

“(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.

(2) Exceptions

Paragraph (1) shall not—

(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subpart; or

(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

(i) has operated the land to be covered by a contract under this section for at least 1 year preceding the date of the contract or since January 1, 1985, whichever is later; and

(ii) controls the land for the contract period.

(b) Sales or transfers

If, during the term of a contract entered into under this subpart, an owner or operator of land subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

(1) continue the contract under the same terms or conditions;

(2) enter into a new contract in accordance with this subpart; or

(3) elect not to participate in the program established by this subpart.

(c) Modifications**(1) In general**

The Secretary may modify a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the modification; and

(B) the Secretary determines that the modification is desirable—

(i) to carry out this subpart;

(ii) to facilitate the practical administration of this subpart;

(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or

(iv) to achieve such other goals as the Secretary determines are appropriate, consistent with this subpart.

(2) Production of agricultural commodities

The Secretary may modify or waive a term or condition of a contract entered into under this subpart in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

(d) Termination**(1) In general**

The Secretary may terminate a contract entered into with an owner or operator under this subpart if—

(A) the owner or operator agrees to the termination; and

(B) the Secretary determines that the termination would be in the public interest.

(2) Notice to congressional committees

At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subpart, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate written notice of the action.

(e) Early termination by owner or operator**(1) Early termination****(A) In general**

During fiscal year 2015, the Secretary shall allow a participant that entered into a contract under this subpart to terminate the contract at any time if the contract has been in effect for at least 5 years.

(B) Liability for contract violation

The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination.

(C) Notice to Secretary

The participant shall provide the Secretary with reasonable notice of the desire of the participant to terminate the contract.

(2) Certain land excepted

The following land shall not be subject to an early termination of contract under this subsection:

(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

(B) Land with an erodibility index of more than 15.

(C) Land devoted to hardwood trees.

(D) Wildlife habitat, duck nesting habitat, pollinator habitat, upland bird habitat buffer, wildlife food plots, State acres for wildlife enhancement, shallow water areas for wildlife, and rare and declining habitat.

(E) Farmable wetland and restored wetland.

(F) Land that contains diversions, erosion control structures, flood control structures, contour grass strips, living snow fences, salinity reducing vegetation, cross wind trap strips, and sediment retention structures.

(G) Land located within a federally designated wellhead protection area.

(H) Land that is covered by an easement under the conservation reserve program.

(I) Land located within an average width, according to the applicable Natural Resources Conservation Service field office technical guide, of a perennial stream or permanent water body.

(J) Land enrolled under the conservation reserve enhancement program.

(3) Effective date

The contract termination shall become effective upon approval by the Secretary.

(4) Prorated rental payment

If a contract entered into under this subpart is terminated under this subsection before the

end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

(5) Renewed enrollment

The termination of a contract entered into under this subpart shall not affect the ability of the owner or operator that requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

(6) Conservation requirements

If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subchapters II and III shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar land in the area, except that the requirements may not be more onerous than the requirements imposed on other land.

(f) Transition option for certain farmers or ranchers

(1) Transition to covered farmer or rancher

In the case of a contract modification approved in order to facilitate the transfer of land subject to a contract from a contract holder to a beginning farmer or rancher, a veteran farmer or rancher (as defined in section 2279(e)¹ of title 7), or a socially disadvantaged farmer or rancher (in this subsection referred to as a “covered farmer or rancher”), the Secretary shall—

(A) beginning on the date that is 2 years before the date of termination of the contract—

(i) allow the covered farmer or rancher, in conjunction with the contract holder, to make conservation and land improvements, including preparing to plant an agricultural crop; and

(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

(B) beginning on the date of termination of the contract, require the contract holder to sell or lease (under a long-term lease or a lease with an option to purchase, including a lease with a term of less than 5 years and an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

(C) require the covered farmer or rancher to develop and implement a conservation plan;

(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the covered farmer or rancher takes possession of the land through ownership or lease;

(E) give priority to the enrollment of the land covered by the contract in—

(i) the environmental quality incentives program established under subpart A of part IV;

(ii) the conservation stewardship program established under subpart B of part IV; or

(iii) the agricultural conservation easement program established under subchapter VII; and

(F) continue to make annual payments to the contract holder for not more than an additional 2 years after the date of termination of the contract, if the contract holder is not a family member (as defined in section 1308 of title 7) of the covered farmer or rancher.

(2) Reenrollment

To the extent that the maximum number of acres permitted to be enrolled under the conservation reserve program has not been met, the Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

(A)(i) is carried out on land described in paragraph (4) or (5) of section 3831(b) of this title; and

(ii) is eligible for continuous enrollment under section 3831(d)(6) of this title; and

(B) is part of an approved conservation plan.

(g) End of contract considerations

The Secretary shall not consider an owner or operator to be in violation of a term or condition of the conservation reserve contract if—

(1) during the year prior to expiration of the contract, the owner or operator—

(A)(i) enters into a contract under the environmental quality incentives program established under subpart A of part IV; and

(ii) begins the establishment of a practice under that contract; or

(B)(i) enters into a contract under the conservation stewardship program established under subpart B of part IV; and

(ii) begins the establishment of a practice under that contract; or

(2) during the 3 years prior to the expiration of the contract, the owner or operator begins the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(h) Land enrolled in agricultural conservation easement program

The Secretary may terminate or modify a contract entered into under this subpart if eligible land that is subject to such contract is transferred into the agricultural conservation easement program under subchapter VII.

(Pub. L. 99-198, title XII, § 1235, as added Pub. L. 107-171, title II, § 2101(a), May 13, 2002, 116 Stat. 249; amended Pub. L. 110-234, title II, § 2111, May 22, 2008, 122 Stat. 1035; Pub. L. 110-246, § 4(a), title II, § 2111, June 18, 2008, 122 Stat. 1664, 1763; Pub. L. 113-79, title II, § 2006, Feb. 7, 2014, 128 Stat. 719; Pub. L. 115-334, title II, § 2208, Dec. 20, 2018, 132 Stat. 4549.)

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 2279(e) of title 7, referred to in subsec. (f)(1), was redesignated section 2279(a) of title 7 by Pub. L. 115-334, title XII, §12301(b)(3), Dec. 20, 2018, 132 Stat. 4951.

The Organic Foods Production Act of 1990, referred to in subsecs. (f)(1)(A)(ii) and (g)(2), is title XXI of Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

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 3835, Pub. L. 99-198, title XII, §1235, Dec. 23, 1985, 99 Stat. 1513; Pub. L. 100-233, title VIII, §801, Jan. 6, 1988, 101 Stat. 1710; Pub. L. 101-624, title XIV, §1447(a), Nov. 28, 1990, 104 Stat. 3605; Pub. L. 104-127, title III, §332(c), Apr. 4, 1996, 110 Stat. 994, related to contracts, prior to the general amendment of this subpart by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (f)(1). Pub. L. 115-334, §2208(a)(1)(A), substituted “contract holder” for “retired farmer or rancher” in introductory provisions.

Subsec. (f)(1)(A). Pub. L. 115-334, §2208(a)(1)(C), substituted “2 years” for “1 year” in introductory provisions.

Subsec. (f)(1)(A)(i). Pub. L. 115-334, §2208(a)(1)(B), substituted “contract holder” for “retired or retiring owner or operator”.

Subsec. (f)(1)(B). Pub. L. 115-334, §2208(a)(1)(B), (D), substituted “contract holder” for “retired or retiring owner or operator” and inserted “, including a lease with a term of less than 5 years and an option to purchase” after “lease with an option to purchase”.

Subsec. (f)(1)(E). Pub. L. 115-334, §2208(a)(1)(E), (G), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 115-334, §2208(a)(1)(B), substituted “contract holder” for “retired or retiring owner or operator” in two places.

Subsec. (f)(1)(F). Pub. L. 115-334, §2208(a)(1)(F), redesignated subpar. (E) as (F).

Subsec. (f)(2). Pub. L. 115-334, §2208(a)(2)(A), substituted “To the extent that the maximum number of acres permitted to be enrolled under the conservation reserve program has not been met, the Secretary” for “The Secretary” in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 115-334, §2208(a)(2)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “is eligible for enrollment under the continuous signup option pursuant to section 3834(d)(2)(A)(ii) of this title; and”.

Subsec. (g). Pub. L. 115-334, §2208(b), amended subsec. (g) generally. Prior to amendment, text read as follows: “The Secretary shall not consider an owner or operator to be in violation of a term or condition of the conservation reserve contract if—

“(1) during the year prior to expiration of the contract, the land is enrolled in the conservation stewardship program; and

“(2) the activity required under the conservation stewardship program pursuant to such enrollment is consistent with this subpart.”

2014—Subsec. (e)(1)(A). Pub. L. 113-79, §2006(a)(1), substituted “During fiscal year 2015, the Secretary” for “The Secretary” and struck out “before January 1, 1995,” after “under this subpart”.

Subsec. (e)(2)(C) to (J). Pub. L. 113-79, §2006(a)(2), added subpars. (C) to (J) and struck out former subpar.

(C) which read as follows: “Other land of high environmental value (including wetland), as determined by the Secretary.”

Subsec. (e)(3). Pub. L. 113-79, §2006(a)(3), substituted “upon approval by the Secretary” for “60 days after the date on which the owner or operator submits the notice required under paragraph (1)(C)”.

Subsec. (f)(1). Pub. L. 113-79, §2006(b)(1)(A), substituted “Transition to covered farmer or rancher” for “Duties of the Secretary” in heading and, in introductory provisions, substituted “In the case of a contract modification approved in order to facilitate the transfer of land subject to a contract from a retired farmer or rancher to a beginning farmer or rancher, a veteran farmer or rancher (as defined in section 2279(e) of title 7), or a” for “In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or”.

Subsec. (f)(1)(A)(i). Pub. L. 113-79, §2006(b)(1)(B), inserted “, including preparing to plant an agricultural crop” after “improvements”.

Subsec. (f)(1)(D). Pub. L. 113-79, §2006(b)(1)(C), substituted “the covered farmer or rancher” for “the farmer or rancher”.

Subsec. (f)(1)(E). Pub. L. 113-79, §2006(b)(1)(D), substituted “section 1308” for “section 1308-1(b)(3)(B)”.

Subsec. (f)(2)(A). Pub. L. 113-79, §2006(b)(2), substituted “option pursuant to section 3834(d)(2)(A)(ii)” for “requirement of section 3831(h)(4)(B)”.

Subsecs. (g), (h). Pub. L. 113-79, §2006(c), added subsecs. (g) and (h).

2008—Subsec. (c)(1)(B)(iii), (iv). Pub. L. 110-246, §2111(a), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (f). Pub. L. 110-246, §2111(b), added subsec. (f).

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.

CONSERVATION RESERVE

Pub. L. 100-45, §10, May 27, 1987, 101 Stat. 323, provided that: “Section 1235(a) of the Food Security Act of 1985 [16 U.S.C. 3835(a)] should be reviewed by the Secretary of Agriculture to ensure that the provisions thereof relating to exceptions to the three-year ownership requirement with respect to eligibility for the conservation reserve are being implemented in a manner to encourage inclusion of producer-owned land in the conservation reserve. However, any such exception to the three-year requirement should be made only if the Secretary determines that the land involved (1) was not acquired for the purpose of placing the land in the conservation reserve or (2) otherwise meets the criteria for exceptions made under section 1235(a).”

§ 3835a. Repealed. Pub. L. 113-79, title II, § 2007, Feb. 7, 2014, 128 Stat. 720

Section, Pub. L. 99-198, title XII, §1235A, as added Pub. L. 107-171, title II, §2101(a), May 13, 2002, 116 Stat. 251, related to conversion of land subject to contract to other conserving uses.

Prior sections 3835a and 3836 were omitted in the general amendment of this subpart by Pub. L. 107-171.

Section 3835a, Pub. L. 99-198, title XII, §1235A, as added Pub. L. 101-624, title XIV, §1435, Nov. 28, 1990, 104 Stat. 3582; amended Pub. L. 102-324, §1(b), July 22, 1992, 106 Stat. 447, related to conversion of land subject to contract to other conserving uses.

Section 3836, Pub. L. 99-198, title XII, §1236, Dec. 23, 1985, 99 Stat. 1514; Pub. L. 101-624, title XIV, §1436, 1447(a), Nov. 28, 1990, 104 Stat. 3583, 3605; Pub. L. 107-76,