

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.

§ 3831c. Pilot programs

(a) CLEAR 30

(1) In general

(A) Enrollment

The Secretary shall establish a pilot program to enroll land in the conservation reserve program through a 30-year conservation reserve contract (referred to in this subsection as a “CLEAR 30 contract”) in accordance with this subsection.

(B) Inclusion of acreage limitation

For purposes of applying the limitations in section 3831(d)(1) of this title, the Secretary shall include acres of land enrolled under this subsection.

(2) Expired conservation contract election

(A) Definition of covered contract

In this paragraph, the term “covered contract” means a contract entered into under this subpart that—

- (i) expires on or after December 20, 2018; and
- (ii) covers land enrolled in the conservation reserve program under the clean lakes, estuaries, and rivers priority described in section 3831(d)(3) of this title (or the predecessor practices that constitute the priority, as determined by the Secretary).

(B) Election

On the expiration of a covered contract, an owner or operator party to the covered contract shall elect—

- (i) not to reenroll the land under the contract;
- (ii) to offer to reenroll the land under the contract if the land remains eligible under the terms in effect as of the date of expiration; or
- (iii) not to reenroll the land under the contract and to enroll that land through a CLEAR 30 contract under this subsection.

(3) Eligible land

Only land that is subject to an expired covered contract shall be eligible for enrollment through a CLEAR 30 contract under this subsection.

(4) Term

The term of a CLEAR 30 contract shall be 30 years.

(5) Agreements

To be eligible to enroll land in the conservation reserve program through a CLEAR 30 contract, the owner of the land shall enter into an agreement with the Secretary—

- (A) to implement a conservation reserve plan developed for the land;
- (B) to comply with the terms and conditions of the contract and any related agreements; and
- (C) to temporarily suspend the base history for the land covered by the contract.

(6) Terms and conditions of CLEAR 30 contracts

(A) In general

A CLEAR 30 contract shall include terms and conditions that—

(i) permit—

(I) repairs, improvements, and inspections on the land that are necessary to maintain existing public drainage systems; and

(II) owners to control public access on the land while identifying access routes to be used for restoration activities and management and contract monitoring;

(ii) prohibit—

(I) the alteration of wildlife habitat and other natural features of the land, unless specifically authorized by the Secretary as part of the conservation reserve plan;

(II) the spraying of the land with chemicals or the mowing of the land, except where the spraying or mowing is authorized by the Secretary or is necessary—

(aa) to comply with Federal or State noxious weed control laws;

(bb) to comply with a Federal or State emergency pest treatment program; or

(cc) to meet habitat needs of specific wildlife species;

(III) any activity to be carried out on the land of the owner or successor that is immediately adjacent to, and functionally related to, the land that is subject to the contract if the activity will alter, degrade, or otherwise diminish the functional value of the land; and

(IV) the adoption of any other practice that would tend to defeat the purposes of the conservation reserve program, as determined by the Secretary; and

(iii) include any additional provision that the Secretary determines is appropriate to carry out this section or facilitate the practical administration of this section.

(B) Violation

On the violation of a term or condition of a CLEAR 30 contract, the Secretary may require the owner to refund all or part of any payments received by the owner under the conservation reserve program, with interest on the payments, as determined appropriate by the Secretary.

(C) Compatible uses

Land subject to a CLEAR 30 contract may be used for compatible economic uses, including hunting and fishing, managed timber harvest, or periodic haying or grazing, if the use—

(i) is specifically permitted by the conservation reserve plan developed for the land; and

(ii) is consistent with the long-term protection and enhancement of the conservation resources for which the contract was established.

(7) Compensation**(A) Amount of payments**

The Secretary shall provide payment under this subsection to an owner of land enrolled through a CLEAR 30 contract using 30 annual payments in an amount equal to the amount that would be used if the land were to be enrolled in the conservation reserve program under section 3831(d)(3) of this title.

(B) Form of payment

Compensation for a CLEAR 30 contract shall be provided by the Secretary in the form of a cash payment in an amount determined under subparagraph (A).

(C) Timing

The Secretary shall provide any annual payment obligation under subparagraph (A) as early as practicable in each fiscal year.

(D) Payments to others

The Secretary shall make a payment, in accordance with regulations prescribed by the Secretary, in a manner as the Secretary determines is fair and reasonable under the circumstances, if an owner who is entitled to a payment under this section—

- (i) dies;
- (ii) becomes incompetent;
- (iii) is succeeded by another person or entity who renders or completes the required performance; or
- (iv) is otherwise unable to receive the payment.

(8) Technical assistance**(A) In general**

The Secretary shall assist owners in complying with the terms and conditions of a CLEAR 30 contract.

(B) 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 maintenance of a CLEAR 30 contract if the Secretary determines that the contract or agreement will advance the purposes of the conservation reserve program.

(9) Administration**(A) Conservation reserve plan**

The Secretary shall develop a conservation reserve plan for any land subject to a CLEAR 30 contract, which shall include practices and activities necessary to maintain, protect, and enhance the conservation value of the enrolled land.

(B) Delegation of contract administration**(i) Federal, State, or local government agencies**

The Secretary may delegate any of the management, monitoring, and enforcement responsibilities of the Secretary under this subsection to other Federal, State, or local government agencies that have the appropriate authority, expertise, and resources necessary to carry out those delegated responsibilities.

(ii) Conservation organizations

The Secretary may delegate any management responsibilities of the Secretary under this subsection to conservation organizations if the Secretary determines the conservation organization has similar expertise and resources.

(b) Soil health and income protection pilot program**(1) Definition of eligible land**

In this subsection:

(A) In general

The term “eligible land” means cropland that—

- (i) is selected by the owner or operator of the land for proposed enrollment in the pilot program under this subsection; and
- (ii) as determined by the Secretary—

(I) is located within 1 or more States that are part of the prairie pothole region, as selected by the Secretary based on consultation with State Committees of the Farm Service Agency and State technical committees established under section 3861(a) of this title from that region;

(II) had a cropping history or was considered to be planted during each of the 3 crop years preceding enrollment; and

(III) is verified to be less-productive land, as compared to other land on the applicable farm.

(B) Exclusion

The term “eligible land” does not include any land that was enrolled in a conservation reserve program contract in any of the 3 crop years preceding enrollment in the pilot program under this subsection.

(2) Establishment**(A) In general**

The Secretary shall establish a voluntary soil health and income protection pilot program under which eligible land is enrolled through the use of contracts to assist owners and operators of eligible land to conserve and improve the soil, water, and wildlife resources of the eligible land.

(B) Deadline for participation

Eligible land may be enrolled in the program under this section through December 31, 2020.¹

(3) Contracts**(A) Requirements**

A contract described in paragraph (2) shall—

- (i) be entered into by the Secretary, the owner of the eligible land, and (if applicable) the operator of the eligible land; and
- (ii) provide that, during the term of the contract—

(I) the lowest practicable cost perennial conserving use cover crop for the eligible land, as determined by the appli-

¹ See Soil Health and Income Protection Pilot Program Extension note below.

cable State conservationist after considering the advice of the applicable State technical committee, shall be planted on the eligible land;

(II) except as provided in subparagraph (E), the owner or operator of the eligible land shall pay the cost of planting the conserving use cover crop under subclause (I);

(III) subject to subparagraph (F), the eligible land may be harvested for seed, hayed, or grazed outside the primary nesting season established for the applicable county;

(IV) the eligible land may be eligible for a walk-in access program of the applicable State, if any; and

(V) a nonprofit wildlife organization may provide to the owner or operator of the eligible land a payment in exchange for an agreement by the owner or operator not to harvest the conserving use cover.

(B) Payments

Except as provided in subparagraphs (E) and (F)(ii)(II), the annual rental rate for a payment under a contract described in paragraph (2) shall be equal to 50 percent of the average rental rate for the applicable county under section 3834(d) of this title, as determined by the Secretary.

(C) Limitation on enrolled land

Not more than 15 percent of the eligible land on a farm may be enrolled in the pilot program under this subsection.

(D) Term

(i) In general

Except as provided in clause (ii), each contract described in paragraph (2) shall be for a term of 3, 4, or 5 years, as determined by the parties to the contract.

(ii) Early termination

(I) Secretary

The Secretary may terminate a contract described in paragraph (2) before the end of the term described in clause (i) if the Secretary determines that the early termination of the contract is necessary.

(II) Owners and operators

An owner and (if applicable) an operator of eligible land enrolled in the pilot program under this subsection may terminate a contract described in paragraph (2) before the end of the term described in clause (i) if the owner and (if applicable) the operator pay to the Secretary an amount equal to the amount of rental payments received under the contract.

(E) Beginning, limited resource, socially disadvantaged, or veteran farmers and ranchers

With respect to a beginning, limited resource, socially disadvantaged, or veteran farmer or rancher, as determined by the Secretary—

(i) a contract described in paragraph (2) shall provide that, during the term of the contract, of the actual cost of establishment of the conserving use cover crop under subparagraph (A)(ii)(I)—

(I) using the funds of the Commodity Credit Corporation, the Secretary shall pay 50 percent; and

(II) the beginning, limited resource, socially disadvantaged, or veteran farmer or rancher shall pay 50 percent; and

(ii) the annual rental rate for a payment under a contract described in paragraph (2) shall be equal to 75 percent of the average rental rate for the applicable county under section 3834(d) of this title, as determined by the Secretary.

(F) Harvesting, haying, and grazing outside applicable period

The harvesting for seed, haying, or grazing of eligible land under subparagraph (A)(ii)(III) outside of the primary nesting season established for the applicable county shall be subject to the conditions that—

(i) with respect to eligible land that is so hayed or grazed, adequate stubble height shall be maintained to protect the soil on the eligible land, as determined by the applicable State conservationist after considering the advice of the applicable State technical committee; and

(ii) with respect to eligible land that is so harvested for seed—

(I) the eligible land shall not be eligible to be insured or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(II) the rental payment otherwise applicable to the eligible land under this subsection shall be reduced by 25 percent.

(4) Acreage limitation

Of the number of acres available for enrollment in the conservation reserve under section 3831(d)(1) of this title, not more than 50,000 total acres of eligible land may be enrolled under the pilot program under this subsection.

(5) Report

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 an annual report describing the eligible land enrolled in the pilot program under this subsection, including—

(A) the estimated conservation value of the land; and

(B) estimated savings from reduced commodity payments, crop insurance indemnities, and crop insurance premium subsidies.

(Pub. L. 99-198, title XII, §1231C, as added Pub. L. 115-334, title II, §2204, Dec. 20, 2018, 132 Stat. 4538.)

Editorial Notes

REFERENCES IN TEXT

The Federal Crop Insurance Act, referred to in subsec. (b)(3)(F)(ii)(I), is subtitle A of title V of act Feb. 16,

1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

Statutory Notes and Related Subsidiaries

SOIL HEALTH AND INCOME PROTECTION PILOT PROGRAM EXTENSION

Pub. L. 116-260, div. O, title V, §501, Dec. 27, 2020, 134 Stat. 2149, provided that: "Section 1231C(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3831c(b)(2)(B)) shall be applied by substituting 'September 30, 2021' for 'December 31, 2020'."

§ 3832. Duties of owners and operators

(a) In general

Under the terms of a contract entered into under this subpart, during the term of the contract, an owner or operator of a farm or ranch shall agree—

(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting eligible land normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subpart;

(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

(4) to establish approved vegetative cover (which may include emerging vegetation in water), water cover for the enhancement of wildlife, or, where practicable, maintain existing cover on the land, except that—

(A) the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes; and

(B) the Secretary shall not terminate the contract for failure to establish approved vegetative or water cover on the land if—

(i) the failure to plant the cover was due to excessive rainfall or flooding;

(ii) the land subject to the contract that could practicably be planted to the cover is planted to the cover; and

(iii) the land on which the owner or operator was unable to plant the cover is planted to the cover after the wet conditions that prevented the planting subsides;

(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;

(6) on a violation of a term or condition of the contract at any time the owner or operator has control of the land—

(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Sec-

retary, if the Secretary, after considering the recommendations of the soil conservation district and the Natural Resources Conservation Service, determines that the violation is of such nature as to warrant termination of the contract; or

(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

(7) on the transfer of the right and interest of the owner or operator in land subject to the contract—

(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subpart;

unless the transferee of the land agrees with the Secretary to assume all obligations of the contract, except that no refund of rental payments and cost sharing payments shall be required if the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree to modifications to the contract, in a case in which the modifications are consistent with the objectives of the program, as determined by the Secretary;

(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except as provided in subsection (b) or (c) of section 3833 of this title;

(9) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

(10) on land devoted to hardwood or other trees, excluding windbreaks and shelterbelts, to carry out proper thinning and other practices—

(A) to enhance the conservation benefits and wildlife habitat resources addressed by the conservation practice under which the land is enrolled; and

(B) to promote forest management;

(11) not to adopt any practice specified by the Secretary in the contract as a practice