

(2) raise the limitation to not more than \$450,000 during any six-year period.

(Pub. L. 99-198, title XII, §1240G, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 108-447, div. A, title VII, §794(b), Dec. 8, 2004, 118 Stat. 2852; Pub. L. 109-171, title I, §1203(b), Feb. 8, 2006, 120 Stat. 6; Pub. L. 110-234, title II, §2508, May 22, 2008, 122 Stat. 1063; Pub. L. 110-246, §4(a), title II, §2508, June 18, 2008, 122 Stat. 1664, 1791.)

REFERENCES IN TEXT

Section 3839aa-2 of this title, referred to in subsec. (a), was amended generally by Pub. L. 110-246, title II, §2503, June 18, 2008, 122 Stat. 1787, and, as so amended, provisions relating to funding arrangements with federally recognized Native American Tribes or Alaska Native Corporations, which formerly appeared in subsec. (h), are contained in subsec. (g).

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 L. 110-234 were repealed by section 4(a) of Pub.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-7, Pub. L. 99-198, title XII, §1240G, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 1001, related to limitation on payments, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2008—Pub. L. 110-246, §2508, designated existing provisions as subsec. (a), inserted heading, substituted “Subject to subsection (b), a person or legal entity” for “An individual or entity” and “\$300,000” for “\$450,000”, substituted “the person” for “the individual” in two places, and added subsec. (b).

2006—Pub. L. 109-171 substituted “any six-year period” for “the period of fiscal years 2002 through 2007”.

2004—Pub. L. 108-447 inserted “(excluding funding arrangements with federally recognized Native American Indian Tribes or Alaska Native Corporations under section 3839aa-2(h) of this title)” after “2007,”.

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-8. Conservation innovation grants and payments

(a) Competitive grants for innovative conservation approaches

(1) Grants

Out of the funds made available to carry out this part, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

(2) Use

The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

(A) involve producers who are eligible for payments or technical assistance under the program;

(B) leverage Federal funds made available to carry out the program under this part with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

(b) Air quality concerns from agricultural operations

(1) Implementation assistance

The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

(2) Funding

Of the funds made available to carry out this part, the Secretary shall carry out this subsection using \$37,500,000 for each of fiscal years 2009 through 2012.

(Pub. L. 99-198, title XII, §1240H, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110-234, title II, §2509, May 22, 2008, 122 Stat. 1064; Pub. L. 110-246, §4(a), title II, §2509, June 18, 2008, 122 Stat. 1664, 1792.)

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-8, Pub. L. 99-198, title XII, §1240H, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 1002, related to temporary administration of environmental quality incentives program, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2008—Pub. L. 110-246, §2509, amended section generally. Prior to amendment, section related to conservation innovation grants.

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-9. Agricultural water enhancement program

(a) Definitions

In this section:

(1) Agricultural water enhancement activity

The term “agricultural water enhancement activity” includes the following activities carried out with respect to agricultural land:

(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

(C) Water quality or quantity restoration or enhancement projects.

(D) Irrigation system improvement and irrigation efficiency enhancement.

(E) Activities designed to mitigate the effects of drought.

(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

(2) Partner

The term “partner” means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

(A) an agricultural or silvicultural producer association or other group of such producers;

(B) a State or unit of local government; or

(C) a federally recognized Indian tribe.

(3) Partnership agreement

The term “partnership agreement” means an agreement between the Secretary and a partner.

(4) Program

The term “program” means the agricultural water enhancement program established under subsection (b).

(b) Establishment of program

Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

(c) Partnership agreements**(1) Agreements authorized**

The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

(2) Applications

An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

(A) A description of the geographical area to be covered by the partnership agreement.

(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

(E) A description of the program resources, including payments the Secretary is requested to make.

(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

(3) Duties of partners

A partner under a partnership agreement shall—

(A) identify producers participating in the project and act on their behalf in applying for the program;

(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

(C) conduct monitoring and evaluation of project effects; and

(D) at the conclusion of the project, report to the Secretary on project results.

(d) Agricultural water enhancement activities by producers

The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

(e) Agricultural water enhancement activities by partners**(1) Competitive process**

The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

(2) Authority to give priority to certain proposals

The Secretary may give a higher priority to proposals from partners that—

(A) include high percentages of agricultural land and producers in a region or other appropriate area;

(B) result in high levels of applied agricultural water quality and water conservation activities;

(C) significantly enhance agricultural activity;

(D) allow for monitoring and evaluation; and

(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer’s operation.

(3) Priority to proposals from States with water quantity concerns

The Secretary shall give a higher priority to proposals from partners that—

(A) include the conversion of agricultural land from irrigated farming to dryland farming;

(B) leverage Federal funds provided under the program with funds provided by partners; and

(C) assist producers in States with water quantity concerns, as determined by the Secretary.

(4) Administration

In carrying out this subsection, the Secretary shall—

(A) accept qualified applications—

(i) directly from partners applying on behalf of producers; or

(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

(f) Areas experiencing exceptional drought

Notwithstanding the purposes described in section 3839aa of this title, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

(g) Waiver authority

To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1308-3a(b)(2)(B) of title 7 for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

(h) Payments under program

(1) In general

The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary¹ to be necessary to achieve the purposes of the program described in subsection (b).

(2) Payments to producers in States with water quantity concerns

The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

(i) Consistency with State law

Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

¹ So in original. Probably should be “Secretary”.

(j) Funding

(1) Availability of funds

In addition to funds made available to carry out this part under section 3841(a) of this title, the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

(A) \$73,000,000 for each of fiscal years 2009 and 2010;

(B) \$74,000,000 for fiscal year 2011; and

(C) \$60,000,000 for fiscal year 2012 and each fiscal year thereafter.

(2) Limitation on administrative expenses

None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.

(Pub. L. 99-198, title XII, § 1240I, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110-234, title II, § 2510, May 22, 2008, 122 Stat. 1064; Pub. L. 110-246, § 4(a), title II, § 2510, June 18, 2008, 122 Stat. 1664, 1792.)

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.

AMENDMENTS

2008—Pub. L. 110-246, § 2510, amended section generally. Prior to amendment, section related to ground and surface water conservation.

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.

TRANSITION PROVISIONS

Pub. L. 110-234, title II, § 2903(b), May 22, 2008, 122 Stat. 1091, and Pub. L. 110-246, § 4(a), title II, § 2903(b), June 18, 2008, 122 Stat. 1664, 1819, provided that: “During the period beginning on the date of the enactment of this Act [June 18, 2008] and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa-9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.”

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

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 con-