

that would tend to defeat the purposes of this subpart; and

(12) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this subpart or to facilitate the practical administration of this subpart.

(b) Conservation plans

The plan referred to in subsection (a)(1) shall set forth—

(1) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

(2) the commercial use, if any, to be permitted on the land during the term.

(c) Foreclosure

(1) In general

Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subpart may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment.

(2) Resumption of control

(A) In general

This subsection shall not void the responsibilities of an owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the period specified in the contract.

(B) Contract

On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(Pub. L. 99-198, title XII, §1232, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 242; amended Pub. L. 108-7, div. N, title II, §212, Feb. 20, 2003, 117 Stat. 545; Pub. L. 110-234, title II, §§2107, 2108, May 22, 2008, 122 Stat. 1032, 1033; Pub. L. 110-246, §4(a), title II, §§2107, 2108, June 18, 2008, 122 Stat. 1664, 1760, 1761; Pub. L. 113-79, title II, §2003, Feb. 7, 2014, 128 Stat. 715; Pub. L. 115-334, title II, §2205, Dec. 20, 2018, 132 Stat. 4543.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3832, Pub. L. 99-198, title XII, §1232, Dec. 23, 1985, 99 Stat. 1509; Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1919; Pub. L. 101-624, title XIV, §§1433, 1447(a), Nov. 28, 1990, 104 Stat. 3579, 3605; Pub. L. 102-237, title II, §204(5), Dec. 13, 1991, 105 Stat. 1855; Pub. L. 102-552, title V, §516(a), Oct. 28, 1992, 106 Stat. 4136; Pub. L. 104-127, title III, §332(a)(2), Apr. 4, 1996, 110 Stat. 994; Pub. L. 106-78, title VII, §§763, 769, Oct. 22, 1999, 113 Stat. 1173, 1174; Pub. L. 106-387, §1(a) [title VIII, §817,

title XI, §1103], Oct. 28, 2000, 114 Stat. 1549, 1549A-58, 1549A-77; Pub. L. 107-76, title VII, §§758(b), 759(b)(2), Nov. 28, 2001, 115 Stat. 741, related to duties of owners and operators, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(10) to (12). Pub. L. 115-334 added par. (10) and redesignated former pars. (10) and (11) as (11) and (12), respectively.

2014—Subsec. (a)(8). Pub. L. 113-79, §2003(a), substituted “except as provided in subsection (b) or (c) of section 3833 of this title;” for “except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—” and struck out subpars. (A) to (D), which related to managed harvesting, commercial use in response to an emergency, grazing for the control of invasive species, and the installation of wind turbines, respectively.

Subsec. (b). Pub. L. 113-79, §2003(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “The plan referred to in subsection (a)(1) of this section—

“(1) shall set forth—

“(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

“(B) the commercial use, if any, to be permitted on the land during the term; and

“(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.”

Subsec. (d). Pub. L. 113-79, §2003(c), struck out subsec. (d). Text read as follows: “In the case of an authorized activity under subsection (a)(8) on land that is subject to a contract under this subpart, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.”

2008—Subsec. (a)(5) to (7). Pub. L. 110-246, §2107, added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 110-246, §2108(a), added par. (8) and struck out former par. (8) which related to prohibition against harvesting, grazing, or other commercial use of the forage, with exception authorizing Secretary to permit managed harvesting and grazing if appropriate requirements were developed and timeframes identified or in a drought or other emergency, and exception for the installation of wind turbines.

Pub. L. 110-246, §2107(1), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9) to (11). Pub. L. 110-246, §2107(1), redesignated pars. (8) to (10) as (9) to (11), respectively.

Subsec. (d). Pub. L. 110-246, §2108(b), added subsec. (d).

2003—Subsec. (a)(7)(A)(iii). Pub. L. 108-7 inserted before semicolon “, except that this clause shall not apply to the 2002 calendar year, and the Secretary shall repay the owner or operator (in a manner determined by the Secretary) for any reduction in rental payments made to the owner or operator as the result of the application of this clause to the 2002 calendar year”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment 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 an Effective Date note under section 8701 of Title 7, Agriculture.

§ 3833. Duties of the Secretary

(a) Cost-share and rental payments

In return for a contract entered into by an owner or operator under the conservation reserve program, the Secretary shall—

(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest, including the cost of fencing and other water distribution practices, if applicable; and

(2) for a period of years not in excess of the term of the contract, pay an annual rental payment, in accordance with section 3834(d) of this title, for—

(A) the conversion of highly erodible cropland, marginal pastureland, or other eligible lands normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; or

(B) the development and management of grasslands for multiple natural resource conservation benefits, including to soil, water, air, and wildlife.

(b) Specified activities permitted

(1) In general

The Secretary, in coordination with the applicable State technical committee established under section 3861(a) of this title, shall permit certain activities or commercial uses of established cover on land that is subject to a contract under the conservation reserve program if—

(A) those activities or uses—

(i) are consistent with the conservation of soil, water quality, and wildlife habitat;

(ii) are subject to appropriate restrictions during the primary nesting season for birds in the local area that are economically significant, in significant decline, or conserved in accordance with Federal or State law;

(iii) contribute to the health and vigor of the established cover; and

(iv) are consistent with a site-specific plan, including vegetative management requirements, stocking rates, and frequency and duration of activity, taking into consideration regional differences, such as climate, soil type, and natural resources; and

(B) the Secretary, in coordination with the State technical committee, includes contract modifications—

(i) without any reduction in the rental rate for—

(I) emergency haying, emergency grazing, or other emergency use of the forage in response to a localized or regional drought, flooding, wildfire, or other emergency, on all practices, outside the primary nesting season, when—

(aa) the county is designated as D2 (severe drought) or greater according to the United States Drought Monitor;

(bb) there is at least a 40 percent loss in forage production in the county; or

(cc) the Secretary, in coordination with the State technical committee, determines that the program can assist in the response to a natural disaster event without permanent damage to the established cover;

(II) emergency grazing on all practices during the primary nesting season if

payments are authorized for a county under the livestock forage disaster program under clause (ii) of section 9081(c)(3)(D) of title 7, at 50 percent of the normal carrying capacity determined under clause (i) of that section, adjusted to the site-specific plan;

(III) emergency haying on certain practices, outside the primary nesting season, if payments are authorized for a county under the livestock forage disaster program under clause (ii) of section 9081(c)(3)(D) of title 7, on not more than 50 percent of contract acres, as identified in the site-specific plan;

(IV) grazing of all practices, outside the primary nesting season, if included as a mid-contract management practice under section 3832(a)(5) of this title;

(V) the intermittent and seasonal use of vegetative buffer established under paragraphs (4) and (5) of section 3831(b) of this title that are incidental to agricultural production on land adjacent to the buffer such that the permitted use—

(aa) does not destroy the permanent vegetative cover; and

(bb) retains suitable vegetative structure for wildlife cover and shelter outside the primary nesting season; or

(VI) grazing on all practices, outside the primary nesting season, if conducted by a beginning farmer or rancher; or

(ii) with a 25 percent reduction in the annual rental rate for the acres covered by the authorized activity, including—

(I) grazing not more frequently than every other year on the same land, except that during the primary nesting season, grazing shall be subject to a 50 percent reduction in the stocking rate specified in the site-specific plan;

(II) grazing of all practices during the primary nesting season, with a 50 percent reduction in the stocking rate specified in the site-specific plan;

(III) haying and other commercial use (including the managed harvesting of biomass and excluding the harvesting of vegetative cover), on the condition that the activity—

(aa) is completed outside the primary nesting season;

(bb) occurs not more than once every 3 years; and

(cc) maintains 25 percent of the total contract acres unharvested, in accordance with a site-specific plan that provides for wildlife cover and shelter;

(IV) annual grazing outside the primary nesting season if consistent with a site-specific plan that is authorized for the control of invasive species; and

(V) the installation of wind turbines and associated access, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

- (aa) the location, size, and other physical characteristics of the land;
- (bb) the extent to which the land contains threatened or endangered wildlife and wildlife habitat; and
- (cc) the purposes of the conservation reserve program under this subpart.

(2) Conditions on haying and grazing

(A) In general

The Secretary may permit haying or grazing in accordance with paragraph (1) on any land or practice subject to a contract under the conservation reserve program.

(B) Exceptions

(i) Damage to vegetative cover

Haying or grazing described in paragraph (1) shall not be permitted on land subject to a contract under the conservation reserve program, or under a particular practice, if haying or grazing for that year under that practice, as applicable, would cause long-term damage to vegetative cover on that land.

(ii) Special agreements

(I) In general

Except as provided in subclause (II), haying or grazing described in paragraph (1) shall not be permitted on—

- (aa) land covered by a contract enrolled under the State acres for wild-life enhancement program established by the Secretary; or
- (bb) land covered by a contract enrolled under a conservation reserve enhancement program established under section 3831a of this title or the Conservation Reserve Enhancement Program established by the Secretary under this subpart.

(II) Exception

Subclause (I) shall not apply to land on which haying or grazing is specifically permitted under the applicable conservation reserve enhancement program agreement or other partnership agreement entered into under this subpart.

(c) Authorized activities on grasslands

For eligible land described in section 3831(b)(3) of this title, the Secretary shall permit the following activities:

- (1) Common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality.
- (2) Haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are economically significant, in significant decline, or conserved in accordance with Federal or State law, as determined by the Secretary in consultation with the State technical committee.
- (3) Fire suppression, fire-related rehabilitation, and construction of fire breaks.
- (4) Grazing-related activities, such as fencing and livestock watering.

(d) Resource conserving use

(1) In general

Beginning on the date that is 1 year before the date of termination of a contract under the program, the Secretary shall allow an owner or operator to make conservation and land improvements for economic use that facilitate maintaining protection of enrolled land after expiration of the contract.

(2) Conservation plan

The Secretary shall require an owner or operator carrying out the activities described in paragraph (1) to develop and implement a conservation plan.

(3) Re-enrollment prohibited

Land improved under paragraph (1) may not be re-enrolled in the conservation reserve program for 5 years after the date of termination of the contract.

(4) Payment reduction

In the case of an activity carried out under paragraph (1), the Secretary shall reduce the payment otherwise payable under the contract by an amount commensurate with the economic value of the activity.

(e) Natural disaster or adverse weather as mid-contract management

In the case of a natural disaster or adverse weather event that has the effect of a management practice consistent with the conservation plan, the Secretary shall not require further management practices pursuant to section 3832(a)(5) of this title that are intended to achieve the same effect.

(Pub. L. 99-198, title XII, §1233, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 245; amended Pub. L. 113-79, title II, §2004, Feb. 7, 2014, 128 Stat. 715; Pub. L. 115-334, title II, §2206, Dec. 20, 2018, 132 Stat. 4543.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3833, Pub. L. 99-198, title XII, §1233, Dec. 23, 1985, 99 Stat. 1511, related to duties of Secretary, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-334, §2206(a)(1), inserted “, including the cost of fencing and other water distribution practices, if applicable” after “in the public interest”.

Subsec. (a)(2). Pub. L. 115-334, §2206(a)(2)(A), substituted “, in accordance with section 3834(d) of this title,” for “in an amount necessary to compensate” in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 115-334, §2206(a)(2)(B) inserted “, marginal pastureland,” after “cropland” and “or” at end.

Subsec. (a)(2)(B), (C). Pub. L. 115-334, §2206(a)(2)(C), (D), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “the retirement of any base history that the owner or operator agrees to retire permanently; and”.

Subsec. (b). Pub. L. 115-334, §2206(b), added subsec. (b) and struck out former subsec. (b) which described certain activities or commercial uses that would be permitted on land subject to a contract under the conservation reserve program.

Subsec. (e). Pub. L. 115-334, §2206(c), added subsec. (e). 2014—Pub. L. 113-79 amended section generally. Prior to amendment, section also related to duties of the Secretary.

§ 3834. Payments

(a) Timing

The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subpart—

(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

(2) with respect to any annual rental payment obligation incurred by the Secretary—

(A) as soon as practicable after October 1 of each calendar year; or

(B) at the option of the Secretary, at any time prior to such date during the year that the obligation is incurred.

(b) Cost sharing payments

(1) In general

In making cost sharing payments to an owner or operator under a contract entered into under this subpart, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under each contract for which the Secretary determines that cost sharing is appropriate and in the public interest.

(2) Limitations

(A) In general

The Secretary shall ensure, to the maximum extent practicable, that cost sharing payments to an owner or operator under this subpart, when combined with the sum of payments from all other funding sources for measures and practices described in paragraph (1), do not exceed 100 percent of the total actual cost of establishing those measures and practices, as determined by the Secretary.

(B) Mid-contract management grazing

The Secretary may not make any cost sharing payment to an owner or operator under this subpart pursuant to section 3832(a)(5) of this title.

(C) Seed cost

In the case of seed costs related to the establishment of cover, cost sharing payments under this subpart shall not exceed 50 percent of the actual cost of the seed mixture, as determined by the Secretary.

(3) Other Federal cost share assistance

Except in the case of incentive payments that are related to the cost of the establishment of a practice and received from eligible partners under the conservation reserve enhancement program under section 3831a of this title, an owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if the owner or operator receives any other Federal cost share assistance with respect to the land under any other provision of law.

(4) Practice incentives for continuous practices

In addition to the cost sharing payment described in this subsection, the Secretary shall

make an incentive payment to an owner or operator of land enrolled under section 3831(d)(6) of this title in an amount not to exceed 50 percent of the actual cost of establishing all measures and practices described in paragraph (1), including seed costs related to the establishment of cover, as determined by the Secretary.

(c) Forest management incentive payments

(1) In general

Using funds made available under section 3841(a)(1)(A) of this title, the Secretary may make incentive payments to an owner or operator of eligible land in an amount sufficient to encourage proper thinning and other practices to improve the condition of resources, promote forest management, or enhance wildlife habitat on the land.

(2) Limitation

A payment described in paragraph (1) may not exceed 100 percent of the total cost of thinning and other practices conducted by the owner or operator.

(d) Annual rental payments

(1) In general

In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland or other eligible lands normally devoted to the production of an agricultural commodity to less intensive use, the Secretary shall consider—

(A) the amount necessary to encourage owners or operators of highly erodible cropland or other eligible lands to participate in the program established by this subpart;

(B) the impact on the local farmland rental market; and

(C) such other factors as the Secretary determines to be appropriate.

(2) Methods of determination

(A) In general

The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subpart may be determined through the submission of applications for such contracts by owners and operators in such manner as the Secretary may prescribe.

(B) Multiple enrollments

(i) In general

Subject to clause (ii), if land subject to a contract entered into under this subpart is reenrolled under section 3831(h)(1) of this title or has been previously enrolled in the conservation reserve, the annual rental payment shall be in an amount that is not more than 85 percent in the case of general enrollment contracts, or 90 percent in the case of continuous enrollment contracts, of the applicable estimated average county rental rate published pursuant to paragraph (4) for the year in which the reenrollment occurs.

(ii) Conservation reserve enhancement program

The reduction in annual rental payments under clause (i) may be waived as part of