128 Stat. 722; renumbered § 1240J and amended Pub. L. 115–334, title II, §§ 2301(b), (d)(1)(C), 2308(b), Dec. 20, 2018, 132 Stat. 4551, 4554, 4565; Pub. L. 117–169, title II, § 21001(c)(3), Aug. 16, 2022, 136 Stat. 2017.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 3838e of this title prior to renumbering by Pub. L. 115–334.

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–169 substituted ''2031'' for ''2023'' in introductory provisions.

2018—Subsec. (a). Pub. L. 115–334, § 2308(b)(1), substituted ''2019 through 2023'' for ''2014 through 2018'' in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 115–334, § 2301(d)(1)(C), struck out subpar. (C) which read as follows: ''Land enrolled in the conservation security program.''

Subsec. (b)(2). Pub. L. 115–334, § 2308(b)(2), substituted ''December 20, 2018'' for ''February 7, 2014''.

2014—Pub. L. 113–79 amended section generally. Prior to amendment, section related to conservation stewardship program.

2011—Subsec. (a). Pub. L. 112–55 substituted ''2014'' for ''2012''.

§ 3839aa–23. Stewardship contracts

(a) Submission of contract offers

To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary a contract offer for the agricultural operation that—

(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, meets or exceeds the stewardship threshold for at least 2 priority resource concerns; and

(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 additional priority resource concern by the end of the stewardship contract by—

(A) installing and adopting additional conservation activities; and

(B) improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract offer is accepted by the Secretary.

(b) Evaluation of contract offers

(1) Ranking of applications

(A) In general

In evaluating contract offers submitted under subsection (a) and contract renewals under subsection (e), the Secretary shall rank applications based on—

(i) the natural resource conservation and environmental benefits that result from the conservation treatment on all applicable priority resource concerns at the time of submission of the application;

(ii) the degree to which the proposed conservation activities increase natural resource conservation and environmental benefits; and

(iii) other consistent criteria, as determined by the Secretary.

(B) Additional criterion

If 2 or more applications receive the same ranking under subparagraph (A), the Secretary shall rank those contracts based on the extent to which the actual and anticipated conservation benefits from each contract are provided at the lowest cost relative to other similarly beneficial contract offers.

(2) Prohibition

The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

(3) Additional criteria

The Secretary may develop and use such additional criteria that the Secretary determines are necessary to ensure that national, State, and local priority resource concerns are effectively addressed.

(c) Entering into contracts

After a determination that a producer is eligible for a contract or contract renewal under this section, and a determination that the contract or contract renewal offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract or contract renewal with the producer to enroll the eligible land to be covered by the contract or contract renewal.

(d) Contract provisions

(1) Term

A conservation stewardship contract shall be for a term of 5 years.

(2) Required provisions

The conservation stewardship contract of a producer shall—

(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 3839aa–24(c) of this title;

(B) require the producer—

(i) to implement a conservation stewardship plan that describes the program purposes to be achieved through 1 or more conservation activities;

(ii) to maintain and supply information as required by the Secretary to determine compliance with the conservation stewardship plan and any other requirements of the program; and

(iii) not to conduct any activities on the agricultural operation that would tend to defeat the purposes of the program;

(C) permit all economic uses of the eligible land that—

(i) maintain the agricultural nature of the land; and

(ii) are consistent with the conservation purposes of the conservation stewardship contract;

(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary;

(E) include provisions requiring that upon the violation of a term or condition of the contract at any time the producer has control of the land—

(i) if the Secretary determines that the violation warrants termination of the contract—

(I) the producer shall forfeit all rights to receive payments under the contract; and

(II) the producer shall refund all or a portion of the payments received by the producer under the contract, including any interest on the payments, as determined by the Secretary; or

(ii) if the Secretary determines that the violation does not warrant termination of the contract, the producer shall refund or accept adjustments to the payments provided to the producer, as the Secretary determines to be appropriate;

(F) include provisions in accordance with paragraphs (3) and (4); and

(G) include any additional provisions the Secretary determines are necessary to carry out the program.

(3) Change of interest in land subject to a contract

(A) In general

At the time of application, a producer shall have control of the eligible land to be enrolled in the program. Except as provided in subparagraph (B), a change in the interest of a producer in eligible land covered by a contract under the program shall result in the termination of the contract with regard to that land.

(B) Transfer of duties and rights

Subparagraph (A) shall not apply if—

(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in eligible land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee for the portion of the land transferred;

(ii) the transferee meets the eligibility requirements of the program; and

(iii) the Secretary approves the transfer of all duties and rights under the contract.

(4) Modification and termination of contracts

(A) Voluntary modification or termination

The Secretary may modify or terminate a contract with a producer if—

(i) the producer agrees to the modification or termination; and

(ii) the Secretary determines that the modification or termination is in the public interest.

(B) Involuntary termination

The Secretary may terminate a contract if the Secretary determines that the producer violated the contract.

(5) Repayment

If a contract is terminated, the Secretary may, consistent with the purposes of the program—

(A) allow the producer to retain payments already received under the contract; or

(B) require repayment, in whole or in part, of payments received and assess liquidated damages.

(e) Contract renewal

The Secretary may provide the producer an opportunity to renew an existing contract in the first half of the fifth year of the contract period if the producer—

(1) demonstrates compliance with the terms of the existing contract;

(2) agrees to adopt and continue to integrate new or improved conservation activities across the entire agricultural operation, demonstrating continued improvement during the additional 5-year period, as determined by the Secretary; and

(3) agrees, by the end of the contract period—

(A) to meet the stewardship threshold of at least 2 additional priority resource concerns on the agricultural operation; or

(B) to adopt or improve conservation activities, as determined by the Secretary, to achieve higher levels of performance with respect to not less than 2 existing priority resource concerns that are specified by the Secretary in the initial contract.

(Pub. L. 99–198, title XII, § 1240K, formerly § 1238F, as added Pub. L. 110–234, title II, § 2301(a)(2), May 22, 2008, 122 Stat. 1042, and Pub. L. 110–246, § 4(a), title II, § 2301(a)(2), June 18, 2008, 122 Stat. 1664, 1770; Pub. L. 113–79, title II, § 2101(a), Feb. 7, 2014, 128 Stat. 723; renumbered § 1240K and amended Pub. L. 115–334, title II, §§ 2301(b), 2308(c), Dec. 20, 2018, 132 Stat. 4551, 4565.)

Editorial Notes

Codification

Section was formerly classified to section 3838f of this title prior to renumbering by Pub. L. 115–334.

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Amendments

Subsec. (b)(1). Pub. L. 115–334, § 2308(c)(1), added par. (1) and struck out former par. (1) which provided criteria for ranking of applications.

Subsec. (c). Pub. L. 115–334, § 2308(c)(2), substituted "a contract or contract renewal under this section" for "the program under subsection (a)" and inserted "or contract renewal" after "determination that the contract", after "conservation stewardship contract", and after "covered by the contract".

Subsec. (d)(2)(A). Pub. L. 115–334, § 2308(c)(3), substituted "section 3839aa–24(c)" for "section 3838g(d)".

Subsec. (e). Pub. L. 115–334, § 2308(c)(4)(A), substituted "The Secretary may provide the producer an opportunity to renew an existing contract in the first half of the fifth year of the contract period'' for ''At the end of the initial 5-year contract period, the Secretary may allow the producer to renew the contract for 1 additional 5-year period'' in introductory provisions.

Subsec. (e)(1). Pub. L. 115–334, §2308(c)(4)(B), substituted ''existing contract'' for ''initial contract''.

Subsec. (e)(2). Pub. L. 115–334, §2308(c)(4)(C), inserted ''new or improved'' before ''conservation activities'' and ''demonstrating continued improvement during the additional 5-year period,'' before ''as determined by the Secretary''.

Subsec. (e)(3)(B). Pub. L. 115–334, §2308(c)(4)(D), substituted ''to adopt or improve conservation activities, as determined by the Secretary, to achieve higher levels of performance with respect to not less than 2'' for ''to exceed the stewardship threshold of 2''.

2014—Pub. L. 113–79 amended section generally. Prior to amendment, section related to stewardship contracts.

§3839aa–24. Duties of the Secretary

(a) In general

To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, 1 of which shall occur in the first quarter of each fiscal year;

(2) identify not less than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

(3) establish a science-based stewardship threshold for each priority resource concern identified under paragraph (2).

(b) Allocation to States

The Secretary shall allocate funding to States for enrollment, based—

(1) primarily on each State's proportion of eligible land to the total acreage of eligible land in all States; and

(2) also on consideration of—

(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

(c) Conservation stewardship payments

(1) Availability of payments

The Secretary shall provide annual payments under the program to compensate the producer for—

(A) installing and adopting additional conservation activities; and

(B) improving, maintaining, and managing conservation activities in place at the agricultural operation of the producer at the time the contract offer is accepted by the Secretary.

(2) Payment amount

The amount of the annual payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

(B) Income forgone by the producer.

(C) Expected conservation benefits.

(D) The extent to which priority resource concerns will be addressed through the installation and adoption of conservation activities on the agricultural operation.

(E) The level of stewardship in place at the time of application and maintained over the term of the contract.

(F) The degree to which the conservation activities will be integrated across the entire agricultural operation for all applicable priority resource concerns over the term of the contract.

(G) Such other factors as are determined appropriate by the Secretary.

(3) Exclusions

A payment to a producer under this subsection shall not be provided for—

(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

(B) conservation activities for which there is no cost incurred or income forgone to the producer.

(4) Delivery of payments

In making payments under this subsection, the Secretary shall, to the extent practicable—

(A) prorate conservation performance over the term of the contract so as to accommodate, to the extent practicable, producers earning equal annual payments in each fiscal year; and

(B) make such payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

(5) Payment for cover crop activities

The amount of a payment under this subsection for cover crop activities shall be not less than 125 percent of the annual payment amount determined by the Secretary under paragraph (2).

(d) Supplemental payments for resource-conserving crop rotations and advanced grazing management

(1) Definitions

In this subsection:

(A) Advanced grazing management

The term ''advanced grazing management'' means the use of a combination of grazing practices (as determined by the Secretary), which may include management-intensive rotational grazing, that provide for—

(i) improved soil health and carbon sequestration;

(ii) drought resilience;

(iii) wildlife habitat;

(iv) wildfire mitigation;

(v) control of invasive plants; and