

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 significant 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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

in each State have an equitable opportunity to participate in the program established under this section.

(b) Eligible acreage

(1) Wetland and related land

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

(A) that is wetland (including a converted wetland described in section 3822(b)(1)(A) of this title) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

(B) on which a constructed wetland is to be developed that will receive surface and subsurface flow from row crop agricultural production and is designed to provide nitrogen removal in addition to other wetland functions;

(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

(D) that, after January 1, 1990, and before December 31, 2002, was—

(i) cropped during at least 3 of 10 crop years; and

(ii) subject to the natural overflow of a prairie wetland.

(2) Buffer acreage

Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

(i) is contiguous to such land;

(ii) is used to protect such land; and

(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

(c) Program limitations

(1) Acreage limitation

The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

(A) 100,000 acres in any State; and

(B) a total of 750,000 acres.

(2) Relationship to maximum enrollment

Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

(3) Relationship to other enrolled acreage

Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

(A) acreage enrolled to establish conservation buffers as part of the program an-