Subject to section 3871d of this title, the Secretary may make payments to a producer” for “In accordance with statutory requirements of the covered programs involved, the Secretary may make payments to a producer”.

Subsec. (c)(3). Pub. L. 115-334, §2704(2)(B), struck out “participating” before “producers”.

Subsec. (d). Pub. L. 115-334, §2704(3), added subsec. (d).

## § 3871d. Funding

### (a) Availability of funds

The Secretary shall use \$300,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 2019 through 2031 to carry out the program.

### (b) Duration of availability

Funds made available under subsection (a) shall remain available until expended.

### (c) Allocation of funding

Of the funds made available for the program under subsection (a), the Secretary shall allocate—

(1) 50 percent of the funds to projects based on a State or multistate competitive process administered by the Secretary at the local level with the advice of the applicable State technical committees established under subchapter VI; and

(2) 50 percent of the funds to projects for critical conservation areas designated under section 3871f of this title.

### (d) Limitation on administrative expenses

#### (1) In general

Except as provided in paragraph (2), none of the funds made available for the program, including for a partnership agreement funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title, may be used to pay for the administrative expenses of eligible partners.

#### (2) Project development and outreach

Under a partnership agreement that is not funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title, the Secretary may advance reasonable amounts of funding for not longer than 90 days for technical assistance to eligible partners to conduct project development and outreach activities in a project area, including—

(A) providing outreach and education to producers for potential participation in the project;

(B) establishing baseline metrics to support the development of the assessment required under section 3871b(c)(1)(E) of this title; or

(C) providing technical assistance to producers.

### (e) Technical assistance

#### (1) In general

At the time of project selection, the Secretary shall identify and make publicly available the amount that the Secretary shall use to provide technical assistance under the terms of the partnership agreement.

#### (2) Limitation

The Secretary shall limit costs of the Secretary for technical assistance to costs specific and necessary to carry out the objectives of the program.

#### (3) Third-party providers

The Secretary shall develop and implement strategies to encourage third-party technical

service providers to provide technical assistance to eligible partners pursuant to a partnership agreement.

(Pub. L. 99-198, title XII, §1271D, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 749; amended Pub. L. 115-334, title II, §2705, Dec. 20, 2018, 132 Stat. 4598; Pub. L. 117-169, title II, §21001(c)(7), Aug. 16, 2022, 136 Stat. 2017.)

## Editorial Notes

### AMENDMENTS

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

2018—Subsec. (a). Pub. L. 115-334, §2705(1), substituted “\$300,000,000” for “\$100,000,000” and “2019 through 2023” for “2014 through 2018”.

Subsec. (c). Pub. L. 115-334, §2705(2)–(4)(A), redesignated subsec. (d) as (c), struck out “and acres” after “funds” and “and reserved for the program under subsection (c)” after “under subsection (a)” in introductory provisions, and struck out former subsec. (c) which related to reservation of additional funding and acres for each of fiscal years 2014 through 2018.

Subsec. (c)(1). Pub. L. 115-334, §2705(4)(B), substituted “50 percent of the funds to projects based on a State or multistate competitive process administered by the Secretary at the local level with the advice of the applicable State technical committees” for “25 percent of the funds and acres to projects based on a State competitive process administered by the State Conservationist, with the advice of the State technical committee” and inserted “and” at end.

Subsec. (c)(2), (3). Pub. L. 115-334, §2705(4)(C)–(E), redesignated par. (3) as (2), substituted “50 percent of the funds” for “35 percent of the funds and acres”, and struck out former par. (2) which read as follows: “40 percent of the funds and acres to projects based on a national competitive process to be established by the Secretary; and”.

Subsec. (d). Pub. L. 115-334, §2705(5), designated existing provisions as par. (1), inserted heading, substituted “Except as provided in paragraph (2), none of the funds made available for the program, including for a partnership agreement funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title,” for “None of the funds made available or reserved for the program”, and added par. (2).

Pub. L. 115-334, §2705(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 115-334, §2705(6), added subsec. (e). Former subsec. (e) redesignated (d).

## § 3871e. Administration

### (a) Disclosure

In addition to the criteria used in evaluating applications as described in section 3871b(e)(2) of this title, the Secretary shall make publicly available information on projects selected through the competitive process described in section 3871b(e)(1) of this title.

### (b) Reporting

Not later than December 31, 2019, and every two years thereafter, 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 on the status of projects funded under the program, including—

(1) a summary of—

(A) the progress made towards achieving the conservation benefits defined for the projects; and

(B) any other related outcomes of the projects;

(2) the number and types of eligible partners and producers participating in the partnership agreements selected;

(3) the number of producers receiving assistance;

(4) total funding committed to projects, including from Federal and non-Federal resources;

(5) a description of how the funds under section 3871c(d) of this title are being administered, including—

(A) any oversight mechanisms that the Secretary has implemented;

(B) the process through which the Secretary is resolving appeals by program participants; and

(C) the means by which the Secretary is tracking adherence to any applicable provisions for payment eligibility; and

(6) in the case of a project within a critical conservation area under section 3871f of this title, the status of each priority resource concern for each designated critical conservation area, including—

(A) the priority resource concerns for which each critical conservation area is designated;

(B) conservation goals and outcomes sufficient to demonstrate that progress is being made to address the priority resource concerns;

(C) the partnership agreements selected to address each conservation goal and outcome; and

(D) the extent to which each conservation goal and outcome is being addressed by the partnership agreements.

**(c) Compliance with certain requirements**

The Secretary may not provide assistance under the program to a producer unless the producer agrees, during the program year for which the assistance is provided—

(1) to comply with applicable conservation requirements under subchapter II; and

(2) to comply with applicable wetland protection requirements under subchapter III.

**(d) Historically underserved producers**

To the maximum extent practicable, in carrying out the program, the Secretary and eligible partners shall conduct outreach to beginning farmers and ranchers, veteran farmers and ranchers, socially disadvantaged farmers and ranchers, and limited resource farmers and ranchers to encourage participation by those producers in a project subject to a partnership agreement or funding agreement under 3871c(d)<sup>1</sup> of this title.

**(e) Regulations**

The Secretary shall issue regulations to carry out the program.

(Pub. L. 99-198, title XII, §1271E, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 749; amended Pub. L. 115-334, title II, §2706, Dec. 20, 2018, 132 Stat. 4599.)

**Editorial Notes**

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §2706(1), which directed amendment of subsec. (a) by substituting “3871b(e)” for “3871b(d)” wherever appearing, was executed by substituting “3871(e)(2)” for “3871b(d)(2)” and “3871(e)(1)” for “3871b(d)(1)”.

Subsec. (b). Pub. L. 115-334, §2706(2)(A), substituted “December 31, 2019” for “December 31, 2014” in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 115-334, §2706(2)(B), (C), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively. Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 115-334, §2706(2)(B), (D), redesignated par. (3) as (4) and struck out “and” at end. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 115-334, §2706(2)(B), (E), redesignated par. (4) as (5) and substituted “3871c(d)” for “3871c(b)(2)” in introductory provisions and “; and” for period at end.

Subsec. (b)(6). Pub. L. 115-334, §2706(2)(F), added par. (6).

Subsecs. (c) to (e). Pub. L. 115-334, §2706(3), added subsecs. (c) to (e).

**§ 3871f. Critical conservation areas**

**(a) Definitions**

In this section:

**(1) Critical conservation area**

The term “critical conservation area” means a geographical area that contains a critical conservation condition that can be addressed through the program.

**(2) Priority resource concern**

The term “priority resource concern” means a natural resource concern located in a critical conservation area that can be addressed through—

(A) water quality improvement, including through reducing erosion, promoting sediment control, and addressing nutrient management activities affecting large bodies of water of regional, national, or international significance;

(B) water quantity improvement, including improvement relating to—

(i) drought;

(ii) groundwater, surface water, aquifer, or other water sources; or

(iii) water retention and flood prevention;

(C) wildlife habitat restoration to address species of concern at a Federal, State, or local level; and

(D) other natural resource improvements, as determined by the Secretary, within the critical conservation area.

**(b) Applications**

In administering funds under section 3871d(d)(2) of this title, the Secretary shall select applications for partnership agreements and program contracts within critical conservation areas designated under this section that address 1 or more priority resource concerns for which the critical conservation area is designated.

**(c) Critical conservation area designations**

**(1) In general**

The Secretary shall identify 1 or more priority resource concerns that apply to each

<sup>1</sup> So in original. Probably should be preceded by “section”.

critical conservation area designated under this section after February 7, 2014, including the conservation goals and outcomes sufficient to demonstrate that progress is being made to address the priority resource concern.

**(2) Priority**

In designating critical conservation areas under this section, the Secretary shall give priority to geographical areas based on the degree to which the geographical area—

(A) includes multiple States with significant agricultural production;

(B) is covered by an existing regional, State, binational, or multistate agreement or plan that has established objectives, goals, and work plans and is adopted by a Federal, State, or regional authority;

(C) contains 1 or more priority resource concerns; or

(D) contains producers that need assistance in meeting or avoiding the need for a natural resource regulatory requirement that could have a negative impact on the economic scope of the agricultural operations within the area.

**(3) Review and withdrawal**

The Secretary may—

(A) review designations of critical conservation areas under this section not more frequently than once every 5 years; and

(B) withdraw designation of a critical conservation area only if the Secretary determines that the area is no longer a critical conservation area.

**(4) Limitation**

The Secretary may not designate more than 8 geographical areas as critical conservation areas under this section.

**(d) Outreach to eligible partners and producers**

The Secretary shall provide outreach and education to eligible partners and producers in critical conservation areas designated under this section to encourage the development of projects to address each priority resource concern identified by the Secretary for that critical conservation area.

**(e) Administration**

**(1) In general**

Except as provided in paragraph (2), the Secretary shall administer any partnership agreement or program contract under this section in a manner that is consistent with the terms of the program.

**(2) Relationship to existing activity**

The Secretary shall, to the maximum extent practicable, ensure that eligible activities carried out in critical conservation areas designated under this section complement and are consistent with other Federal and State programs and water quality and quantity strategies.

(Pub. L. 99-198, title XII, §1271F, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 750; amended Pub. L. 115-334, title II, §2707, Dec. 20, 2018, 132 Stat. 4600.)

**Editorial Notes**

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §2707(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 115-334, §2707(1), (3), redesignated subsec. (a) as (b), in heading, substituted “Applications” for “In general”, and, in text, substituted “3871d(d)(2)” for “3871d(d)(3)” and “program contracts” for “producer contracts” and inserted “that address 1 or more priority resource concerns for which the critical conservation area is designated” before period at end. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 115-334, §2707(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (e).

Subsec. (c)(1). Pub. L. 115-334, §2707(4)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (c)(2). Pub. L. 115-334, §2707(4)(A), (C), redesignated par. (1) as (2), added subpar. (C), redesignated subpar. (E) as (D), and struck out former subpars. (C) and (D) which read as follows:

“(C) would benefit from water quality improvement, including through reducing erosion, promoting sediment control, and addressing nutrient management activities affecting large bodies of water of regional, national, or international significance;

“(D) would benefit from water quantity improvement, including improvement relating to—

“(i) groundwater, surface water, aquifer, or other water sources; or

“(ii) a need to promote water retention and flood prevention; or”.

Subsec. (c)(3). Pub. L. 115-334, §2707(4)(D), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “Critical conservation area designations under this section shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw designation from an area if the Secretary finds the area no longer meets the conditions described in paragraph (1).”

Pub. L. 115-334, §2707(4)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 115-334, §2707(4)(A), redesignated par. (3) as (4).

Subsec. (d). Pub. L. 115-334, §2707(5), added subsec. (d).

Subsec. (e). Pub. L. 115-334, §2707(1), redesignated subsec. (c) as (e).

Subsec. (e)(1). Pub. L. 115-334, §2707(6)(A), substituted “program contract” for “producer contract”.

Subsec. (e)(3). Pub. L. 115-334, §2707(6)(B), struck out par. (3). Text read as follows: “For a critical conservation area described in subsection (b)(1)(D), the Secretary may use authorities under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.), other than section 14 of such Act (16 U.S.C. 1012), to carry out projects for the purposes of this section.”

**CHAPTER 59—WETLANDS RESOURCES**

SUBCHAPTER I—GENERAL PROVISIONS

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- 3902. Definitions.

SUBCHAPTER II—REVENUES FOR REFUGE OPERATIONS AND THE MIGRATORY BIRD CONSERVATION FUND

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- 3921. National wetlands priority conservation plan.
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- 3931. National wetlands inventory project.
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