

Subsec. (b)(1)(B). Pub. L. 110-246, § 2102(1), substituted “the date of enactment of the Food, Conservation, and Energy Act of 2008” for “May 13, 2002” and substituted semicolon for period at end.

Subsec. (b)(4)(C) to (E). Pub. L. 110-246, § 2102(2), in subpar. (C) struck out “or” at end, in subpar. (D) substituted “or” for “and” at end, and in subpar. (E) inserted “or” at end.

Subsec. (d). Pub. L. 110-246, § 2103, substituted “2009 fiscal years” for “2007 calendar years” and “(16 U.S.C.” for “( 16 U.S.C.” and inserted at end “During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.”

Subsec. (f)(1). Pub. L. 110-246, § 2104, substituted “the Chesapeake Bay Region” for “the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)”.

Subsec. (g). Pub. L. 110-246, § 2105, amended subsec. (g) generally. Prior to amendment, text read as follows: “For purposes of this subpart, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.”

Subsecs. (h) to (j). Pub. L. 110-246, § 2106(a)(2), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which related to pilot program for enrollment of wetland and buffer acreage in conservation reserve during 2002 through 2007 calendar years.

Subsec. (k). Pub. L. 110-246, § 2106(b)(1), renumbered subsec. (k) as section 3831a of this title.

2007—Subsec. (k)(2). Pub. L. 110-28 substituted “The” for “During calendar year 2006, the”.

2006—Subsec. (k)(3)(G). Pub. L. 109-234 substituted “\$504,100,000” for “\$404,100,000”.

2005—Subsec. (k). Pub. L. 109-148 added subsec. (k).

#### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of Title 7, Agriculture.

#### 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.

#### REGULATIONS

Pub. L. 106-387, § 1(a) [title XI, § 1105], Oct. 28, 2000, 114 Stat. 1549, 1549A-78, required the Secretary of Agriculture, as soon as practicable after Oct. 28, 2000, to promulgate regulations to implement the amendments by section 1(a) [title XI] of Pub. L. 106-387, amending former sections 3831 and 3832 of this title.

#### ELIGIBLE LAND; STATE LAW REQUIREMENTS

Pub. L. 115-334, title II, § 2209, Dec. 20, 2018, 132 Stat. 4551, provided that: “The Secretary shall revise paragraph (4) of section 1410.6(d) of title 7, Code of Federal Regulations, to provide that land enrolled under a Conservation Reserve Enhancement Program agreement initially established before January 1, 2014 (including an amended or successor Conservation Reserve Enhancement Program agreement, as determined by the Secretary), shall not be ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) under that paragraph if the Deputy Administrator (as defined in section 1410.2(b) of title 7, Code of Federal Regulations (or successor regulations)), on recommendation from and in consultation with the applicable State technical committee established under section 1261(a) of the Food Security Act of 1985 (16 U.S.C. 3861(a)) determines, under such terms and conditions as the Deputy Administrator, in consultation with the State

technical committee, determines to be appropriate, that making that land eligible for enrollment in that program is not contrary to the purposes of that program.”

#### EFFECT ON EXISTING CONTRACTS

Pub. L. 113-79, title II, § 2008, Feb. 7, 2014, 128 Stat. 720, provided that:

“(a) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this subtitle [subtitle A (§§ 2001–2008) of title II of Pub. L. 113-79, amending this section and sections 3831b and 3832 to 3835 of this title and repealing section 3835a of this title] shall not affect the validity or terms of any contract entered into by the Secretary of Agriculture under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], or any payments required to be made in connection with the contract.

“(b) UPDATING OF EXISTING CONTRACTS.—The Secretary shall permit an owner or operator of land subject to a contract entered into under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], to update the contract to reflect the activities and uses of land under contract permitted under the terms and conditions of section 1233(b) of that Act [16 U.S.C. 3833(b)] (as amended by section 2004), as determined appropriate by the Secretary.”

#### STUDY ON ECONOMIC EFFECTS

Pub. L. 107-171, title II, § 2101(b), May 13, 2002, 116 Stat. 252, provided that, not later than 18 months after May 13, 2002, the Secretary of Agriculture would submit to Congress a report, to include specified analyses, that describes the economic and social effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

#### STUDY OF IMPACT OF PILOT PROGRAM

Pub. L. 106-387, § 1(a) [title XI, § 1104], Oct. 28, 2000, 114 Stat. 1549, 1549A-78, required the Secretary of Agriculture to conduct a study of the impact of the pilot program established under former section 3831(h) of this title, as added by section 1(a) [title XI, § 1102(a)] of Pub. L. 106-387, and to report on the results of the study to committees of Congress not later than Mar. 1, 2003.

#### STUDY OF LAND USE FOR EXPIRING CONTRACTS AND EXTENSION OF AUTHORITY

Pub. L. 101-624, title XIV, § 1437, Nov. 28, 1990, 104 Stat. 3584, which required the Secretary of Agriculture to conduct a study of cropland subject to expiring conservation reserve contracts entered into prior to Nov. 28, 1990, and to report on the study to committees of Congress not later than Dec. 31, 1993, and authorized the Secretary, during calendar years 1996 to 2000, to extend up to 10 years contracts entered into under this subpart prior to Nov. 28, 1990, or to purchase long-term or permanent easements as provided for in former part III of this subchapter, at the option of the owner or operator on land that the Secretary has determined under the study should remain in conserving uses, was repealed by Pub. L. 115-334, title II, § 2815, Dec. 20, 2018, 132 Stat. 4602.

#### EXISTING CONSERVATION PROGRAMS

Pub. L. 99-263, Mar. 24, 1986, 100 Stat. 59, provided: “That the conservation reserve program shall not replace or reduce any existing conservation program.”

### § 3831a. Conservation reserve enhancement program

#### (a) Definitions

In this section:

**(1) CREP**

The term “CREP” means a conservation reserve enhancement program carried out under subsection (b)(1).

**(2) Eligible land**

The term “eligible land” means land that is eligible to be included in the program established under this subpart.

**(3) Eligible partner**

The term “eligible partner” means—

- (A) a State;
- (B) a political subdivision of a State;
- (C) an Indian tribe (as defined in section 5304 of title 25); or
- (D) a nongovernmental organization.

**(4) Management**

The term “management” means an activity conducted by an owner or operator under a contract entered into under this subpart after the establishment of a conservation practice on eligible land, to regularly maintain or enhance the vegetative cover established by the conservation practice—

- (A) throughout the term of the contract; and
- (B) consistent with the conservation plan that covers the eligible land.

**(b) Agreements****(1) In general**

The Secretary may enter into an agreement with an eligible partner to carry out a conservation reserve enhancement program—

- (A) to assist in enrolling eligible land in the program established under this subpart; and
- (B) that the Secretary determines will advance the purposes of this subpart.

**(2) Contents**

An agreement entered into under paragraph (1) shall—

- (A) describe—
  - (i) 1 or more specific State or nationally significant conservation concerns to be addressed by the agreement;
  - (ii) quantifiable environmental goals for addressing the concerns under clause (i);
  - (iii) a suitable acreage goal for enrollment of eligible land under the agreement, as determined by the Secretary;
  - (iv) the location of eligible land to be enrolled in the project area identified under the agreement;
  - (v) the payments to be offered by the Secretary and eligible partner to an owner or operator; and
  - (vi) an appropriate list of conservation reserve program conservation practices that are appropriate to meeting the concerns described under clause (i), as determined by the Secretary in consultation with eligible partners;
- (B) subject to subparagraph (C), require the eligible partner to provide matching funds—
  - (i) in an amount determined during a negotiation between the Secretary and 1 or more eligible partners, if the majority of

the matching funds to carry out the agreement are provided by 1 or more eligible partners that are not nongovernmental organizations; or

(ii) in an amount not less than 30 percent of the cost required to carry out the conservation measures and practices described in the agreement, if a majority of the matching funds to carry out the agreement are provided by 1 or more nongovernmental organizations; and

(C) include procedures to allow for a temporary waiver of the matching requirements under subparagraph (B), or continued enrollment with a temporary suspension of incentives or eligible partner contributions for new agreements, during a period when an eligible partner loses the authority or ability to provide matching contributions, if the Secretary determines that the temporary waiver or continued enrollment with a temporary suspension will advance the purposes of this subpart.

**(3) Effect on existing agreements****(A) In general**

Subject to subparagraph (B), an agreement under this subsection shall not affect, modify, or interfere with existing agreements under this subpart.

**(B) Modification of existing agreements**

To implement this section, the signatories to an agreement under this subsection may mutually agree to a modification of an agreement entered into before December 20, 2018, under the Conservation Reserve Enhancement Program established by the Secretary under this subpart.

**(c) Payments****(1) Matching requirement**

Funds provided by an eligible partner may be in cash, in-kind contributions, or technical assistance, as determined by the Secretary.

**(2) Marginal pastureland cost-share payments**

The Secretary shall ensure that cost-share payments to an owner or operator to install stream fencing, crossings, and alternative water development on marginal pastureland under a CREP reflect the fair market value of the cost of installation.

**(3) Cost-share and practice incentive payments****(A) In general**

On request of an owner or operator, the Secretary shall provide cost-share payments when a major component of a conservation practice is completed under a CREP, as determined by the Secretary.

**(B) Exemption**

For purposes of implementing conservation practices on land enrolled under a CREP, the Secretary may waive the contribution limitation described in section 3834(b)(2)(A) of this title.

**(4) Riparian buffer management payments****(A) In general**

In the case of an agreement under subsection (b)(1) that includes riparian buffers

as an eligible practice, the Secretary shall make cost-share payments to encourage the regular management of the riparian buffer throughout the term of the agreement, consistent with the conservation plan that covers the eligible land.

**(B) Limitation**

The amount of payments received by an owner or operator under subparagraph (A) shall not be greater than 100 percent of the normal and customary projected management cost, as determined by the Secretary, in consultation with the applicable State technical committee established under section 3861(a) of this title.

**(d) Forested riparian buffer practice**

**(1) Food-producing woody plants**

In the case of an agreement under subsection (b)(1) that includes forested riparian buffers as an eligible practice, the Secretary shall allow an owner or operator—

(A) to plant food-producing woody plants in the forested riparian buffers, on the conditions that—

(i) the plants shall contribute to the conservation of soil, water quality, and wildlife habitat; and

(ii) the planting shall be consistent with—

(I) recommendations of the applicable State technical committee established under section 3861(a) of this title; and

(II) technical guide standards of the applicable field office of the Natural Resources Conservation Service; and

(B) to harvest from plants described in subparagraph (A), on the conditions that—

(i) the harvesting shall not damage the conserving cover or otherwise have a negative impact on the conservation concerns targeted by the CREP;

(ii) only native plant species appropriate to the region shall be used within 35 feet of the watercourse; and

(iii) the producer shall be subject to a reduction in the rental rate commensurate to the value of the crop harvested.

**(2) Technical assistance**

For the purpose of enrolling forested riparian buffers in a CREP, the Administrator of the Farm Service Agency shall coordinate with the applicable State forestry agency.

**(e) Drought and water conservation agreements**

In the case of an agreement under subsection (b)(1) to address regional drought concerns, in accordance with the conservation purposes of the CREP, the Secretary, in consultation with the applicable State technical committee established under section 3861(a) of this title, may—

(1) notwithstanding subsection (a)(2), enroll other agricultural land on which the resource concerns identified in the agreement can be addressed if the enrollment of the land is critical to the accomplishment of the purposes of the agreement;

(2) permit dryland agricultural uses with the adoption of best management practices on enrolled land if the agreement involves the sig-

nificant long-term reduction of consumptive water use and dryland production is compatible with the agreement; and

(3) calculate annual rental payments consistent with existing administrative practice for similar drought and water conservation agreements under this subchapter and ensure regional consistency in those rates.

**(f) Status report**

Not later than 180 days after the end of each fiscal year, the Secretary shall submit to Congress a report that describes, with respect to each agreement entered into under subsection (b)(1)—

(1) the status of the agreement;

(2) the purposes and objectives of the agreement;

(3) the Federal and eligible partner commitments made under the agreement; and

(4) the progress made in fulfilling those commitments.

(Pub. L. 99-198, title XII, §1231A, as added Pub. L. 115-334, title II, §2202(a), Dec. 20, 2018, 132 Stat. 4534.)

PRIOR PROVISIONS

A prior section 3831a, Pub. L. 99-198, title XII, §1231A, as added and amended Pub. L. 110-234, title II, §2106(b), May 22, 2008, 122 Stat. 1032, and Pub. L. 110-246, §4(a), title II, §2106(b), June 18, 2008, 122 Stat. 1664, 1760, related to emergency forestry conservation reserve program, prior to repeal by Pub. L. 113-79, title II, §2702(a), Feb. 7, 2014, 128 Stat. 766.

REPEAL OF FORMER SECTION 3831a; TRANSITIONAL PROVISIONS

Pub. L. 113-79, title II, §2702, Feb. 7, 2014, 128 Stat. 766, provided that:

“(a) REPEAL.—Except as provided in subsection (b), section 1231A of the Food Security Act of 1985 ([former] 16 U.S.C. 3831a) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The amendment made by this section shall not affect the validity or terms of any contract or agreement entered into by the Secretary of Agriculture under section 1231A of the Food Security Act of 1985 ([former] 16 U.S.C. 3831a) before the date of enactment of the Agricultural Act of 2014 [Feb. 7, 2014], or any payments required to be made in connection with the contract or agreement.

“(2) FUNDING.—The Secretary [of Agriculture] may use funds made available to carry out the conservation reserve program under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) to continue to carry out contracts or agreements referred to in paragraph (1) using the provisions of law and regulation applicable to such contracts or agreements as in existence on the day before the date of enactment of the Agricultural Act of 2014.”

**§ 3831b. Farmable wetland program**

**(a) Program required**

**(1) In general**

During the 2008 through 2023 fiscal years, the Secretary shall carry out a farmable wetland program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

**(2) Participation among States**

The Secretary shall ensure, to the maximum extent practicable, that owners and operators