

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.

### § 3845. Environmental services markets

#### (a) Technical guidelines required

The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

#### (b) Establishment

The Secretary shall establish guidelines under subsection (a) for use in developing the following:

- (1) A procedure to measure environmental services benefits.
- (2) A protocol to report environmental services benefits.
- (3) A registry to collect, record and maintain the benefits measured.

#### (c) Verification requirements

##### (1) Verification of reports

The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

##### (2) Role of third parties

In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

#### (d) Use of existing information

In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

#### (e) Consultation

In carrying out this section, the Secretary shall consult with the following:

- (1) Federal and State government agencies.
- (2) Nongovernmental interests including—
  - (A) farm, ranch, and forestry producers;
  - (B) financial institutions involved in environmental services trading;
  - (C) institutions of higher education with relevant expertise or experience;
  - (D) nongovernmental organizations with relevant expertise or experience; and
  - (E) private sector representatives with relevant expertise or experience.
- (3) Other interested persons, as determined by the Secretary.

(Pub. L. 99-198, title XII, §1245, as added Pub. L. 110-234, title II, §2709, May 22, 2008, 122 Stat. 1081, and Pub. L. 110-246, §4(a), title II, §2709, June 18, 2008, 122 Stat. 1664, 1809.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec (d), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

##### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

##### PRIOR PROVISIONS

A prior section 3845, Pub. L. 99-198, title XII, §1245, Dec. 23, 1985, 99 Stat. 1516; Pub. L. 101-624, title XIV, §1443, Nov. 28, 1990, 104 Stat. 3602; Pub. L. 102-552, title V, §516(b)(1), Oct. 28, 1992, 106 Stat. 4137, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 104-127.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

### § 3846. Regulations

#### (a) In general

The Secretary shall promulgate such regulations as are necessary to implement programs under this chapter, including such regulations as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under section 3844(f) of this title.

#### (b) Rulemaking procedure

The promulgation of regulations and administration of programs under this chapter—

- (1) shall be carried out without regard to chapter 35 of title 44 (commonly known as the Paperwork Reduction Act); and
- (2) shall be made as an interim rule effective on publication with an opportunity for notice and comment.

#### (c) Congressional review of agency rulemaking

In promulgating regulations under this section, the Secretary shall use the authority provided under section 808 of title 5.

(Pub. L. 99-198, title XII, §1246, as added Pub. L. 113-79, title II, §2608, Feb. 7, 2014, 128 Stat. 761.)

#### Editorial Notes

##### REFERENCES IN TEXT

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

##### PRIOR PROVISIONS

A prior section 3846, Pub. L. 99-198, title XII, §1246, as added Pub. L. 101-624, title XIV, §1444, Nov. 28, 1990, 104