

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

the negotiation between the Secretary and an eligible partner to enter into a conservation reserve enhancement program agreement under section 3831a of this title.

(C) Grasslands

Notwithstanding subparagraph (A), in the case of eligible land described in section 3831(b)(3) of this title, the Secretary shall make annual payments in an amount that is not more than 75 percent of the grazing value of the land covered by the contract.

(D) Continuous sign-up incentives

The Secretary shall make an incentive payment to the owner or operator of land enrolled under section 3831(d)(6) of this title at the time of initial enrollment in an amount equal to 32.5 percent of the amount of the first annual rental payment under subparagraph (A).

(3) Acceptance of contract offers

(A) Evaluation of offers

In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

(B) Establishment of different criteria in various States and regions

The Secretary may establish different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

(C) Local preference

In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.

(4) Rental rates

(A) Annual estimates

The Secretary (acting through the National Agricultural Statistics Service) shall annually conduct a survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland, and shall publish the estimates derived from the survey not later than September 15 of each year.

(B) Public availability of estimates

The estimates derived from the survey conducted under subparagraph (A) and the average current and previous soil rental rates for each county shall be maintained on a website of the Department of Agriculture for use by the general public.

(C) Use

The Secretary shall consider the estimates derived from the survey conducted under subparagraph (A) relating to dryland cash rental rates as a factor in determining rental rates under this section in a manner determined appropriate by the Secretary.

(D) Submission of additional information by State FSA offices and CREP partners

(i) In general

The Secretary shall provide an opportunity for State Committees of the Farm Service Agency or eligible partners (as defined in section 3831a(a) of this title) in conservation reserve enhancement programs under section 3831a of this title to propose an alternative soil rental rate prior to finalizing new rates, on the condition that documentation described in clause (ii) is provided to support the proposed alternative.

(ii) Acceptable documentation

Documentation referred to in clause (i) includes—

- (I) an average of cash rents from a random sample of lease agreements;
- (II) cash rent estimates from a published survey;
- (III) neighboring county estimate comparisons from the National Agricultural Statistics Service;
- (IV) an average of cash rents from Farm Service Agency farm business plans;
- (V) models that estimate cash rents, such as models that use returns to estimate crop production or land value data; or
- (VI) other documentation, as determined by the Secretary.

(iii) Notification

Not less than 14 days prior to the announcement of new or revised soil rental rates, the Secretary shall offer a briefing to the Chairman and Ranking Member of the Committee on Agriculture of the House of Representatives and the Chairman and Ranking Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate, including information on and the rationale for the alternative rates proposed under clause (i) that were accepted or rejected.

(E) Rental rate limitation

Notwithstanding forest management incentive payments described in subsection (c), the county average soil rental rate (before any adjustments relating to specific practices, wellhead protection, or soil productivity) shall not exceed—

- (i) 85 percent of the estimated rental rate determined under this paragraph for general enrollment; or
- (ii) 90 percent of the estimated rental rate determined under this paragraph for continuous enrollment.

(e) Payment schedule**(1) In general**

Except as otherwise provided in this section, payments under this subpart shall be made in cash in such amount and on such time schedule as is agreed on and specified in the contract.

(2) Advance payment

Payments under this subpart may be made in advance of determination of performance.

(f) Payments on death, disability, or succession

If an owner or operator that is entitled to a payment under a contract entered into under this subpart dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person that renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(g) Payment limitation for rental payments**(1) In general**

Except as provided in paragraph (2), the total amount of rental payments received by a person or legal entity, directly or indirectly, under this subpart for any fiscal year may not exceed \$50,000.

(2) Wellhead protection

Paragraph (1) and section 1308–3a(b) of title 7 shall not apply to rental payments received by a rural water district or association for land that is enrolled under this subpart for the purpose of protecting a wellhead.

(h) Other State or local assistance

In addition to any payment under this subpart, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling land in the conservation reserve program.

(Pub. L. 99–198, title XII, §1234, as added Pub. L. 107–171, title II, §2101(a), May 13, 2002, 116 Stat. 245; amended Pub. L. 110–234, title II, §§2109, 2110(a), (b)(1), (c), May 22, 2008, 122 Stat. 1034, 1035; Pub. L. 110–246, §4(a), title II, §§2109, 2110(a), (b)(1), (c), June 18, 2008, 122 Stat. 1664, 1762, 1763; Pub. L. 113–79, title II, §2005, Feb. 7, 2014, 128 Stat. 718; Pub. L. 115–334, title II, §2207, Dec. 20, 2018, 132 Stat. 4546.)

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 3834, Pub. L. 99–198, title XII, §1234, Dec. 23, 1985, 99 Stat. 1511; Pub. L. 100–387, title III, §322, Aug. 11, 1988, 102 Stat. 950; Pub. L. 101–624, title XIV, §§1434, 1447(a), Nov. 28, 1990, 104 Stat. 3581, 3605, related to payments for obligations, prior to the general amendment of this subpart by Pub. L. 107–171.

AMENDMENTS

2018—Subsec. (b)(2) to (5). Pub. L. 115–334, §2207(a), added par. (2), redesignated par. (5) as (3) and substituted “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” for “An owner”, added par. (4), and struck out former pars. (2) to (4) which related to limitation on payments, payments for land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, and extension of planting of hardwood trees over a 3-year period, respectively.

Subsec. (c). Pub. L. 115–334, §2207(b)(1), substituted “Forest management incentive payments” for “Incentive payments” in heading.

Subsec. (c)(1). Pub. L. 115–334, §2207(b)(2), substituted “Using funds made available under section 3841(a)(1)(A) of this title, the Secretary” for “The Secretary”.

Subsec. (c)(2). Pub. L. 115–334, §2207(b)(3), substituted “100 percent” for “150 percent”.

Subsec. (d)(1). Pub. L. 115–334, §2207(c)(1), substituted “the Secretary shall consider—” for “the Secretary may consider, among other things,”, inserted subpar. (A) designation before “the amount” and substituted semicolon for period at end, and added subpars. (B) and (C).

Subsec. (d)(2)(A). Pub. L. 115–334, §2207(c)(2)(A), substituted “determined through the submission of applications for such contracts by owners and operators in such manner as the Secretary may prescribe.” for “determined through—

“(i) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

“(ii) such other means as the Secretary determines are appropriate.”

Subsec. (d)(2)(B). Pub. L. 115–334, §2207(c)(2)(C), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (d)(2)(C). Pub. L. 115–334, §2207(c)(2)(B), (D), redesignated subpar. (B) as (C) and substituted “Notwithstanding subparagraph (A), in the case” for “In the case”.

Subsec. (d)(2)(D). Pub. L. 115–334, §2207(c)(2)(E), added subpar. (D).

Subsec. (d)(4). Pub. L. 115–334, §2207(c)(3), (4), redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: “In the case of acreage enrolled in the conservation reserve established under this subpart that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.”

Subsec. (d)(4)(A). Pub. L. 115–334, §2207(c)(5)(A), substituted “annually” for “, not less frequently than once every other year,” and inserted “, and shall publish the estimates derived from the survey not later than September 15 of each year” before period at end.

Subsec. (d)(4)(B). Pub. L. 115–334, §2207(c)(5)(B), inserted “and the average current and previous soil rental rates for each county” before “shall be maintained”.

Subsec. (d)(4)(C). Pub. L. 115–334, §2207(c)(5)(C), substituted “shall consider” for “may use”.

Subsec. (d)(4)(D), (E). Pub. L. 115–334, §2207(c)(5)(D), added subpars. (D) and (E).

Subsec. (d)(5). Pub. L. 115–334, §2207(c)(4), redesignated par. (5) as (4).

Subsec. (g)(1). Pub. L. 115–334, §2207(d)(1), substituted “Except as provided in paragraph (2), the total” for “The total”.

Subsec. (g)(2). Pub. L. 115–334, §2207(d)(2), added par. (2) and struck out former par. (2) which related to applicability of payment limitations relative to agreements entered into under a special conservation reserve enhancement program.

2014—Subsec. (b). Pub. L. 113–79, §2005(b)(1)(A), struck out “Federal percentage of” before “cost sharing payments” in heading.

Subsec. (b)(3)(A). Pub. L. 113–79, §2005(a), amended subpar. (A) generally. Prior to amendment, text read as follows: “This paragraph applies to—

“(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subpart after November 28, 1990;

“(ii) land converted to such production under section 3835a of this title; and

“(iii) land on which an owner or operator agrees to conduct thinning authorized by section 3832(a)(9) of this title, if the thinning is necessary to improve the condition of resources on the land.”

Subsec. (b)(3)(B)(i). Pub. L. 113-79, §2005(b)(1)(B)(i), struck out “or thinning” before period at end.

Subsec. (b)(3)(B)(ii). Pub. L. 113-79, §2005(b)(1)(B)(ii), amended cl. (ii) generally. Prior to amendment, text read as follows: “The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

“(I) the planting of the trees or shrubs; or

“(II) the thinning of existing stands to improve the condition of resources on the land.”

Subsecs. (c), (d). Pub. L. 113-79, §2005(b)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 113-79, §2005(c)(1), inserted “or other eligible lands” after “highly erodible cropland” in two places.

Subsec. (d)(2). Pub. L. 113-79, §2005(c)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subpart may be determined through—

“(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

“(B) such other means as the Secretary determines are appropriate.”

Subsec. (d)(5)(A). Pub. L. 113-79, §2005(c)(3)(A), substituted “, not less frequently than once every other year, conduct a survey” for “conduct an annual survey”.

Subsec. (d)(5)(B). Pub. L. 113-79, §2005(c)(3)(B), struck out “annual” before “survey”.

Subsec. (d)(5)(C). Pub. L. 113-79, §2005(c)(3)(C), added subpar. (C).

Subsec. (e). Pub. L. 113-79, §2005(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to cash or in-kind payments.

Pub. L. 113-79, §2005(b)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 113-79, §2005(b)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively. Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 113-79, §2005(e)(1), struck out “, including rental payments made in the form of in-kind commodities,” after “total amount of rental payments”.

Subsec. (g)(2) to (4). Pub. L. 113-79, §2005(e)(2), (3), redesignated par. (4) as (2) and struck out par. (3). Prior to amendment, text of par. (3) read as follows: “Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under the Farm Security and Rural Investment Act of 2002.”

Subsec. (h). Pub. L. 113-79, §2005(b)(2), redesignated subsec. (g) as (h).

2008—Subsec. (b)(3). Pub. L. 110-246, §2109, added par. (3) and struck out former par. (3) which related to the making of payments to an owner or operator of land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

Subsec. (c)(3). Pub. L. 110-246, §2110(a), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “In determining the acceptability of contract offers, the Secretary may—

“(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water qual-

ity, wildlife habitat, or provide other environmental benefits; and

“(B) establish different criteria in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.”

Subsec. (c)(5). Pub. L. 110-246, §2110(b)(1), added par. (5).

Subsec. (f)(1). Pub. L. 110-246, §2110(c)(1), substituted “received by a person or legal entity, directly or indirectly,” for “made to a person”.

Subsec. (f)(2). Pub. L. 110-246, §2110(c)(2), struck out par. (2) which related to promulgation of regulations defining the term “person” as used in subsec. (f) and providing terms and conditions determined necessary to ensure a fair and reasonable application of the subsec. (f) limitation.

Subsec. (f)(4)(A). Pub. L. 110-246, §2110(c)(3), substituted “any person or legal entity” for “any person”.

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.

FIRST SURVEY PURSUANT TO SUBSECTION (c)(5)

Pub. L. 110-234, title II, §2110(b)(2), May 22, 2008, 122 Stat. 1035, and Pub. L. 110-246, §4(a), title II, §2110(b)(2), June 18, 2008, 122 Stat. 1664, 1763, provided that: “The first survey required by paragraph (5) of section 1234(c) [now 1234(d)] of the Food Security Act of 1985 (16 U.S.C. 3834(c) [now 16 U.S.C. 3834(d)]), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

CONSERVATION RESEARCH APPLICATION

For provisions directing that enumerated provisions of the Food Security Act of 1985 shall apply to the conservation reserve program under this subchapter with respect to rental payments to persons under contracts entered into after Dec. 22, 1987, with certain exceptions, see section 1305(d) of Pub. L. 100-203, set out as a note under section 1308 of Title 7, Agriculture.

§ 3835. Contracts

(a) Ownership or operation requirements

(1) In general

Except as provided in paragraph (2), no contract shall be entered into under this subpart concerning land with respect to which the ownership has changed in the 1-year period preceding the first year of the contract period unless—

(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(B) the new ownership was acquired before January 1, 1985;

(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subpart; or

(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.