

(5) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

(Pub. L. 99-198, title XII, § 1240, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 253; amended Pub. L. 110-234, title II, § 2501(a), May 22, 2008, 122 Stat. 1057; Pub. L. 110-246, § 4(a), title II, § 2501(a), June 18, 2008, 122 Stat. 1664, 1785.)

#### 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 L. 110-234 were repealed by section 4(a) of Pub.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 3839aa, Pub. L. 99-198, title XII, § 1240, as added Pub. L. 104-127, title III, § 334, Apr. 4, 1996, 110 Stat. 996, related to purposes, prior to the general amendment of this part by Pub. L. 107-171.

#### AMENDMENTS

2008—Pub. L. 110-246, § 2501(a)(1), inserted “, forest management,” after “agricultural production” in introductory provisions.

Pars. (3), (4). Pub. L. 110-246, § 2501(a)(2), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

“(3) providing flexible assistance to producers to install and maintain conservation practices that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

“(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land; and”.

#### 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.

### § 3839aa-1. Definitions

In this part:

#### (1) Eligible land

##### (A) In general

The term “eligible land” means land on which agricultural commodities, livestock, or forest-related products are produced.

##### (B) Inclusions

The term “eligible land” includes the following:

- (i) Cropland.
- (ii) Grassland.
- (iii) Rangeland.
- (iv) Pasture land.
- (v) Nonindustrial private forest land.
- (vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

#### (2) National organic program

The term “national organic program” means the national organic program established

under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.).

#### (3) Organic system plan

The term “organic system plan” means an organic plan approved under the national organic program.

#### (4) Payment

The term “payment” means financial assistance provided to a producer for performing practices under this part, including compensation for—

- (A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and
- (B) income forgone by the producer.

#### (5) Practice

The term “practice” means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this part, as determined by the Secretary, including—

- (A) improvements to eligible land of the producer, including—
  - (i) structural practices;
  - (ii) land management practices;
  - (iii) vegetative practices;
  - (iv) forest management; and
  - (v) other practices that the Secretary determines would further the purposes of the program; and
- (B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—
  - (i) comprehensive nutrient management planning; and
  - (ii) other plans that the Secretary determines would further the purposes of the program under this part.

(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

- (i) comprehensive nutrient management planning; and
- (ii) other plans that the Secretary determines would further the purposes of the program under this part.

#### (6) Program

The term “program” means the environmental quality incentives program established by this part.

(Pub. L. 99-198, title XII, § 1240A, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 253; amended Pub. L. 110-234, title II, § 2502, May 22, 2008, 122 Stat. 1058; Pub. L. 110-246, § 4(a), title II, § 2502, June 18, 2008, 122 Stat. 1664, 1786.)

#### REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in par. (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 3839aa-1, Pub. L. 99-198, title XII, § 1240A, as added Pub. L. 104-127, title III, § 334, Apr. 4, 1996, 110 Stat. 997, related to definitions of terms, prior to the general amendment of this part by Pub. L. 107-171.

## AMENDMENTS

2008—Pub. L. 110-246, §2502, amended section generally. Prior to amendment, section defined “beginning farmer or rancher”, “eligible land”, “land management practice”, “livestock”, “practice”, and “structural practice”.

## 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.

**§ 3839aa-2. Establishment and administration****(a) Establishment**

During each of the 2002 through 2014 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

**(b) Practices and term****(1) Practices**

A contract under the program may apply to the performance of one or more practices.

**(2) Term**

A contract under the program shall have a term that—

(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

(B) not to exceed 10 years.

**(c) Bidding down**

If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

**(d) Payments****(1) Availability of payments**

Payments are provided to a producer to implement one or more practices under the program.

**(2) Limitation on payment amounts**

A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

(B) 100 percent of income foregone by the producer; or

(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

**(3) Special rule involving payments for foregone income**

In determining the amount and rate of payments under paragraph (2)(B), the Secretary

may accord great significance to a practice that, as determined by the Secretary, promotes—

(A) residue management;

(B) nutrient management;

(C) air quality management;

(D) invasive species management;

(E) pollinator habitat;

(F) animal carcass management technology; or

(G) pest management.

**(4) Increased payments for certain producers****(A) In general**

Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

(ii) to not less than 25 percent above the otherwise applicable rate.

**(B) Advance payments**

Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

**(5) Financial assistance from other sources**

Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

**(6) Other payments**

A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subchapter.

**(e) Modification or termination of contracts****(1) Voluntary modification or termination**

The Secretary may modify or terminate a contract entered into with a producer under the program if—

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

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

**(2) Involuntary termination**

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

**(f) Allocation of funding**

For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.