

28, 1990, 104 Stat. 3573; Pub. L. 104-127, title III, § 322, Apr. 4, 1996, 110 Stat. 987; Pub. L. 110-234, title II, § 2003, May 22, 2008, 122 Stat. 1028; Pub. L. 110-246, § 4(a), title II, § 2003, June 18, 2008, 122 Stat. 1664, 1756; Pub. L. 113-79, title II, § 2609, Feb. 7, 2014, 128 Stat. 761; Pub. L. 115-334, title II, §§ 2102, 2103, 2821(b), Dec. 20, 2018, 132 Stat. 4530, 4602.)

## REFERENCES IN TEXT

Section 3843 of this title, referred to in subsec. (g), was omitted and a new section 3843 was added in the general amendment of subchapter V of this chapter by Pub. L. 104-127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008. The new section 3843, which did not relate to appeal procedures, was subsequently repealed by Pub. L. 113-79, title II, § 2710(a), Feb. 7, 2014, 128 Stat. 770.

## 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 L. 110-234 were repealed by section 4(a) of Pub.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

2018—Subsec. (c). Pub. L. 115-334, § 2102, designated existing provisions as par. (1), inserted heading, inserted “, which, except as provided in paragraph (2), shall be conducted in the presence of the affected person” before period at end, and added par. (2).

Subsec. (j). Pub. L. 115-334, § 2821(b), substituted “National Resources Conservation Service” for “National Resources Conservation Service”.

Subsec. (k)(1)(B). Pub. L. 115-334, § 2103, amended subpar. (B) generally. Prior to amendment, text read as follows: “Of the funds of the Commodity Credit Corporation, the Secretary shall use \$10,000,000, to remain available until expended, to carry out this paragraph.”

2014—Subsec. (k). Pub. L. 113-79 amended subsec. (k) generally. Prior to amendment, text read as follows: “Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) of this section shall not apply to this subsection.”

2008—Subsec. (h)(2), (3). Pub. L. 110-246, § 2003, added par. (2), redesignated former par. (2) as (3), and inserted “be” before “actively”.

1996—Subsec. (a). Pub. L. 104-127, § 322(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text consisted of pars. (1) to (4) relating to delineation of wetlands.

Subsec. (b). Pub. L. 104-127, § 322(b), added subsec. (b) and struck out heading and text of former subsec. (b). Text consisted of pars. (1)(A) to (D) and (2)(A) and (B) relating to exemptions.

Subsec. (d). Pub. L. 104-127, § 322(c), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “Section 3821 of this title shall not apply to a loan described in section 3821 of this title made before December 23, 1985.”

Subsec. (f). Pub. L. 104-127, § 322(d), added subsec. (f) and struck out heading and text of former subsec. (f). Text consisted of pars. (1) to (3) relating to minimal effect and mitigation exemptions.

Subsec. (g). Pub. L. 104-127, § 322(e), which directed substitution of “person” for “producer”, was executed by making the substitution in two places.

Subsec. (h). Pub. L. 104-127, § 322(f), added subsec. (h) and struck out heading and text of former subsec. (h). Text consisted of pars. (1) to (3) relating to good faith exemptions to ineligibility under section 3821 of this title and graduated sanctions.

Subsec. (i). Pub. L. 104-127, § 322(g), inserted before period at end “or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of

wetland values in the same general area of the local watershed as the converted wetland”.

Subsec. (j). Pub. L. 104-127, § 322(h), added subsec. (j) and struck out heading and text of former subsec. (j). Text provided that technical determinations and the development of restoration and mitigation plans be made through agreement of local representative of Soil Conservation Service and representative of the Fish and Wildlife Service and required reporting of determinations and monitoring.

Subsec. (k). Pub. L. 104-127, § 322(i), added subsec. (k). 1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions relating to eligibility for program benefits in connection with production of crops on certain wetlands, making program ineligibility inapplicable to pre-Dec. 23, 1985, section 3821 loans, and providing for personal exemptions from program ineligibility for actions associated with production of commodities having minimal wetland effect.

## 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 1996 AMENDMENT

Amendment by Pub. L. 104-127 effective 90 days after Apr. 4, 1996, see section 326 of Pub. L. 104-127, set out as a note under section 3821 of this title.

## § 3823. Affiliated persons

If a person is affected by a reduction in benefits under section 3821 of this title and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 3821 of this title in proportion to the interest held by the affiliated person.

(Pub. L. 99-198, title XII, § 1223, as added Pub. L. 104-127, title III, § 324, Apr. 4, 1996, 110 Stat. 992.)

## PRIOR PROVISIONS

A prior section 3823, Pub. L. 99-198, title XII, § 1223, Dec. 23, 1985, 99 Stat. 1508; Pub. L. 101-624, title XIV, § 1423, Nov. 28, 1990, 104 Stat. 3576; Pub. L. 102-237, title II, § 204(4), Dec. 13, 1991, 105 Stat. 1855, related to consultation with Secretary of the Interior, prior to repeal by Pub. L. 104-127, title III, §§ 323, 326, Apr. 4, 1996, 110 Stat. 992, effective 90 days after Apr. 4, 1996.

## EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 326 of Pub. L. 104-127, set out as an Effective Date of 1996 Amendment note under section 3821 of this title.

## § 3824. Fairness of compliance

If the actions of an unrelated person or public entity, outside the control of, and without the prior approval of, the landowner or tenant result in a change in the characteristics of cropland that would cause the land to be determined to be a wetland, the affected land shall not be considered to be wetland for purposes of this subchapter.

(Pub. L. 99-198, title XII, § 1224, as added Pub. L. 101-624, title XIV, § 1424, Nov. 28, 1990, 104 Stat. 3576.)