

Subsec. (d)(3)(A) to (G). Pub. L. 113-79, §2203(3)(A), added subpars. (A) to (G) and struck out former subpars. (A) to (G) which read as follows:

- “(A) residue management;
- “(B) nutrient management;
- “(C) air quality management;
- “(D) invasive species management;
- “(E) pollinator habitat;
- “(F) animal carcass management technology; or
- “(G) pest management.”

Subsec. (d)(4)(A). Pub. L. 113-79, §2203(3)(B)(i), in introductory provisions, inserted “, a veteran farmer or rancher (as defined in section 2279(e) of title 7),” before “or a beginning farmer or rancher”.

Subsec. (d)(4)(B). Pub. L. 113-79, §2203(3)(B)(ii), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: “Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.”

Subsec. (f). Pub. L. 113-79, §2203(4), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.”

Subsec. (g). Pub. L. 113-79, §2203(5), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: “The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.”

2011—Subsec. (a). Pub. L. 112-55 substituted “2014” for “2012”.

2008—Pub. L. 110-246, §2503, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (h) relating to provision of cost-share payments and incentive payments, application and term of a contract, bidding down, payment amounts, incentive payments, modification or termination of contracts, allocation of funding for fiscal years 2002 through 2007, and funding for federally recognized Native American Indian Tribes and Alaska Native Corporations.

2006—Subsec. (a)(1). Pub. L. 109-171 substituted “2010” for “2007”.

2004—Subsec. (h). Pub. L. 108-447 added subsec. (h).

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-3. Evaluation of applications

(a) Evaluation criteria

The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

(b) Prioritization of applications

In evaluating applications under this subpart, the Secretary shall prioritize applications—

- (1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated conservation benefits of the project;
- (2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

(3) that best fulfill the purposes of the program; and

(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

(c) Grouping of applications

To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.

(Pub. L. 99-198, title XII, §1240C, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110-234, title II, §2504, May 22, 2008, 122 Stat. 1062; Pub. L. 110-246, §4(a), title II, §2504, June 18, 2008, 122 Stat. 1664, 1790; Pub. L. 113-79, title II, §2204, Feb. 7, 2014, 128 Stat. 730; Pub. L. 115-334, title II, §2301(d)(1)(G), Dec. 20, 2018, 132 Stat. 4554.)

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 3839aa-3, Pub. L. 99-198, title XII, §1240C, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 1000, related to evaluation of offers and payments, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-334 substituted “this subpart” for “this part” in introductory provisions.

2014—Subsec. (b)(1). Pub. L. 113-79, §2204(1), substituted “conservation” for “environmental” before “benefits”.

Subsec. (b)(3). Pub. L. 113-79, §2204(2), substituted “purposes of the program” for “purpose of the environmental quality incentives program specified in section 3839aa(1) of this title” before semicolon.

2008—Pub. L. 110-246, §2504, amended section generally. Prior to amendment, text read as follows: “In evaluating applications for cost-share payments and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

- “(1) encourage the use by producers of cost-effective conservation practices; and
- “(2) address national conservation priorities.”

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-4. Duties of producers

To receive payments under the program, a producer shall agree—

- (1) to implement an environmental quality incentives program plan (including a comprehensive nutrient management plan, if applicable) that describes conservation and environmental purposes to be achieved through 1

or more practices that are approved by the Secretary;

(2) not to conduct any practices on the enrolled land that would tend to defeat the purposes of the program;

(3) on the violation of a term or condition of the contract at anytime the producer has control of the land—

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

(i) to forfeit all rights to receive payments under the contract; and

(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

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

(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all payments received under the program, as determined by the Secretary;

(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

(Pub. L. 99-198, title XII, §1240D, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110-234, title II, §2505, May 22, 2008, 122 Stat. 1062; Pub. L. 110-246, §4(a), title II, §2505, June 18, 2008, 122 Stat. 1664, 1790; Pub. L. 113-79, title II, §2205, Feb. 7, 2014, 128 Stat. 730.)

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 3839aa-4, Pub. L. 99-198, title XII, §1240D, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 1000, related to duties of producers, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2014—Par. (2). Pub. L. 113-79 substituted “enrolled” for “farm, ranch, or forest”.

2008—Pub. L. 110-246, §2505(1), struck out “technical assistance, cost-share payments, or incentive” before “payments” in introductory provisions.

Par. (2). Pub. L. 110-246, §2505(2), substituted “farm, ranch, or forest land” for “farm or ranch”.

Par. (4). Pub. L. 110-246, §2505(3), struck out “cost-share payments and incentive” before “payments”.

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-5. Environmental quality incentives program plan

(a) Plan of operations

To be eligible to receive payments under the program, a producer shall submit to the Secretary for approval a plan of operations that—

(1) specifies practices covered under the program;

(2) includes such terms and conditions as the Secretary considers necessary to carry out the program, including a description of the purposes to be met by the implementation of the plan;

(3) in the case of a confined livestock feeding operation, provides for development and progressive implementation of a comprehensive nutrient management plan, if applicable; and

(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

(A) a forest stewardship plan described in section 2103a of this title;

(B) another practice plan approved by the State forester; or

(C) another plan determined appropriate by the Secretary.

(b) Avoidance of duplication

The Secretary shall—

(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this subpart and comparable conservation programs.

(Pub. L. 99-198, title XII, §1240E, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 256; amended Pub. L. 110-234, title II, §2506, May 22, 2008, 122 Stat. 1063; Pub. L. 110-246, §4(a), title II, §2506, June 18, 2008, 122 Stat. 1664, 1791; Pub. L. 115-334, title II, §§2301(d)(1)(H), 2305, Dec. 20, 2018, 132 Stat. 4554, 4561.)

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 3839aa-5, Pub. L. 99-198, title XII, §1240E, as added Pub. L. 104-127, title III, §334, Apr. 4, 1996, 110 Stat. 1001, related to environmental quality incentives program plan, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2018—Subsec. (a)(3). Pub. L. 115-334, §2305, inserted “progressive” before “implementation”.