

Subsec. (b)(2). Pub. L. 115-334, § 2301(d)(1)(H), substituted “this subpart” for “this part”.

2008—Subsec. (a). Pub. L. 110-246, § 2506(a)(1), (2), substituted “Plan of operations” for “In general” in heading and struck out “cost-share payments or incentive” before “payments” in introductory provisions.

Subsec. (a)(4). Pub. L. 110-246, § 2506(a)(3)–(5), added par. (4).

Subsec. (b). Pub. L. 110-246, § 2506(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program under this part and comparable conservation programs.”

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-6. Duties of the Secretary

To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

- (1) providing payments for developing and implementing 1 or more practices, as appropriate; and
- (2) providing the producer with information and training to aid in implementation of the plan.

(Pub. L. 99-198, title XII, § 1240F, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110-234, title II, § 2507, May 22, 2008, 122 Stat. 1063; Pub. L. 110-246, § 4(a), title II, § 2507, June 18, 2008, 122 Stat. 1664, 1791.)

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 L. 110-234 were repealed by section 4(a) of Pub.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-6, Pub. L. 99-198, title XII, § 1240F, as added Pub. L. 104-127, title III, § 334, Apr. 4, 1996, 110 Stat. 1001, related to duties of Secretary, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2008—Par. (1). Pub. L. 110-246, § 2507, struck out “cost-share payments or 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-7. Limitation on payments

Not including payments made under section 3839aa-2(j) of this title, a person or legal entity may not receive, directly or indirectly, cost-share or incentive payments under this subpart that, in aggregate, exceed \$450,000 for all con-

tracts entered into under this subpart by the person or legal entity during the period of fiscal years 2014 through 2018, or the period of fiscal years 2019 through 2023, regardless of the number of contracts entered into under this subpart by the person or legal entity.

(Pub. L. 99-198, title XII, § 1240G, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 108-447, div. A, title VII, § 794(b), Dec. 8, 2004, 118 Stat. 2852; Pub. L. 109-171, title I, § 1203(b), Feb. 8, 2006, 120 Stat. 6; Pub. L. 110-234, title II, § 2508, May 22, 2008, 122 Stat. 1063; Pub. L. 110-246, § 4(a), title II, § 2508, June 18, 2008, 122 Stat. 1664, 1791; Pub. L. 113-79, title II, § 2206, Feb. 7, 2014, 128 Stat. 730; Pub. L. 115-334, title II, §§ 2301(d)(1)(I), 2306, 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-7, Pub. L. 99-198, title XII, § 1240G, as added Pub. L. 104-127, title III, § 334, Apr. 4, 1996, 110 Stat. 1001, related to limitation on payments, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2018—Pub. L. 115-334, § 2306, substituted “Not including payments made under section 3839aa-2(j) of this title, a person” for “A person” and inserted “or the period of fiscal years 2019 through 2023,” after “2018,”.

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

2014—Pub. L. 113-79 amended section generally. Prior to amendment, section related to limitation on payments and included waiver authority in the case of contracts for projects of special environmental significance as determined by the Secretary.

2008—Pub. L. 110-246, § 2508, designated existing provisions as subsec. (a), inserted heading, substituted “Subject to subsection (b), a person or legal entity” for “An individual or entity” and “\$300,000” for “\$450,000”, substituted “the person” for “the individual” in two places, and added subsec. (b).

2006—Pub. L. 109-171 substituted “any six-year period” for “the period of fiscal years 2002 through 2007”.

2004—Pub. L. 108-447 inserted “(excluding funding arrangements with federally recognized Native American Indian Tribes or Alaska Native Corporations under section 3839aa-2(h) of this title)” after “2007,”.

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-8. Conservation innovation grants and payments

(a) Competitive grants for innovative conservation approaches

(1) Grants

Out of the funds made available to carry out this subpart, the Secretary may pay the cost

of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

(2) Use

The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

(A) involve producers who are eligible for payments or technical assistance under the program or community colleges (as defined in section 3319e(a) of title 7) carrying out demonstration projects on land of the community college;

(B) leverage Federal funds made available to carry out the program under this subpart with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil;

(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops;

(E) partner with farmers to develop innovative practices for urban, indoor, or other emerging agricultural operations;

(F) utilize edge-of-field and other monitoring practices on farms—

(i) to quantify the impacts of practices implemented under the program; and

(ii) to assist producers in making the best conservation investments for the operations of the producers;

(G) facilitate on-farm conservation research and demonstration activities; and

(H) facilitate pilot testing of new technologies or innovative conservation practices.

(b) Air quality concerns from agricultural operations

(1) Implementation assistance

The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

(2) Funding

Of the funds made available to carry out this subpart, the Secretary shall carry out this subsection using \$37,500,000 for each of fiscal years 2019 through 2031.

(c) On-farm conservation innovation trials

(1) Definitions

In this subsection:

(A) Eligible entity

The term “eligible entity” means, as determined by the Secretary—

(i) a third-party private entity the primary business of which is related to agriculture;

(ii) a nongovernmental organization with experience working with agricultural producers; or

(iii) a governmental organization.

(B) New or innovative conservation approach

The term “new or innovative conservation approach” means—

(i) new or innovative—

(I) precision agriculture technologies;

(II) enhanced nutrient management plans, nutrient recovery systems, and fertilization systems;

(III) soil health management systems, including systems to increase soil carbon levels;

(IV) water management systems;

(V) resource-conserving crop rotations (as defined in section 3839aa–24(d)(1) of this title);

(VI) cover crops; and

(VII) irrigation systems; and

(ii) any other conservation approach approved by the Secretary as new or innovative.

(2) Testing new or innovative conservation approaches

Using \$25,000,000 of the funds made available to carry out this subpart for each of fiscal years 2019 through 2031, the Secretary shall carry out on-farm conservation innovation trials, on eligible land of producers, to test new or innovative conservation approaches—

(A) directly with producers; or

(B) through eligible entities.

(3) Incentive payments

(A) Agreements

In carrying out paragraph (2), the Secretary shall enter into agreements with producers (either directly or through eligible entities) on whose land an on-farm conservation innovation trial is being carried out to provide payments (including payments to compensate for foregone income, as appropriate to address the increased economic risk potentially associated with new or innovative conservation approaches) to the producers to assist with adopting and evaluating new or innovative conservation approaches to achieve conservation benefits.

(B) Adjusted gross income requirements

(i) In general

Adjusted gross income requirements under section 1308–3a(b)(1) of title 7 shall—

(I) apply to producers receiving payments under this subsection; and

(II) be enforced by the Secretary.

(ii) Reporting

An eligible entity participating in an on-farm conservation innovation trial under this subsection shall report annually to

the Secretary on the amount of payments made to individual farm operations under this subsection.

(C) Limitation on administrative expenses

None of the funds made available to carry out this subsection may be used to pay for the administrative expenses of an eligible entity.

(D) Length of agreements

An agreement entered into under subparagraph (A) shall be for a period determined by the Secretary that is—

- (i) not less than 3 years; and
- (ii) if appropriate, more than 3 years, including if such a period is appropriate to support—

(I) adaptive management over multiple crop years; and

(II) adequate data collection and analysis by a producer or eligible entity to report the natural resource and agricultural production benefits of the new or innovative conservation approaches to the Secretary.

(4) Flexible adoption

The scale of adoption of a new or innovative conservation approach under an on-farm conservation innovation trial under an agreement under paragraph (2) may include multiple scales on an operation, including whole farm, field-level, or sub-field scales.

(5) Technical assistance

The Secretary shall provide technical assistance—

(A) to each producer or eligible entity participating in an on-farm conservation innovation trial under paragraph (2) with respect to the design, installation, and management of the new or innovative conservation approaches; and

(B) to each eligible entity participating in an on-farm conservation innovation trial under paragraph (2) with respect to data analyses of the on-farm conservation innovation trial.

(6) Geographic scope

The Secretary shall identify a diversity of geographic regions of the United States in which to establish on-farm conservation innovation trials under paragraph (2), taking into account factors such as soil type, cropping history, and water availability.

(7) Soil health demonstration trial

Using funds made available to carry out this subsection, the Secretary shall carry out a soil health demonstration trial under which the Secretary coordinates with eligible entities—

(A) to provide incentives to producers to implement conservation practices that—

- (i) improve soil health;
- (ii) increase carbon levels in the soil; or
- (iii) meet the goals described in clauses (i) and (ii);

(B) to establish protocols for measuring carbon levels in the soil and testing carbon levels on land where conservation practices described in subparagraph (A) were applied

to evaluate gains in soil health as a result of the practices implemented by the producers in the soil health demonstration trial; and

(C)(i) not later than September 30, 2020, to initiate a study regarding changes in soil health and, if feasible, economic outcomes, generated as a result of the conservation practices described in subparagraph (A) that were applied by producers through the soil health demonstration trial; and

(ii) to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate annual reports on the progress and results of the study under clause (i).

(d) Reporting and database

(1) Report required

Not later than September 30, 2019, and every 2 years thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the status of activities funded under this section, including—

(A) funding awarded;

(B) results of the activities, including, if feasible, economic outcomes;

(C) incorporation of findings from the activities, such as new technology and innovative approaches, into the conservation efforts implemented by the Secretary; and

(D) on completion of the study required under subsection (c)(7)(C), the findings of the study.

(2) Conservation practice database

(A) In general

The Secretary shall use the data reported under paragraph (1) to establish and maintain a publicly available conservation practice database that provides—

(i) a compilation and analysis of effective conservation practices for soil health, nutrient management, and source water protection in varying soil compositions, cropping systems, slopes, and landscapes; and

(ii) a list of recommended new and effective conservation practices.

(B) Privacy

Information provided under subparagraph (A) shall be transformed into a statistical or aggregate form so as to not include any identifiable or personal information of individual producers.

(Pub. L. 99-198, title XII, §1240H, as added Pub. L. 107-171, title II, §2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110-234, title II, §2509, May 22, 2008, 122 Stat. 1064; Pub. L. 110-246, §4(a), title II, §2509, June 18, 2008, 122 Stat. 1664, 1792; Pub. L. 113-79, title II, §2207, Feb. 7, 2014, 128 Stat. 731; Pub. L. 115-334, title II, §§2301(d)(1)(J), 2307, Dec. 20, 2018, 132 Stat. 4554, 4561; Pub. L. 117-169, title II, §21001(c)(2), Aug. 16, 2022, 136 Stat. 2017.)

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-8, Pub. L. 99-198, title XII, § 1240H, as added Pub. L. 104-127, title III, § 334, Apr. 4, 1996, 110 Stat. 1002, related to temporary administration of environmental quality incentives program, prior to the general amendment of this part by Pub. L. 107-171.

AMENDMENTS

2022—Subsecs. (b)(2), (c)(2). Pub. L. 117-169 substituted “2031” for “2023”.

2018—Subsec. (a)(1). Pub. L. 115-334, § 2301(d)(1)(J), substituted “this subpart” for “this part”.

Subsec. (a)(2)(A). Pub. L. 115-334, § 2307(a)(1), substituted “program or community colleges (as defined in section 3319e(a) of title 7) carrying out demonstration projects on land of the community college;” for “program;”.

Subsec. (a)(2)(B). Pub. L. 115-334, § 2301(d)(1)(J), substituted “this subpart” for “this part”.

Subsec. (a)(2)(E) to (H). Pub. L. 115-334, § 2307(a)(2), (3), added subpars. (E) and (F) and redesignated former subpars. (E) and (F) as (G) and (H), respectively.

Subsec. (b)(2). Pub. L. 115-334, § 2307(b), substituted “\$37,500,000 for each of fiscal years 2019 through 2023” for “\$25,000,000 for each of fiscal years 2009 through 2018”.

Pub. L. 115-334, § 2301(d)(1)(J), substituted “this subpart” for “this part”.

Subsecs. (c), (d). Pub. L. 115-334, § 2307(c), added subsecs. (c) and (d) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “Not later than December 31, 2014, and every two years thereafter, the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the status of projects funded under this section, including—

“(1) funding awarded;

“(2) project results; and

“(3) incorporation of project findings, such as new technology and innovative approaches, into the conservation efforts implemented by the Secretary.”

2014—Subsec. (a)(2)(E), (F). Pub. L. 113-79, § 2207(1), added subpars. (E) and (F).

Subsec. (b)(2). Pub. L. 113-79, § 2207(2), substituted “\$25,000,000” for “\$37,500,000” and “2018” for “2012”.

Subsec. (c). Pub. L. 113-79, § 2207(3), added subsec. (c).

2008—Pub. L. 110-246, § 2509, amended section generally. Prior to amendment, section related to conservation innovation grants.

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-9. Repealed. Pub. L. 113-79, title II, § 2706(a), Feb. 7, 2014, 128 Stat. 769

Section, Pub. L. 99-198, title XII, § 1240I, as added Pub. L. 107-171, title II, § 2301, May 13, 2002, 116 Stat. 257; amended Pub. L. 110-234, title II, § 2510, May 22, 2008, 122 Stat. 1064; Pub. L. 110-246, § 4(a), title II, § 2510, June 18, 2008, 122 Stat. 1664, 1792, related to agricultural water enhancement program.

Statutory Notes and Related Subsidiaries

REPEAL; TRANSITIONAL PROVISIONS

Pub. L. 113-79, title II, § 2706, Feb. 7, 2014, 128 Stat. 769, provided that:

“(a) REPEAL.—Except as provided in subsection (b), section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa-9) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The amendment made by this section [repealing section 3839aa-9 of this title] shall not affect the validity or terms of any contract or agreement entered into by the Secretary of Agriculture under section 1240I of the Food Security Act of 1985 [(former) 16 U.S.C. 3839aa-9] 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 or agreement.

“(2) FUNDING.—

“(A) USE OF PRIOR YEAR FUNDS.—Notwithstanding the repeal of section 1240I of the Food Security Act of 1985 [(former) 16 U.S.C. 3839aa-9], any funds made available from the Commodity Credit Corporation to carry out the agricultural water enhancement program under that section for fiscal years 2009 through 2013 shall be made available to carry out contracts and agreements referred to in paragraph (1) that were entered into prior to the date of enactment of the Agricultural Act of 2014 (including the provision of technical assistance).

“(B) OTHER.—On exhaustion of funds made available under subparagraph (A), the Secretary [of Agriculture] may use funds made available to carry out the regional conservation partnership program under subtitle I of title XII of the Food Security Act of 1985 [16 U.S.C. 3871 et seq.], as added by section 2401, to continue to carry out contracts and agreements referred to in paragraph (1) using the provisions of law and regulation applicable to such contracts and agreements as in existence on the day before the date of enactment of the Agricultural Act of 2014.”

SUBPART B—CONSERVATION STEWARDSHIP PROGRAM

§ 3839aa-21. Definitions

In this subpart:

(1) Agricultural operation

The term “agricultural operation” means all eligible land, whether or not contiguous, that is—

(A) under the effective control of a producer at the time the producer enters into a contract under the program; and

(B) operated with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

(2) Conservation activities

(A) In general

The term “conservation activities” means conservation systems, practices, or management measures.

(B) Inclusions

The term “conservation activities” includes—

(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary;

(ii) planning needed to address a priority resource concern;

(iii) development of a comprehensive conservation plan, as defined in section 3839aa-24(e)(1) of this title;