

Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECT ON EXISTING CONTRACTS

Pub. L. 113–79, title II, § 2208, Feb. 7, 2014, 128 Stat. 731, provided that: “The amendments made by this subtitle [subtitle C (§§ 2201–2208) of title II of Pub. L. 113–79, amending this section and sections 3839aa–1 to 3839aa–4, 3839aa–7, and 3839aa–8 of this title] shall not affect the validity or terms of any contract entered into by the Secretary of Agriculture under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa 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.”

§ 3839aa–1. Definitions

In this subpart:

(1) Conservation planning assessment

The term “conservation planning assessment” means a report, as determined by the Secretary, that—

(A) is developed by—

- (i) a State or unit of local government (including a conservation district);
- (ii) a Federal agency; or
- (iii) a third-party provider certified under section 3842(e) of this title (including a certified rangeland professional);

(B) assesses rangeland or cropland function and describes conservation activities to enhance the economic and ecological management of that land; and

(C) can be incorporated into a comprehensive planning document required by the Secretary for enrollment in a conservation program of the Department of Agriculture.

(2) Eligible land

(A) In general

The term “eligible land” means land on which agricultural commodities, livestock, or forest-related products are produced.

(B) Inclusions

The term “eligible land” includes the following:

- (i) Cropland.
- (ii) Grassland.
- (iii) Rangeland.
- (iv) Pasture land.
- (v) Nonindustrial private forest land.
- (vi) Other agricultural land (including cropped woodland, marshes, environmentally sensitive areas, and agricultural land used for the production of livestock) on which identified or expected resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

(3) Incentive practice

The term “incentive practice” means a practice or set of practices approved by the Secretary that, when implemented and maintained on eligible land, address 1 or more priority resource concerns.

(4) Organic system plan

The term “organic system plan” means an organic plan approved under the national or-

ganic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(5) Payment

The term “payment” means financial assistance provided to a producer for performing practices under this subpart, including compensation for—

(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

(B) income forgone by the producer.

(6) Practice

The term “practice” means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this subpart, as determined by the Secretary, including—

(A) improvements to eligible land of the producer, including—

- (i) structural practices;
- (ii) land management practices;
- (iii) vegetative practices;
- (iv) forest management;
- (v) soil testing;
- (vi) soil remediation to be carried out by the producer; and
- (vii) other practices that the Secretary determines would further the purposes of the program; and

(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

- (i) comprehensive nutrient management planning;
- (ii) planning for resource-conserving crop rotations (as defined in section 3839aa–24(d)(1) of this title);
- (iii) soil health planning, including increasing soil organic matter and the use of cover crops;
- (iv) a conservation planning assessment;
- (v) precision conservation management planning; and
- (vi) other plans that the Secretary determines would further the purposes of the program under this subpart.

(7) Priority resource concern

The term “priority resource concern” means a natural resource concern or problem, as determined by the Secretary, that—

(A) is identified at the national, State, or local level as a priority for a particular area of a State; and

(B) represents a significant concern in a State or region.

(8) Program

The term “program” means the environmental quality incentives program established by this subpart.

(9) Soil remediation

The term “soil remediation” means scientifically based practices that—

- (A) ensure the safety of producers from contaminants in soil;
- (B) limit contaminants in soil from entering agricultural products for human or animal consumption; and

(C) regenerate and sustain the soil.

(10) Soil testing

The term “soil testing” means the evaluation of soil health, including testing for—

(A) the optimal level of constituents in the soil, such as organic matter, nutrients, and the potential presence of soil contaminants, including heavy metals, volatile organic compounds, polycyclic aromatic hydrocarbons, or other contaminants; and

(B) the biological and physical characteristics indicative of proper soil functioning.

(Pub. L. 99-198, title XII, §1240A, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 253; amended Pub. L. 110-234, title II, §2502, May 22, 2008, 122 Stat. 1058; Pub. L. 110-246, §4(a), title II, §2502, June 18, 2008, 122 Stat. 1664, 1786; Pub. L. 113-79, title II, §2202, Feb. 7, 2014, 128 Stat. 729; Pub. L. 115-334, title II, §§2301(d)(1)(E), 2303, Dec. 20, 2018, 132 Stat. 4554, 4555.)

Editorial Notes

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in par. (4), 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 3839aa-1, Pub. L. 99-198, title XII, §1240A, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 997, related to definitions of terms, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2018—Pub. L. 115-334, §2301(d)(1)(E), substituted “this subpart” for “this part” wherever appearing.

Par. (1). Pub. L. 115-334, §2303(2), added par. (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 115-334, §2303(1), (3), redesignated par. (1) as (2) and, in subpar. (B)(vi), inserted “environmentally sensitive areas,” after “marshes,” and “identified or expected” before “resource concerns”. Former par. (2) redesignated (4).

Par. (3). Pub. L. 115-334, §2303(4), added par. (3). Former par. (3) redesignated (5).

Pars. (4), (5). Pub. L. 115-334, §2303(1), redesignated pars. (2) and (3) as (4) and (5), respectively. Former pars. (4) and (5) redesignated (6) and (8), respectively.

Par. (6). Pub. L. 115-334, §2303(1), (5), redesignated par. (4) as (6); in subpar. (A), added cls. (v) and (vi) and redesignated former cl. (v) as (vii); and, in subpar. (B), added cls. (ii) to (v) and redesignated former cl. (ii) as (vi).

Par. (7). Pub. L. 115-334, §2303(6), added par. (7).

Par. (8). Pub. L. 115-334, §2303(1), redesignated par. (5) as (8).

Pars. (9), (10). Pub. L. 115-334, §2303(7), added pars. (9) and (10).

2014—Pars. (2) to (6). Pub. L. 113-79 redesignated pars. (3) to (6) as (2) to (5), respectively, inserted “established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.)” after “national organic program” in par. (2), and struck out former par. (2). Text of former par. (2) read as follows: “The term ‘national or-

ganic program’ means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).”

2008—Pub. L. 110-246, §2502, amended section generally. Prior to amendment, section defined “beginning farmer or rancher”, “eligible land”, “land management practice”, “livestock”, “practice”, and “structural practice”.

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.

§ 3839aa-2. Establishment and administration

(a) Establishment

During each of the 2002 through 2031 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

(b) Practices and term

(1) Practices

A contract under the program may apply to the performance of one or more practices.

(2) Term

A contract under the program shall have a term that does not exceed 10 years.

(c) Bidding down

If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

(d) Payments

(1) Availability of payments

Payments are provided to a producer to implement one or more practices under the program.

(2) Limitation on payment amounts

A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

(B) 100 percent of income foregone by the producer; or

(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

(3) Special rule involving payments for foregone income

In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice