

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

Stat. 3602, directed Secretary to report to Congress on erodible land and wetland conservation program, prior to repeal by Pub. L. 104-66, title I, §1011(a), Dec. 21, 1995, 109 Stat. 709.

§ 3847. Data on conservation practices

(a) Data on conservation practices

The Secretary shall identify available data sets within the Department of Agriculture regarding the use of conservation practices and the effect of such practices on farm and ranch profitability (including such effects relating to crop yields, soil health, and other risk-related factors).

(b) Report

Not later than 1 year after December 20, 2018, 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 that includes—

- (1) a summary of the data sets identified under subsection (a);
- (2) a summary of the steps the Secretary would have to take to provide access to such data sets by university researchers, including taking into account any technical, privacy, or administrative considerations;
- (3) a summary of safeguards the Secretary employs when providing access to data to university researchers;
- (4) a summary of appropriate procedures to maximize the potential for research benefits while preventing any violations of privacy or confidentiality; and
- (5) recommendations for any necessary authorizations or clarifications of Federal law to allow access to such data sets to maximize the potential for research benefits.

(Pub. L. 99-198, title XII, §1247, as added Pub. L. 115-334, title XII, §12618, Dec. 20, 2018, 132 Stat. 5017.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3847, Pub. L. 99-198, title XII, §1247, as added Pub. L. 101-624, title XIV, §1445, Nov. 28, 1990, 104 Stat. 3603; amended Pub. L. 102-237, title II, §204(8), Dec. 13, 1991, 105 Stat. 1855, which related to assistance for control of spread of weeds and pests, was omitted in the general amendment of this subchapter by Pub. L. 104-127.

SUBCHAPTER V-A—OTHER CONSERVATION PROGRAMS

§ 3851. Experienced services program

(a) Establishment and purpose

The Secretary shall establish an experienced services program (referred to in this section as the “program”) for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide—

- (1) technical services in support of the conservation-related programs and authorities carried out by the Secretary, including conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices; and

(2) technical, professional, and administrative services to support the research, education, and economics mission area of the Department of Agriculture (including the Agricultural Research Service, the Economic Research Service, the National Agricultural Library, the National Agricultural Statistics Service, the Office of the Chief Scientist, and the National Institute of Food and Agriculture), including—

- (A) supporting agricultural research and information;
- (B) advancing scientific knowledge relating to agriculture;
- (C) enhancing access to agricultural information;
- (D) providing statistical information and research results to farmers, ranchers, agribusiness, and public officials; and
- (E) assisting research, education, and extension programs in land-grant colleges and universities (as defined in section 3103 of this title).

(b) Program agreements

(1) Relation to older American community service employment program

Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the program who will provide technical, professional, or administrative services, as applicable, under the program.

(2) Required determination

Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

- (A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;
- (B) result in the use of an individual under the program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or
- (C) affect existing contracts for services.

(c) Funding source

(1) Conservation technical services

Except as provided in paragraph (2), with respect to subsection (a)(1), the Secretary may carry out the program using funds made available to carry out each program under this chapter.

(2) Exclusion

Funds made available to carry out the conservation reserve program may not be used to carry out the program.

(3) Research, education, and economics services

With respect to services referred to in subsection (a)(2), the Secretary may carry out the