

- (5) The State fish and wildlife agency.
- (6) The State forester or equivalent State official.
- (7) The State water resources agency.
- (8) The State department of agriculture.
- (9) The State association of soil and water conservation districts.
- (10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.
- (11) Owners of nonindustrial private forest land.
- (12) Nonprofit organizations within the meaning of section 501(c)(3) of title 26 with demonstrable conservation expertise and experience working with agriculture producers in the State.
- (13) Agribusiness.
- (14) The State Cooperative Extension Service and land grant university in the State.

(Pub. L. 99-198, title XII, §1261, as added Pub. L. 101-624, title XIV, §1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 104-127, title III, §342(a), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110-234, title II, §2711, title VII, §7511(c)(38), May 22, 2008, 122 Stat. 1083, 1271; Pub. L. 110-246, §4(a), title II, §2711, title VII, §7511(c)(38), June 18, 2008, 122 Stat. 1664, 1811, 2032; Pub. L. 113-79, title II, §2607, Feb. 7, 2014, 128 Stat. 760; Pub. L. 115-334, title II, §2822, Dec. 20, 2018, 132 Stat. 4603.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), 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.

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 L. 110-234 were repealed by section 4(a) of Pub.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. (b)(2). Pub. L. 115-334, §2822(a), struck out “under section 3862(b) of this title” after “technical guidelines”.

Subsec. (c)(14). Pub. L. 115-334, §2822(b), added par. (14).

2014—Subsec. (b). Pub. L. 113-79, in introductory provisions, substituted “The Secretary shall review and update as necessary” for “Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop”.

2008—Pub. L. 110-246, §2711, which directed the general amendment of section 1261 of the “Farm Security Act of 1985”, was executed by making the amendment to this section, which is section 1261 of the Food Security Act of 1985, to reflect the probable intent of Congress. Prior to amendment, section related to the establishment in each State of a technical committee to assist the Secretary in the technical considerations relating to implementation of conservation provisions under this chapter, composition of each such committee, and development of standards to be used in the development of guidelines under former section 3862(b) of this title.

Subsec. (c)(4). Pub. L. 110-246, §7511(c)(38), which directed amendment of par. (4) by substituting “National Institute of Food and Agriculture” for “Extension Service”, could not be executed because “Extension Service” did not appear subsequent to amendment by Pub. L. 110-246, §2711. See above.

1996—Subsec. (c)(9) to (12). Pub. L. 104-127 added pars. (9) to (12).

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, 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 subsecs. (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 subsec. (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 subsecs. (a) to (e) 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 3837¹ of this title, the grassland reserve program established under section 3838n¹ of this title, and the farmland protection program established under section 3838i¹ 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 that negatively affect the agricultural uses and conservation values; and

(4) protect grazing uses and related conservation values by restoring or 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; amended Pub. L. 115-334, title II, §2601, Dec. 20, 2018, 132 Stat. 4585.)

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.

AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115-334, §2601(1), inserted “that negatively affect the agricultural uses and conservation values” after “uses of that land”.

Subsec. (b)(4). Pub. L. 115-334, §2601(2), substituted “restoring or conserving” for “restoring and conserving”.

§ 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.

(2) Buy-protect-sell transaction

(A) In general

The term “buy-protect-sell transaction” means a legal arrangement—

(i) between an eligible entity and the Secretary relating to land that an eligible entity owns or is going to purchase prior to acquisition of an agricultural land easement;

(ii) under which the eligible entity certifies to the Secretary that the eligible entity shall—

(I)(aa) hold an agricultural land easement on that land, but transfer ownership of the land to a farmer or rancher that is not an eligible entity prior to or on acquisition of the agricultural land easement; or

(bb) hold an agricultural land easement on that land, but transfer owner-

¹ See References in Text note below.