

years 2005 through 2014.” and added subpars. (A) and (B).

Subsec. (a)(6)(E), (F). Pub. L. 109-171, §1203(c), added subpars. (E) and (F) and struck out former subpar. (E) which read as follows: “\$1,300,000,000 in fiscal year 2007.”

2004—Subsec. (a)(3). Pub. L. 108-324 inserted “, using not more than \$6,037,000,000 for the period of fiscal years 2005 through 2014” before period at end.

Pub. L. 108-199 struck out “, using not more than \$3,773,000,000 for the period of fiscal years 2003 through 2013” before period at end.

Subsec. (b). Pub. L. 108-498 added subsec. (b) and struck out heading and text of former subsec. (b), which related to availability of certain Commodity Credit Corporation funds under subsec. (a) for the provision of technical assistance for conservation and conservation security programs.

2003—Subsec. (a)(3). Pub. L. 108-7, §216(c), inserted “, using not more than \$3,773,000,000 for the period of fiscal years 2003 through 2013” before period at end.

Subsec. (b). Pub. L. 108-11 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

“(1) FEBRUARY 20, 2003, THROUGH SEPTEMBER 30, 2003.—During the period beginning on February 20, 2003, and ending on September 30, 2003, Commodity Credit Corporation funds made available under paragraphs (4) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.

“(2) SUBSEQUENT FISCAL YEARS.—Effective beginning on October 1, 2003, Commodity Credit Corporation funds made available under paragraphs (3) through (7) of subsection (a) of this section shall be available for the provision of technical assistance (subject to section 3842 of this title) for the conservation programs specified in subsection (a) of this section.”

Pub. L. 108-7, §213(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “Nothing in this section affects the limit on expenditures for technical assistance imposed by section 714i of title 15.”

Subsecs. (c), (d). Pub. L. 108-7, §213(2), added subsec. (c) and redesignated former subsec. (c) as (d).

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.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-498, §1(b), Dec. 23, 2004, 118 Stat. 4020, provided that: “The amendment made by subsection (a) [amending this section] takes effect on October 1, 2004.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-11, title II, §2106(b), Apr. 16, 2003, 117 Stat. 590, provided that: “The amendment made by subsection (a) [amending this section] takes effect on February 20, 2003.”

§ 3842. Delivery of technical assistance

(a) Definitions

In this section:

(1) Eligible participant

The term “eligible participant” means a producer, landowner, or entity that is participating in, or seeking to participate in, programs in which the producer, landowner, or entity is otherwise eligible to participate

under this chapter or the agricultural management assistance program under section 1524(b) of title 7.

(2) Third-party provider

The term “third-party provider” means a commercial entity (including a farmer cooperative, agriculture retailer, or other commercial entity (as defined by the Secretary)), a nonprofit entity, a State or local government (including a conservation district), or a Federal agency, that has expertise in the technical aspect of conservation planning, including nutrient management planning, watershed planning, or environmental engineering.

(b) Purpose of technical assistance

The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

(c) Provision of technical assistance

The Secretary shall provide technical assistance under this chapter to an eligible participant—

(1) directly;

(2) through an agreement with a third-party provider; or

(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

(d) Non-Federal assistance

The Secretary may request the services of, and enter into cooperative agreements or contracts with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this chapter.

(e) Certification of third-party providers

(1) Purpose

The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

(2) Regulations

Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

(3) Expertise

In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

(B) provide national criteria for the certification of third-party providers; and

(C) approve any unique certification standards established at the State level.

(4) Certification process

The Secretary shall certify a third-party provider through—

(A) a certification process administered by the Secretary, acting through the Chief of the Natural Resources Conservation Service; or

(B) a non-Federal entity approved by the Secretary to perform the certification.

(5) Streamlined certification

The Secretary shall provide a streamlined certification process for a third-party provider that has an appropriate specialty certification, including a sustainability certification.

(f) Administration

(1) Funding

Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 3841 of this title shall be available for the provision of technical assistance from third-party providers under this section.

(2) Term of agreement

An agreement with a third-party provider under this section shall have a term that—

(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

(B) does not exceed 3 years; and

(C) can be renewed, as determined by the Secretary.

(3) Review of certification requirements

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

(A) review certification requirements for third-party providers; and

(B) make any adjustments considered necessary by the Secretary to improve participation.

(4) Eligible activities

(A) Inclusion of activities

The Secretary may include as activities eligible for payments to a third-party provider—

(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

(ii) related technical assistance services that accelerate conservation program delivery.

(B) Exclusions

The Secretary shall not designate as an activity eligible for payments to a third-party provider any service that is provided by a business, or equivalent, in connection with

conducting business and that is customarily provided at no cost.

(5) Payment amounts

The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

(g) Availability of technical services

(1) In general

In carrying out the programs under this chapter and the agricultural management assistance program under section 1524 of title 7, the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

(2) Technical service contracts

In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

(h) Review of conservation practice standards

(1) Review required

The Secretary shall—

(A) not later than 1 year after December 20, 2018, complete a review of each conservation practice standard, including engineering design specifications, in effect on the day before December 20, 2018;

(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary;

(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation; and

(D) evaluate opportunities to increase flexibility in conservation practice standards in a manner that ensures equivalent natural resource benefits.

(2) Consultation

In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, State technical committees established under section 3861(a) of this title, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

(3) Expedited revision of standards

Not later than 1 year after December 20, 2018, the Secretary shall develop for the programs under this chapter an administrative process for—

(A) expediting the establishment and revision of conservation practice standards;

(B) considering conservation innovations and scientific and technological advancements with respect to any establishment or revision under subparagraph (A);

(C) allowing local flexibility in the creation of—

(i) interim practice standards and supplements to existing practice standards to address the considerations described in subparagraph (B); and

(ii) partnership-led proposals for new and innovative techniques to facilitate implementing agreements and grants under this title; and

(D) soliciting regular input from State technical committees established under section 3861(a) of this title for recommendations that identify innovations or advancements described in subparagraph (B).

(4) Report

Not later than 2 years after December 20, 2018, and every 2 years thereafter, the Secretary shall submit to Congress a report on—

(A) the administrative process developed under paragraph (3);

(B) conservation practice standards that were established or revised under that process; and

(C) conservation innovations that were considered under that process.

(i) Addressing concerns of specialty crop, organic, and precision agriculture producers

(1) In general

The Secretary shall—

(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

(2) Availability of adequate technical assistance

(A) In general

The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

(B) Requirements

In carrying out subparagraph (A), the Secretary shall develop—

(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.

(Pub. L. 99-198, title XII, § 1242, as added Pub. L. 107-171, title II, § 2701, May 13, 2002, 116 Stat. 279; amended Pub. L. 110-234, title II, § 2706, May 22, 2008, 122 Stat. 1074; Pub. L. 110-246, § 4(a), title II,

§ 2706, June 18, 2008, 122 Stat. 1664, 1802; Pub. L. 113-79, title II, § 2713(c), Feb. 7, 2014, 128 Stat. 772; Pub. L. 115-334, title II, §§ 2502, 2821(e), Dec. 20, 2018, 132 Stat. 4579, 4603.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (c), (d), (g)(1), and (h)(3), was in the original “this title”, meaning title XII of Pub. L. 99-198, which enacted this chapter and former section 2005a of this title and amended sections 590g, 2004, 2005, 2006, and 2009 of this title, sections 4207 and 4209 of Title 7, Agriculture, and provisions set out as a note under section 1981 of Title 7.

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsecs. (e)(2) and (f)(3), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

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.

Section 2701 of Pub. L. 107-171, which directed that subtitle E of the Food Security Act of 1985 be amended by striking section 1242 and adding a new section 1242 (this section), was executed by striking section 1242 of subtitle E of title XII of the Food Security Act of 1985 and adding the new section 1242 in lieu thereof, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3842, Pub. L. 99-198, title XII, § 1242, as added Pub. L. 104-127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008, related to use of other agencies, prior to repeal by Pub. L. 107-171, title II, § 2701, May 13, 2002, 116 Stat. 278. See Codification note above.

Another prior section 3842, Pub. L. 99-198, title XII, § 1242, Dec. 23, 1985, 99 Stat. 1515, related to use of other agencies, prior to the general amendment of this subchapter by Pub. L. 104-127.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, § 2502(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “In this section, the term ‘eligible participant’ means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this chapter or the agricultural management assistance program under section 1524 of title 7.”

Subsec. (e)(3)(B). Pub. L. 115-334, § 2821(e), substituted “third-party” for “third party”.

Subsec. (e)(4), (5). Pub. L. 115-334, § 2502(b), added pars. (4) and (5).

Subsec. (f)(4). Pub. L. 115-334, § 2821(e), substituted “third-party” for “third party” in subpars. (A) and (B).

Subsec. (h)(1)(A). Pub. L. 115-334, § 2502(c)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;”.

Subsec. (h)(1)(D). Pub. L. 115-334, § 2502(c)(1)(B)-(D), added subpar. (D).

Subsec. (h)(2). Pub. L. 115-334, § 2502(c)(2), inserted “State technical committees established under section 3861(a) of this title,” before “crop consultants.”.

Subsec. (h)(3), (4). Pub. L. 115-334, § 2502(c)(3), added pars. (3) and (4) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: “If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.”

2014—Subsec. (i). Pub. L. 113–79 substituted “specialty” for “speciality” in heading.

2008—Pub. L. 110–246, §2706, amended section generally. Prior to amendment, section related to: in subsec. (a), provision of technical assistance to an eligible producer directly or through an approved third party; and, in subsec. (b), establishment of a system to certify third-party providers, transition provisions for persons that had provided assistance before May 13, 2002, and cooperative agreements or contracts with non-Federal entities.

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.

§ 3843. Repealed. Pub. L. 113–79, title II, § 2710(a), Feb. 7, 2014, 128 Stat. 770

Section, Pub. L. 99–198, title XII, §1243, as added Pub. L. 104–127, title III, §341, Apr. 4, 1996, 110 Stat. 1008; amended Pub. L. 107–171, title II, §§2003, 2006(d), May 13, 2002, 116 Stat. 233, 237; Pub. L. 110–234, title II, §2707, May 22, 2008, 122 Stat. 1077; Pub. L. 110–246, §4(a), title II, §2707, June 18, 2008, 122 Stat. 1664, 1805, related to cooperative conservation partnership initiative.

A prior section 3843, Pub. L. 99–198, title XII, §1243, Dec. 23, 1985, 99 Stat. 1515; Pub. L. 101–624, title XIV, §1442, Nov. 28, 1990, 104 Stat. 3602, which related to administration of this chapter, was omitted in the general amendment of this subchapter by Pub. L. 104–127.

Statutory Notes and Related Subsidiaries

REPEAL; TRANSITIONAL PROVISIONS

Pub. L. 113–79, title II, § 2710, Feb. 7, 2014, 128 Stat. 770, provided that:

“(a) REPEAL.—Except as provided in subsection (b), section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is repealed.

“(b) TRANSITIONAL PROVISIONS.—

“(1) EFFECT ON EXISTING CONTRACTS AND AGREEMENTS.—The amendment made by this section [repealing section 3843 of this title] shall not affect the validity or terms of any contract or agreement entered into by the Secretary of Agriculture under section 1243 of the Food Security Act of 1985 ([former] 16 U.S.C. 3843) 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 1243 of the Food Security Act of 1985 ([former] 16 U.S.C. 3843), any funds made available from the Commodity Credit Corporation to carry out the cooperative conservation partnership initiative 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.”

§ 3844. Administrative requirements for conservation programs

(a) Incentives for certain farmers and ranchers and Indian tribes

(1) Incentives authorized

In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

(A) to foster new farming and ranching opportunities; and

(B) to enhance long-term environmental goals.

(2) Covered persons

Incentives authorized by paragraph (1) may be provided to the following:

(A) Beginning farmers or ranchers.

(B) Socially disadvantaged farmers or ranchers.

(C) Limited resource farmers or ranchers.

(D) Indian tribes.

(E) Veteran farmers or ranchers (as defined in section 2279(e)¹ of title 7).

(b) Privacy of personal information relating to natural resources conservation programs

(1) Information received for technical and financial assistance

(A) In general

In accordance with section 552(b)(3) of title 5, except as provided in subparagraph (C) and paragraph (2), information described in subparagraph (B)—

(i) shall not be considered to be public information; and

(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined by the Secretary) outside the Department of Agriculture.

(B) Information

The information referred to in subparagraph (A) is information—

(i) provided to the Secretary or a contractor of the Secretary (including information provided under subchapter IV) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

(ii) that is proprietary (within the meaning of section 552(b)(4) of title 5) to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

(C) Exception

Nothing in this section affects the availability of payment information (including payment amounts and the names and addresses of recipients of payments) under section 552 of title 5.

(2) Exceptions

(A) Release and disclosure for enforcement

The Secretary may release or disclose to the Attorney General information covered

¹ See References in Text note below.