

Subsec. (i)(1). Pub. L. 113-79, §2605(1), substituted “agricultural conservation easement program” for “wetlands reserve program”.

Subsec. (i)(2). Pub. L. 113-79, §2605(2), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: “Payments made under the farmland protection program for easements in which the Federal share is \$250,000 or greater.”

Subsec. (i)(3). Pub. L. 113-79, §2605(2), (3), redesignated par. (5) as (3), substituted “regional conservation partnership program” for “agricultural water enhancement program” and “3871c(c)(3)” for “3839aa-9(g)”, and struck out former par. (3) which read as follows: “Payments made under the grassland reserve program valued at \$250,000 or greater.”

Subsec. (i)(4). Pub. L. 113-79, §2605(2), redesignated par. (6) as (4).

Subsec. (i)(5), (6). Pub. L. 113-79, §2605(4), added pars. (5) and (6).

2011—Subsec. (a). Pub. L. 112-55, §716(e)(1), substituted “2012 (and fiscal year 2014 in the case of the programs specified in paragraphs (3)(B), (4), (6), and (7))” for “2012,” in introductory provisions.

Subsec. (a)(4)(E). Pub. L. 112-55, §716(e)(2), substituted “each of fiscal years 2012 through 2014” for “fiscal year 2012”.

Subsec. (a)(6)(E). Pub. L. 112-55, §716(d), substituted “each of fiscal years 2012 through 2014” for “fiscal year 2012”.

Subsec. (a)(7)(D). Pub. L. 112-55, §716(f), substituted “2014” for “2012”.

2008—Subsec. (a). Pub. L. 110-246, §2701(a), substituted “2012” for “2007” in introductory provisions.

Subsec. (a)(1). Pub. L. 110-246, §2701(b), inserted “, including to the maximum extent practicable—” after “part I” and added subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 110-246, §2701(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The conservation security program under subpart A of part II, using not more than—

“(A) \$1,954,000,000 for the period of fiscal years 2006 through 2010; and

“(B) \$5,650,000,000 for the period of fiscal years 2006 through 2015.”

Subsec. (a)(4). Pub. L. 110-246, §2701(d), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The farmland protection program under subpart B of part II, using, to the maximum extent practicable—

“(A) \$50,000,000 in fiscal year 2002;

“(B) \$100,000,000 in fiscal year 2003;

“(C) \$125,000,000 in each of fiscal years 2004 and 2005;

“(D) \$100,000,000 in fiscal year 2006; and

“(E) \$97,000,000 in fiscal year 2007.”

Subsec. (a)(5). Pub. L. 110-246, §2701(e), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “The grassland reserve program under subpart C of part II, using, to the maximum extent practicable \$254,000,000 for the period of fiscal years 2003 through 2007.”

Subsec. (a)(6). Pub. L. 110-246, §2701(f), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The environmental quality incentives program under part IV, using, to the maximum extent practicable—

“(A) \$400,000,000 in fiscal year 2002;

“(B) \$700,000,000 in fiscal year 2003;

“(C) \$1,000,000,000 in fiscal year 2004;

“(D) \$1,200,000,000 in each of fiscal years 2005 and 2006;

“(E) \$1,270,000,000 in each of fiscal years 2007 through 2009; and

“(F) \$1,300,000,000 in fiscal year 2010.”

Subsec. (a)(7)(D). Pub. L. 110-246, §2701(g), substituted “2012” for “2007”.

Subsec. (d). Pub. L. 110-246, §2703(a), designated existing provisions as par. (1), inserted heading, substituted “\$15,000,000” for “\$12,000,000”, and added par. (2).

Subsec. (e). Pub. L. 110-246, §2702, added subsec. (e).

Subsec. (f). Pub. L. 110-246, §2703(b), added subsec. (f).

Subsec. (g). Pub. L. 110-246, §2704, added subsec. (g).

Subsec. (h). Pub. L. 110-246, §2705, added subsec. (h).

2006—Subsec. (a)(3). Pub. L. 109-171, §1202(b), substituted a dash for “\$6,037,000,000 for the period of fiscal years 2005 through 2014.” and added subpars. (A) and (B).

Subsec. (a)(6)(E), (F). Pub. L. 109-171, §1203(c), added subpars. (E) and (F) and struck out former subpar. (E) which read as follows: “\$1,300,000,000 in fiscal year 2007.”

2004—Subsec. (a)(3). Pub. L. 108-324 inserted “, using not more than \$6,037,000,000 for the period of fiscal years 2005 through 2014” before period at end.

Pub. L. 108-199 struck out “, using not more than \$3,773,000,000 for the period of fiscal years 2003 through 2013” before period at end.

Subsec. (b). Pub. L. 108-498 added subsec. (b) and struck out heading and text of former subsec. (b), which related to availability of certain Commodity Credit Corporation funds under subsec. (a) for the provision of technical assistance for conservation and conservation security programs.

2003—Subsec. (a)(3). Pub. L. 108-7, §216(c), inserted “, using not more than \$3,773,000,000 for the period of fiscal years 2003 through 2013” before period at end.

Subsec. (b). Pub. L. 108-11 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

“(1) FEBRUARY 20, 2003, THROUGH SEPTEMBER 30, 2003.—During the period beginning on February 20, 2003, and ending on September 30, 2003, Commodity Credit Corporation funds made available under paragraphs (4) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.

“(2) SUBSEQUENT FISCAL YEARS.—Effective beginning on October 1, 2003, Commodity Credit Corporation funds made available under paragraphs (3) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.”

Pub. L. 108-7, §213(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “Nothing in this section affects the limit on expenditures for technical assistance imposed by section 7141 of title 15.”

Subsecs. (c), (d). Pub. L. 108-7, §213(2), added subsec. (c) and redesignated former subsec. (c) as (d).

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.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-498, §1(b), Dec. 23, 2004, 118 Stat. 4020, provided that: “The amendment made by subsection (a) [amending this section] takes effect on October 1, 2004.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-11, title II, §2106(b), Apr. 16, 2003, 117 Stat. 590, provided that: “The amendment made by subsection (a) [amending this section] takes effect on February 20, 2003.”

§ 3842. Delivery of technical assistance

(a) Definition of eligible participant

In this section, the term “eligible participant” means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this chapter or the agricultural manage-

ment assistance program under section 1524 of title 7.

(b) Purpose of technical assistance

The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

(c) Provision of technical assistance

The Secretary shall provide technical assistance under this chapter to an eligible participant—

- (1) directly;
- (2) through an agreement with a third-party provider; or
- (3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

(d) Non-Federal assistance

The Secretary may request the services of, and enter into cooperative agreements or contracts with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this chapter.

(e) Certification of third-party providers

(1) Purpose

The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

(2) Regulations

Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

(3) Expertise

In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

- (A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;
- (B) provide national criteria for the certification of third party¹ providers; and
- (C) approve any unique certification standards established at the State level.

(f) Administration

(1) Funding

Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 3841 of this title

shall be available for the provision of technical assistance from third-party providers under this section.

(2) Term of agreement

An agreement with a third-party provider under this section shall have a term that—

- (A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;
- (B) does not exceed 3 years; and
- (C) can be renewed, as determined by the Secretary.

(3) Review of certification requirements

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

- (A) review certification requirements for third-party providers; and
- (B) make any adjustments considered necessary by the Secretary to improve participation.

(4) Eligible activities

(A) Inclusion of activities

The Secretary may include as activities eligible for payments to a third party¹ provider—

- (i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and
- (ii) related technical assistance services that accelerate conservation program delivery.

(B) Exclusions

The Secretary shall not designate as an activity eligible for payments to a third party¹ provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

(5) Payment amounts

The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

(g) Availability of technical services

(1) In general

In carrying out the programs under this chapter and the agricultural management assistance program under section 1524 of title 7, the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

(2) Technical service contracts

In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

(h) Review of conservation practice standards

(1) Review required

The Secretary shall—

¹ So in original. Probably should be “third-party”.

(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

(2) Consultation

In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, non-governmental organizations, and other qualified entities.

(3) Expedited revision of standards

If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

(i) Addressing concerns of specialty crop, organic, and precision agriculture producers

(1) In general

The Secretary shall—

(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

(2) Availability of adequate technical assistance

(A) In general

The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

(B) Requirements

In carrying out subparagraph (A), the Secretary shall develop—

(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance

for planning and implementation of conservation practices.

(Pub. L. 99-198, title XII, § 1242, as added Pub. L. 107-171, title II, § 2701, May 13, 2002, 116 Stat. 279; amended Pub. L. 110-234, title II, § 2706, May 22, 2008, 122 Stat. 1074; Pub. L. 110-246, § 4(a), title II, § 2706, June 18, 2008, 122 Stat. 1664, 1802; Pub. L. 113-79, title II, § 2713(c), Feb. 7, 2014, 128 Stat. 772.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), (d), and (g)(1), 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 date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsecs. (e)(2), (f)(3), and (h)(1)(A), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

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.

Section 2701 of Pub. L. 107-171, which directed that subtitle E of the Food Security Act of 1985 be amended by striking section 1242 and adding a new section 1242 (this section), was executed by striking section 1242 of subtitle E of title XII of the Food Security Act of 1985 and adding the new section 1242 in lieu thereof, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3842, Pub. L. 99-198, title XII, § 1242, as added Pub. L. 104-127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008, related to use of other agencies, prior to repeal by Pub. L. 107-171, title II, § 2701, May 13, 2002, 116 Stat. 278. See Codification note above.

Another prior section 3842, Pub. L. 99-198, title XII, § 1242, Dec. 23, 1985, 99 Stat. 1515, related to use of other agencies, prior to the general amendment of this subchapter by Pub. L. 104-127.

AMENDMENTS

2014—Subsec. (i). Pub. L. 113-79 substituted “specialty” for “speciality” in heading.

2008—Pub. L. 110-246, § 2706, amended section generally. Prior to amendment, section related to: in subsec. (a), provision of technical assistance to an eligible producer directly or through an approved third party; and, in subsec. (b), establishment of a system to certify third-party providers, transition provisions for persons that had provided assistance before May 13, 2002, and cooperative agreements or contracts with non-Federal entities.

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.

§ 3843. Repealed. Pub. L. 113-79, title II, § 2710(a), Feb. 7, 2014, 128 Stat. 770

Section, Pub. L. 99-198, title XII, § 1243, as added Pub. L. 104-127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008; amended Pub. L. 107-171, title II, §§ 2003, 2006(d), May 13, 2002, 116 Stat. 233, 237; Pub. L. 110-234, title II, § 2707, May 22, 2008, 122 Stat. 1077; Pub. L. 110-246, § 4(a), title II, § 2707, June 18, 2008, 122 Stat. 1664, 1805, related to cooperative conservation partnership initiative.