

**(3) Waiver authority**

To assist in the implementation of the program, the Secretary may waive the applicability of the limitation in section 1308-3a(b)(2) of title 7 for producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

**(d) Funding through alternative funding arrangements or grant agreements****(1) In general**

A partnership agreement entered into with an eligible partner may be funded through an alternative funding arrangement or grant in accordance with this subsection.

**(2) Duties of the Secretary**

The Secretary shall—

(A) under a funding agreement under paragraph (1)—

(i) use funding made available to carry out this subchapter to provide funding directly to the eligible partner; and

(ii) provide technical and administrative assistance, as mutually agreed by the parties; and

(B) enter into not more than 15 alternative funding arrangements or grant agreements with 1 or more eligible partners each fiscal year.

**(3) Duties of eligible partners**

Under a funding agreement under paragraph (1), the eligible partner shall—

(A) carry out eligible activities on eligible land in agreement with producers to achieve conservation benefits on a regional or watershed scale, such as—

(i) infrastructure investments relating to agricultural or nonindustrial private forest production that would—

(I) benefit multiple producers; and

(II) address natural resource concerns such as drought, wildfire, or water quality impairment on the land covered by the project;

(ii) projects addressing natural resources concerns in coordination with producers, including the development and implementation of watershed, habitat, or other area restoration plans;

(iii) projects that use innovative approaches to leveraging the Federal investment in conservation with private financial mechanisms, in conjunction with agricultural production or forest resource management, such as—

(I) the provision of performance-based payments to producers; and

(II) support for an environmental market; or

(iv) other projects for which the Secretary determines that the goals and objectives of the program would be easier to achieve through the funding agreement under paragraph (1); and

(B) submit to the Secretary, in addition to any information that the Secretary requires to prepare the report under section 3871e(b) of this title, an annual report that describes

the status of the project, including a description of—

(i) the use of the funds awarded under paragraph (1);

(ii) any subcontracts awarded;

(iii) the producers receiving funding through the funding agreement under paragraph (1);

(iv)(I) the progress made by the project in addressing each natural resource concern defined in the funding agreement under paragraph (1), including in a quantified form to the extent practicable; and

(II) as appropriate, other outcomes of the project; and

(v) any other reporting data the Secretary determines are necessary to ensure compliance with the program rules.

(Pub. L. 99-198, title XII, §1271C, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 747; amended Pub. L. 115-334, title II, §2704, Dec. 20, 2018, 132 Stat. 4596.)

## AMENDMENTS

2018—Subsecs. (a), (b), Pub. L. 115-334, §2704(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which authorized the Secretary to enter into contracts with producers to provide financial and technical assistance and set forth provisions relating to terms and conditions, respectively.

Subsec. (c)(1), Pub. L. 115-334, §2704(2)(A), substituted “Subject to section 3871d of this title, the Secretary may make payments to a producer” for “In accordance with statutory requirements of the covered programs involved, the Secretary may make payments to a producer”.

Subsec. (c)(3), Pub. L. 115-334, §2704(2)(B), struck out “participating” before “producers”.

Subsec. (d), Pub. L. 115-334, §2704(3), added subsec. (d).

**§ 3871d. Funding****(a) Availability of funds**

The Secretary shall use \$300,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 2019 through 2023 to carry out the program.

**(b) Duration of availability**

Funds made available under subsection (a) shall remain available until expended.

**(c) Allocation of funding**

Of the funds made available for the program under subsection (a), the Secretary shall allocate—

(1) 50 percent of the funds to projects based on a State or multistate competitive process administered by the Secretary at the local level with the advice of the applicable State technical committees established under subchapter VI; and

(2) 50 percent of the funds to projects for critical conservation areas designated under section 3871f of this title.

**(d) Limitation on administrative expenses****(1) In general**

Except as provided in paragraph (2), none of the funds made available for the program, including for a partnership agreement funded through an alternative funding arrangement or grant agreement under section 3871c(d) of

this title, may be used to pay for the administrative expenses of eligible partners.

**(2) Project development and outreach**

Under a partnership agreement that is not funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title, the Secretary may advance reasonable amounts of funding for not longer than 90 days for technical assistance to eligible partners to conduct project development and outreach activities in a project area, including—

(A) providing outreach and education to producers for potential participation in the project;

(B) establishing baseline metrics to support the development of the assessment required under section 3871b(c)(1)(E) of this title; or

(C) providing technical assistance to producers.

**(e) Technical assistance**

**(1) In general**

At the time of project selection, the Secretary shall identify and make publicly available the amount that the Secretary shall use to provide technical assistance under the terms of the partnership agreement.

**(2) Limitation**

The Secretary shall limit costs of the Secretary for technical assistance to costs specific and necessary to carry out the objectives of the program.

**(3) Third-party providers**

The Secretary shall develop and implement strategies to encourage third-party technical service providers to provide technical assistance to eligible partners pursuant to a partnership agreement.

(Pub. L. 99-198, title XII, §1271D, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 749; amended Pub. L. 115-334, title II, §2705, Dec. 20, 2018, 132 Stat. 4598.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §2705(1), substituted “\$300,000,000” for “\$100,000,000” and “2019 through 2023” for “2014 through 2018”.

Subsec. (c). Pub. L. 115-334, §2705(2)-(4)(A), redesignated subsec. (d) as (c), struck out “and acres” after “funds” and “and reserved for the program under subsection (c)” after “under subsection (a)” in introductory provisions, and struck out former subsec. (c) which related to reservation of additional funding and acres for each of fiscal years 2014 through 2018.

Subsec. (c)(1). Pub. L. 115-334, §2705(4)(B), substituted “50 percent of the funds to projects based on a State or multistate competitive process administered by the Secretary at the local level with the advice of the applicable State technical committees” for “25 percent of the funds and acres to projects based on a State competitive process administered by the State Conservationist, with the advice of the State technical committee” and inserted “and” at end.

Subsec. (c)(2), (3). Pub. L. 115-334, §2705(4)(C)-(E), redesignated par. (3) as (2), substituted “50 percent of the funds” for “35 percent of the funds and acres”, and struck out former par. (2) which read as follows: “40 percent of the funds and acres to projects based on a national competitive process to be established by the Secretary; and”.

Subsec. (d). Pub. L. 115-334, §2705(5), designated existing provisions as par. (1), inserted heading, substituted “Except as provided in paragraph (2), none of the funds made available for the program, including for a partnership agreement funded through an alternative funding arrangement or grant agreement under section 3871c(d) of this title,” for “None of the funds made available or reserved for the program”, and added par. (2).

Pub. L. 115-334, §2705(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 115-334, §2705(6), added subsec. (e). Former subsec. (e) redesignated (d).

**§ 3871e. Administration**

**(a) Disclosure**

In addition to the criteria used in evaluating applications as described in section 3871b(e)(2) of this title, the Secretary shall make publicly available information on projects selected through the competitive process described in section 3871b(e)(1) of this title.

**(b) Reporting**

Not later than December 31, 2019, and every two years thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the status of projects funded under the program, including—

(1) a summary of—

(A) the progress made towards achieving the conservation benefits defined for the projects; and

(B) any other related outcomes of the projects;

(2) the number and types of eligible partners and producers participating in the partnership agreements selected;

(3) the number of producers receiving assistance;

(4) total funding committed to projects, including from Federal and non-Federal resources;

(5) a description of how the funds under section 3871c(d) of this title are being administered, including—

(A) any oversight mechanisms that the Secretary has implemented;

(B) the process through which the Secretary is resolving appeals by program participants; and

(C) the means by which the Secretary is tracking adherence to any applicable provisions for payment eligibility; and

(6) in the case of a project within a critical conservation area under section 3871f of this title, the status of each priority resource concern for each designated critical conservation area, including—

(A) the priority resource concerns for which each critical conservation area is designated;

(B) conservation goals and outcomes sufficient to demonstrate that progress is being made to address the priority resource concerns;

(C) the partnership agreements selected to address each conservation goal and outcome; and