

date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(38) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of Title 7, Agriculture.

### § 3862. Responsibilities

#### (a) In general

Each State technical committee established under section 3861 of this title shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this chapter.

#### (b) Public notice and attendance

Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this chapter.

#### (c) Role

##### (1) In general

The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this chapter.

##### (2) Advisory role in establishing program priorities and criteria

Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this chapter, including the review of whether local working groups are addressing those priorities.

#### (d) FACA requirements

##### (1) Exemption

Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

##### (2) Local working groups

For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subchapter shall be considered to be a subcommittee of the applicable State technical committee.

(Pub. L. 99-198, title XII, § 1262, as added Pub. L. 101-624, title XIV, § 1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 103-354, title II, § 246(f)(3), Oct. 13, 1994, 108 Stat. 3225; Pub. L. 104-127, title III, § 342(b), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110-234, title II, § 2711, May 22, 2008, 122 Stat. 1084; Pub. L. 110-246, § 4(a), title II, § 2711, June 18, 2008, 122 Stat. 1664, 1812.)

#### REFERENCES IN TEXT

This chapter, referred to in subsections. (a) to (c), was in the original “this title”, meaning title XII of Pub. L. 99-198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The Federal Advisory Committee Act, referred to in subsection. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770,

which is set out in the Appendix to Title 5, Government Organization and Employees.

#### 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, § 2711, which directed the general amendment of section 1262 of the “Farm Security Act of 1985”, was executed by making the amendment to this section, which is section 1262 of the Food Security Act of 1985, to reflect the probable intent of Congress. Prior to amendment, section consisted of subsections. (a) to (d) which related to general responsibilities of committees established under section 3861 of this title, wetland and wildlife habitat protection guidelines, provision of assistance and recommendations with respect to enumerated technical aspects, authority of committees, and FACA requirements.

1996—Subsec. (a). Pub. L. 104-127, § 342(b)(1), inserted at end “Each State technical committee shall provide public notice of, and permit public attendance at meetings considering, issues of concern related to carrying out this chapter.”

Subsec. (b)(1). Pub. L. 104-127, § 342(b)(2), inserted at end “Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.”

Subsec. (c)(7) to (9). Pub. L. 104-127, § 342(b)(3), struck out “and” at end of par. (7), added par. (8), and redesignated former par. (8) as (9).

1994—Subsec. (e). Pub. L. 103-354 added subsec. (e).

#### 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.

#### PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES

Pub. L. 104-127, title III, § 343, Apr. 4, 1996, 110 Stat. 1009, provided that: “After the date of enactment of this Act [Apr. 4, 1996], the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq. [3811 et seq., 3821 et seq.]).”

#### SUBCHAPTER VII—AGRICULTURAL CONSERVATION EASEMENT PROGRAM

### § 3865. Establishment and purposes

#### (a) Establishment

The Secretary shall establish an agricultural conservation easement program for the conservation of eligible land and natural resources through easements or other interests in land.

#### (b) Purposes

The purposes of the program are to—

(1) combine the purposes and coordinate the functions of the wetlands reserve program established under section 3837<sup>1</sup> of this title, the grassland reserve program established under

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

section 3838n<sup>1</sup> of this title, and the farmland protection program established under section 3838i<sup>1</sup> of this title, as such sections were in effect on the day before February 7, 2014;

(2) restore, protect, and enhance wetlands on eligible land;

(3) protect the agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land; and

(4) protect grazing uses and related conservation values by restoring and conserving eligible land.

(Pub. L. 99-198, title XII, §1265, as added Pub. L. 113-79, title II, §2301(a), Feb. 7, 2014, 128 Stat. 731.)

#### REFERENCES IN TEXT

Sections 3837, 3838n, and 3838i of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 113-79, title II, §§2703(a), 2704(a), 2705(a), Feb. 7, 2014, 128 Stat. 767, 768.

#### § 3865a. Definitions

In this subchapter:

##### (1) Agricultural land easement

The term “agricultural land easement” means an easement or other interest in eligible land that—

(A) is conveyed for the purpose of protecting natural resources and the agricultural nature of the land; and

(B) permits the landowner the right to continue agricultural production and related uses subject to an agricultural land easement plan, as approved by the Secretary.

##### (2) Eligible entity

The term “eligible entity” means—

(A) an agency of State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

(B) an organization that is—

(i) organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of title 26;

(ii) an organization described in section 501(c)(3) of title 26 that is exempt from taxation under section 501(a) of title 26; or

(iii) described in—

(I) paragraph (1) or (2) of section 509(a) of title 26; or

(II) section 509(a)(3) of title 26 and is controlled by an organization described in section 509(a)(2) of title 26.

##### (3) Eligible land

The term “eligible land” means private or tribal land that is—

(A) in the case of an agricultural land easement, agricultural land, including land on a farm or ranch—

(i) that is subject to a pending offer for purchase of an agricultural land easement from an eligible entity;

(ii)(I) that has prime, unique, or other productive soil;

(II) that contains historical or archaeological resources;

(III) the enrollment of which would protect grazing uses and related conservation values by restoring and conserving land; or

(IV) the protection of which will further a State or local policy consistent with the purposes of the program; and

(iii) that is—

(I) cropland;

(II) rangeland;

(III) grassland or land that contains forbs, or shrubland for which grazing is the predominant use;

(IV) located in an area that has been historically dominated by grassland, forbs, or shrubs and could provide habitat for animal or plant populations of significant ecological value;

(V) pastureland; or

(VI) nonindustrial private forest land that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development;

(B) in the case of a wetland reserve easement, a wetland or related area, including—

(i) farmed or converted wetlands, together with adjacent land that is functionally dependent on that land, if the Secretary determines it—

(I) is likely to be successfully restored in a cost-effective manner; and

(II) will maximize the wildlife benefits and wetland functions and values, as determined by the Secretary in consultation with the Secretary of the Interior at the local level;

(ii) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of—

(I) a closed basin lake and adjacent land that is functionally dependent upon it, if the State or other entity is willing to provide 50 percent share of the cost of an easement; or

(II) a pothole and adjacent land that is functionally dependent on it;

(iii) farmed wetlands and adjoining lands that—

(I) are enrolled in the conservation reserve program;

(II) have the highest wetland functions and values, as determined by the Secretary; and

(III) are likely to return to production after they leave the conservation reserve program;

(iv) riparian areas that link wetlands that are protected by easements or some other device that achieves the same purpose as an easement; or

(v) other wetlands of an owner that would not otherwise be eligible, if the Secretary determines that the inclusion of such wetlands in a wetland reserve easement would significantly add to the functional value of the easement; or

(C) in the case of either an agricultural land easement or a wetland reserve ease-