

(2) Contracts or agreements

The Secretary may enter into 1 or more contracts with private entities or agreements with a State, nongovernmental organization, or Indian tribe to carry out necessary restoration, enhancement, or maintenance of a wetland reserve easement if the Secretary determines that the contract or agreement will advance the purposes of the program.

(e) Wetland reserve enhancement option

The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetland reserve enhancement option that the Secretary determines would advance the purposes of program.

(f) Administration**(1) Wetland reserve easement plan****(A) In general**

The Secretary shall develop a wetland reserve easement plan—

- (i) for any eligible land subject to a wetland reserve easement; and
- (ii) that restores, protects, enhances, manages, maintains, and monitors the eligible land subject to the wetland reserve easements acquired under this section.

(B) Practices and activities

A wetland reserve easement plan under subparagraph (A) shall include practices and activities, including repair or replacement, that are necessary to restore and maintain the enrolled land and the functions and values of the wetland subject to a wetland reserve easement.

(2) Alternative plant communities

The Secretary, in coordination with State technical committees established under section 3861(a) of this title and pursuant to State-specific criteria and guidelines, may authorize the establishment or restoration of a hydrologically appropriate native community or alternative naturalized vegetative community as part of a wetland reserve easement plan on land subject to a wetland reserve easement if that hydrologically appropriate native or alternative naturalized vegetative community shall—

- (A) substantially support or benefit migratory waterfowl or other wetland wildlife; or
- (B) meet local resource concerns or needs (including as an element of a regional, State, or local wildlife initiative or plan).

(3) Delegation of easement administration**(A) In general**

The Secretary may delegate any of the management, monitoring, and enforcement responsibilities of the Secretary under this section to other Federal or State agencies that have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities, or to conservation organizations if the Secretary determines the organization has similar expertise and resources.

(B) Limitation

The Secretary shall not delegate any of the monitoring or enforcement responsibilities under this section to conservation organizations.

(4) Payments**(A) Timing of payments**

The Secretary shall provide payment for obligations incurred by the Secretary under this section—

- (i) with respect to any easement restoration obligation under subsection (c), as soon as possible after the obligation is incurred; and
- (ii) with respect to any annual easement payment obligation incurred by the Secretary, as soon as possible after October 1 of each calendar year.

(B) Payments to others

If an owner who is entitled to a payment under this section dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person or entity who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(g) Application

The relevant provisions of this section shall also apply to a 30-year contract.

(Pub. L. 99-198, title XII, §1265C, as added Pub. L. 113-79, title II, §2301(a), Feb. 7, 2014, 128 Stat. 737; amended Pub. L. 115-334, title II, §2604, Dec. 20, 2018, 132 Stat. 4589.)

AMENDMENTS

2018—Subsec. (b)(3)(C). Pub. L. 115-334, §2604(1)(A), inserted “or improving water quality” before period at end.

Subsec. (b)(5)(C). Pub. L. 115-334, §2604(1)(B)(i), designated existing provisions as cl. (i), inserted heading, inserted “water management,” after “managed timber harvest,” and added cl. (ii).

Subsec. (b)(5)(D)(1)(III). Pub. L. 115-334, §2604(1)(B)(ii), inserted “or a grazing management plan that is consistent with the wetland reserve easement plan and has been reviewed, and modified as necessary, at least every 5 years” after “under subsection (f)”.

Subsec. (f)(1). Pub. L. 115-334, §2604(2)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The Secretary shall develop a wetland reserve easement plan for any eligible land subject to a wetland reserve easement, which shall include practices and activities necessary to restore, protect, enhance, and maintain the enrolled land.”

Subsec. (f)(2) to (4). Pub. L. 115-334, §2604(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

§ 3865d. Administration**(a) Ineligible land**

The Secretary may not use program funds for the purposes of acquiring an easement on—

- (1) lands owned by an agency of the United States, other than land held in trust for Indian tribes;

(2) lands owned in fee title by a State, including an agency or a subdivision of a State, or a unit of local government;

(3) land subject to an easement or deed restriction which, as determined by the Secretary, provides similar protection as would be provided by enrollment in the program; or

(4) lands where the purposes of the program would be undermined due to on-site or off-site conditions, such as risk of hazardous substances, permitted or existing rights of way, infrastructure development, or adjacent land uses.

(b) Priority

In evaluating applications under the program, the Secretary may give priority to land that is currently enrolled in the conservation reserve program in a contract that is set to expire within 1 year and—

(1) in the case of an agricultural land easement, is grassland that would benefit from protection under a long-term easement; and

(2) in the case of a wetland reserve easement, is a wetland or related area with the highest wetland functions and value and is likely to return to production after the land leaves the conservation reserve program.

(c) Subordination, exchange, modification, and termination

(1) Subordination

The Secretary may subordinate any interest in land, or portion of such interest, administered by the Secretary (including for the purposes of utilities and energy transmission services) either directly or on behalf of the Commodity Credit Corporation under the program if the Secretary determines that the subordination—

(A) increases conservation values or has a limited negative effect on conservation values;

(B) minimally affects the acreage subject to the interest in land; and

(C) is in the public interest or furthers the practical administration of the program.

(2) Modification and exchange

(A) Authority

The Secretary may approve a modification or exchange of any interest in land, or portion of such interest, administered by the Secretary, either directly or on behalf of the Commodity Credit Corporation under the program if the Secretary determines that—

(i) no reasonable alternative exists and the effect on the interest in land is avoided or minimized to the extent practicable; and

(ii) the modification or exchange—

(I) results in equal or increased conservation values;

(II) results in equal or greater economic value to the United States;

(III) is consistent with the original intent of the easement;

(IV) is consistent with the purposes of the program; and

(V) is in the public interest or furthers the practical administration of the program.

(B) Limitation

In modifying or exchanging an interest in land, or portion of such interest, under this paragraph, the Secretary may not increase any payment to an eligible entity.

(3) Termination

The Secretary may approve a termination of any interest in land, or portion of such interest, administered by the Secretary, directly or on behalf of the Commodity Credit Corporation under the program if the Secretary determines that—

(A) termination is in the interest of the Federal Government;

(B) the United States will be fully compensated for—

(i) the fair market value of the interest in land;

(ii) any costs relating to the termination; and

(iii) any damages determined appropriate by the Secretary; and

(C) the termination will—

(i) address a compelling public need for which there is no practicable alternative even with avoidance and minimization; and

(ii) further the practical administration of the program.

(4) Consent

The Secretary shall obtain consent from the landowner and eligible entity, if applicable, for any subordination, exchange, modification, or termination of interest in land, or portion of such interest, under this subsection.

(5) Notice

At least 90 days before taking any termination action described in paragraph (3), the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) Land enrolled in other programs

(1) Conservation reserve program

The Secretary may terminate or modify a contract entered into under section 3831(a) of this title if eligible land that is subject to such contract is enrolled in an easement under section 3865c(b) of this title.

(2) Other

In accordance with the provisions of subtitle H of title II of the Agricultural Act of 2014, land enrolled in the wetlands reserve program, grassland reserve program, or farmland protection program on the day before February 7, 2014, shall be considered enrolled in the program.

(3) Agricultural land easements

A farmer or rancher who owns eligible land subject to an agricultural land easement may enter into a contract under subpart B of part I of subchapter IV.

(e) Compliance with certain requirements

The Secretary may not provide assistance under this subchapter to an eligible entity or

owner of eligible land unless the eligible entity or owner agrees, during the crop year for which the assistance is provided—

(1) to comply with applicable conservation requirements under subchapter II; and

(2) to comply with applicable wetland protection requirements under subchapter III.

(Pub. L. 99-198, title XII, §1265D, as added Pub. L. 113-79, title II, §2301(a), Feb. 7, 2014, 128 Stat. 742; amended Pub. L. 115-334, title II, §2605, Dec. 20, 2018, 132 Stat. 4591.)

REFERENCES IN TEXT

The Agricultural Act of 2014, referred to in subsec. (d)(2), is Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 649. Subtitle H (§§ 2701-2713) of title II of the Act amended sections 3801, 3811, and 3842 of this title, repealed sections 3830, 3831a, 3837 to 3837f, 3838h to 3838j, 3838n to 3838q, 3839 to 3839d, 3839aa-9, 3839bb-1, 3839bb-3, and 3839bb-4 of this title, and enacted provisions set out as notes under sections 3801, 3831a, 3837, 3838h, 3838n, 3839aa-9, 3839bb-1, 3839bb-4, and 3843 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9001 of Title 7, Agriculture, and Tables.

AMENDMENTS

2018—Subsec. (a)(4). Pub. L. 115-334, §2605(1), substituted “permitted” for “proposed”.

Subsec. (c). Pub. L. 115-334, §2605(2), added subsec. (c) and struck out former subsec. (c) which allowed the Secretary to subordinate, exchange, modify, or terminate interests in land subject to certain determination, consultation, and notice requirements.

Subsec. (d)(1). Pub. L. 115-334, §2605(3)(A), substituted “enrolled in an easement under section 3865c(b) of this title” for “transferred into the program”.

Subsec. (d)(3). Pub. L. 115-334, §2605(3)(B), added par. (3).

SUBCHAPTER VIII—REGIONAL CONSERVATION PARTNERSHIP PROGRAM

§ 3871. Establishment and purposes

(a) Establishment

The Secretary shall establish a regional conservation partnership program to implement eligible activities on eligible land through—

(1) partnership agreements, including partnership agreements funded through alternative funding arrangements or grant agreements under section 3871c(d) of this title, with eligible partners; and

(2) program contracts with producers.

(b) Purposes

The purposes of the program are as follows:

(1) To carry out eligible activities to accomplish purposes and functions similar to those of the following programs, as in effect on the day before February 7, 2014:

(A) The agricultural water enhancement program established under section 3839aa-9¹ of this title.

(B) The Chesapeake Bay watershed program established under section 3839bb-4¹ of this title.

(C) The cooperative conservation partnership initiative established under section 3843¹ of this title.

(D) The Great Lakes basin program for soil erosion and sediment control established under section 3839bb-3¹ of this title.

¹ See References in Text note below.

(2) To further the conservation, protection, restoration, and sustainable use of soil, water (including sources of drinking water and groundwater), wildlife, agricultural land, and related natural resources on eligible land on a regional or watershed scale.

(3) To encourage eligible partners to cooperate with producers in—

(A) meeting or avoiding the need for national, State, and local natural resource regulatory requirements related to production on eligible land, including through alignment of partnership projects with other national, State, and local agencies and programs addressing similar natural resource or environmental concerns; and

(B) implementing projects that will result in the adoption, installation, and maintenance of eligible activities that affect multiple agricultural or nonindustrial private forest operations on a local, regional, State, or multistate basis.

(4) To encourage the flexible and streamlined delivery of conservation assistance to producers through partnership agreements.

(5) To engage producers and eligible partners in conservation projects to achieve greater conservation outcomes and benefits for producers than would otherwise be achieved.

(Pub. L. 99-198, title XII, §1271, as added Pub. L. 113-79, title II, §2401, Feb. 7, 2014, 128 Stat. 744; amended Pub. L. 115-334, title II, §2701, Dec. 20, 2018, 132 Stat. 4592.)

REFERENCES IN TEXT

Sections 3839aa-9, 3839bb-3, 3839bb-4, and 3843 of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 113-79, title II, §§ 2706(a), 2708, 2709(a), 2710(a), Feb. 7, 2014, 128 Stat. 768, 770.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334, §2701(1)(A), inserted “, including partnership agreements funded through alternative funding arrangements or grant agreements under section 3871c(d) of this title,” after “partnership agreements”.

Subsec. (a)(2). Pub. L. 115-334, §2701(1)(B), substituted “program contracts with producers” for “contracts with producers”.

Subsec. (b)(1). Pub. L. 115-334, §2701(2)(A), substituted “To carry out eligible activities” for “To use covered programs” in introductory provisions.

Subsec. (b)(2). Pub. L. 115-334, §2701(2)(B), added par. (2) and struck out former par. (2) which read as follows: “To further the conservation, restoration, and sustainable use of soil, water, wildlife, and related natural resources on eligible land on a regional or watershed scale.”

Subsec. (b)(3)(A). Pub. L. 115-334, §2701(2)(C)(i), inserted “, including through alignment of partnership projects with other national, State, and local agencies and programs addressing similar natural resource or environmental concerns” after “production on eligible land”.

Subsec. (b)(3)(B). Pub. L. 115-334, §2701(2)(C)(ii), substituted “adoption, installation, and maintenance” for “installation and maintenance”.

Subsec. (b)(4), (5). Pub. L. 115-334, §2701(2)(D), added pars. (4) and (5).

§ 3871a. Definitions

In this subchapter:

(1) Covered program

The term “covered program” means the following: