

§ 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

by paragraph (1) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1)(B)(i).

(B) Disclosure to cooperating persons and agencies

(i) In general

The Secretary may release or disclose information covered by paragraph (1) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from data gathering sites.

(ii) Use of information

The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

- (I) in providing the requested technical or financial assistance; or
- (II) in collecting information from data gathering sites.

(C) Statistical and aggregate information

Information covered by paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form without naming any—

- (i) individual owner, operator, or producer; or
- (ii) specific data gathering site.

(D) Consent of owner, operator, or producer

(i) In general

An owner, operator, or producer may consent to the disclosure of information described in paragraph (1).

(ii) Condition of other programs

The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this chapter or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

(3) Violations; penalties

Section 2276(c) of title 7 shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

(4) Data collection, disclosure, and review

Nothing in this subsection—

- (A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

- (B) limits the authority of Congress or the Government Accountability Office to review information collected or disclosed under this subsection.

(c) Plans

The Secretary shall, to the extent practicable, avoid duplication in—

- (1) the conservation plans required for—

- (A) highly erodible land conservation under subchapter II; and

¹ See References in Text note below.

(B) the conservation reserve program established under subpart B of part I of subchapter IV;

(2) the agricultural conservation easement program established under subchapter VII; and

(3) the environmental quality incentives program established under subpart A of part IV of subchapter IV.

(d) Tenant protection

Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subchapters II through IV, VII, and VIII.

(e) Provision of technical assistance by other sources

In the preparation and application of a conservation compliance plan under subchapter II or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

(f) Acreage limitations

(1) Limitations

(A) Enrollments

The Secretary shall not enroll more than 25 percent of the cropland in any county in the conservation reserve program established under subpart B of part I of subchapter IV and wetland reserve easements under section 3865c of this title.

(B) Easements

Not more than 15 percent of the cropland in a county may be subject to a wetland reserve easement under section 3865c of this title.

(2) Exceptions

The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

(A) the action would not adversely affect the local economy of a county; and

(B) operators in the county are having difficulties complying with conservation plans implemented under section 3812 of this title.

(3) Waiver to exclude certain acreage

The Secretary may grant a waiver to exclude acreage enrolled under section 3831a of this title from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

(4) Exclusions

(A) Shelterbelts and windbreaks

The limitations established under paragraph (1) shall not apply to cropland that is

subject to an easement under subpart B of part I of subchapter IV that is used for the establishment of shelterbelts and windbreaks.

(B) Wet and saturated soils

For the purposes of enrolling land in a wetland reserve easement under section 3865c of this title, the limitations established under paragraph (1) shall not apply to cropland designated by the Secretary with subclass w in the land capability classes IV through VIII because of severe use limitations due to soil saturation or inundation.

(5) Calculation

In calculating the percentages described in paragraph (1), the Secretary shall include any acreage that was included in calculations of percentages made under such paragraph, as in effect on the day before December 20, 2018, and that remains enrolled when the calculation is made after that date under paragraph (1).

(g) Compliance and performance

For each conservation program under subchapter IV, the Secretary shall develop procedures—

(1) to monitor compliance with program requirements;

(2) to measure program performance;

(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

(4) to track participation by crop and livestock types; and

(5) to coordinate activities described in this subsection with the national conservation program authorized under section 2004 of this title.

(h) Encouragement of pollinator habitat development and protection

In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

(1) the development of habitat for native and managed pollinators; and

(2) the use of conservation practices that benefit native and managed pollinators, including, to the extent practicable, practices that maximize benefits for honey bees.

(i) Streamlined application process

(1) In general

In carrying out each conservation program under this chapter, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

(2) Review and streamlining

(A) Review

The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

(B) Streamlining

On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

(i) all required application information is essential for the efficient, effective, and

accountable implementation of conservation programs;

(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

(iv) information technology is used effectively to minimize data and information input requirements.

(3) Implementation and notification

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.

(j) Review and guidance for practice costs and payment rates

(1) In general

Not later than 1 year after December 20, 2018, and not later than October 1 of each year thereafter, the Secretary shall—

(A) review the estimates for practice costs and rates of payments made to producers for practices on eligible land under this chapter; and

(B) evaluate whether those costs and rates reflect a payment that—

(i) encourages participation in a conservation program administered by the Secretary;

(ii) encourages implementation of the most effective practices to address local natural resource concerns on eligible land; and

(iii) accounts for regional, State, and local variability relating to the complexity, implementation, and adoption of practices on eligible land.

(2) Guidance; review

The Secretary shall—

(A) issue guidance to States to annually review and adjust the estimates for practice costs and rates of payments made to producers to reflect the evaluation factors described in paragraph (1)(B); and

(B) determine the appropriate practice costs and rates of payments for each State by—

(i) annually reviewing each conservation program payment schedule and payment rate used in the State; and

(ii) consulting with the State technical committee established under section 3861(a) of this title in that State.

(k) Improved administrative efficiency and effectiveness

In administering a conservation program under this chapter, the Secretary shall, to the maximum extent practicable—

(1) seek to reduce administrative burdens and costs to producers by streamlining conservation planning and program resources; and

(2) take advantage of new technologies to enhance efficiency and effectiveness.

(l) Relation to other payments

Any payment received by an owner or operator under this chapter, including an easement payment or rental payment, shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under any of the following:

(1) This Act.

(2) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(3) The Agricultural Act of 2014.

(4) Any law that succeeds a law specified in paragraph (1), (2), or (3).

(m) Funding for Indian tribes

In carrying out the conservation stewardship program under subpart B of part IV of subchapter IV and the environmental quality incentives program under subpart A of part IV of subchapter IV, the Secretary shall enter into alternative funding arrangements with Indian tribes if the Secretary determines that—

(1) the goals and objectives of the programs will be met by such arrangements;

(2) a sufficient number of eligible participants will be aggregated under the alternative funding arrangement to accomplish the underlying purposes and objectives of the applicable program; and

(3) statutory limitations regarding contracts with individual producers will not be exceeded by any tribal member, except that the Secretary may approve a waiver if the Secretary is authorized to approve a waiver under the statutory authority of the applicable program.

(n) Source water protection through targeting of agricultural practices

(1) In general

In carrying out any conservation program administered by the Secretary, the Secretary shall encourage practices that relate to water quality and water quantity that protect source water for drinking water (including protecting against public health threats) while also benefitting agricultural producers.

(2) Collaboration with water systems and increased incentives

(A) In general

In encouraging practices under paragraph (1), the Secretary shall—

(i) work collaboratively with community water systems and State technical committees established under section 3861(a) of this title to identify, in each State, local priority areas for the protection of source waters for drinking water; and

(ii) subject to subparagraph (B), for practices described in paragraph (1), offer to producers increased incentives and higher payment rates than are otherwise statutorily authorized by the applicable conservation program administered by the Secretary.

(B) Limitation

An increased payment under subparagraph (A)(ii) shall not exceed 90 percent of practice costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training.

(3) Reservation of funds**(A) In general**

In each of fiscal years 2019 through 2031, the Secretary shall use to carry out this subsection not less than 10 percent of any funds available for conservation programs administered by the Secretary under this chapter (other than the conservation reserve program established under subpart B of part I of subchapter IV).

(B) Limitation

Funds available for a specific conservation program shall not be transferred to fund a different conservation program under this chapter.

(o) Environmental services market

The Secretary may not prohibit, through a contract, easement, or agreement under this chapter, a participant in a conservation program administered by the Secretary under this chapter from participating in, and receiving compensation from, an environmental services market if 1 of the purposes of the market is the facilitation of additional conservation benefits that are consistent with the purposes of the conservation program administered by the Secretary.

(p) Regulatory certainty**(1) In general**

In addition to technical and programmatic information that the Secretary is otherwise authorized to provide, on request of a Federal agency, a State, an Indian tribe, or a unit of local government, the Secretary may provide technical and programmatic information—

(A) subject to paragraph (2), to the Federal agency, State, Indian tribe, or unit of local government to support specifically the development of mechanisms that would provide regulatory certainty, regulatory predictability, safe harbor protection, or other similar regulatory assurances to a farmer, rancher, or private nonindustrial forest landowner under a regulatory requirement—

(i) that relates to soil, water, or wildlife; and

(ii) over which that Federal agency, State, Indian tribe, or unit of local government has authority; and

(B) relating to conservation practices or activities that could be implemented by a farmer, rancher, or private nonindustrial forest landowner to address a targeted soil, water, or wildlife resource concern that is the direct subject of a regulatory requirement enforced by that Federal agency, State, Indian tribe, or unit of local government, as applicable.

(2) Mechanisms

The Secretary shall only provide additional technical and programmatic information under paragraph (1) if the mechanisms to be developed by the Federal agency, State, Indian tribe, or unit of local government, as applicable, under paragraph (1)(A) are anticipated to include, at a minimum—

(A) the implementation of 1 or more conservation practices or activities that effec-

tively addresses the soil, water, or wildlife resource concern identified under paragraph (1);

(B) the on-site confirmation that the applicable conservation practices or activities identified under subparagraph (A) have been implemented;

(C) a plan for a periodic audit, as appropriate, of the continued implementation or maintenance of each of the conservation practices or activities identified under subparagraph (A); and

(D) notification to a farmer, rancher, or private nonindustrial forest landowner of, and an opportunity to correct, any non-compliance with a requirement to obtain regulatory certainty, regulatory predictability, safe harbor protection, or other similar regulatory assurance.

(3) Continuing current collaboration on soil, water, or wildlife conservation practices

The Secretary shall—

(A) continue collaboration with Federal agencies, States, Indian tribes, or local units of government on existing regulatory certainty, regulatory predictability, safe harbor protection, or other similar regulatory assurances in accordance with paragraph (2); and

(B) continue collaboration with the Secretary of the Interior on consultation under section 1536(a)(2) of this title or conference under section 1536(a)(4) of this title, as applicable, for wildlife conservation efforts, including the Working Lands for Wildlife model of conservation on working landscapes, as implemented on the day before December 20, 2018, in accordance with—

(i) the document entitled “Partnership Agreement Between the United States Department of Agriculture Natural Resources Conservation Service and the United States Department of the Interior Fish and Wildlife Service”, numbered A-3A75-16-937, and formalized by the Chief of the Natural Resources Conservation Service on September 15, 2016, and by the Director of the United States Fish and Wildlife Service on August 4, 2016, as in effect on September 15, 2016; and

(ii) United States Fish and Wildlife Service Director’s Order No. 217, dated August 9, 2016, as in effect on August 9, 2016.

(4) Savings clause

Nothing in this subsection—

(A) preempts, displaces, or supplants any authority or right of a Federal agency, a State, an Indian tribe, or a unit of local government;

(B) modifies or otherwise affects, preempts, or displaces—

(i) any cause of action; or

(ii) a provision of Federal or State law establishing a remedy for a civil or criminal cause of action; or

(C) applies to a case in which the Department of Agriculture is the originating agency requesting a consultation or other technical and programmatic information or as-

sistance from another Federal agency in assisting farmers, ranchers, or nonindustrial private forest landowners participating in a conservation program administered by the Secretary.

(Pub. L. 99-198, title XII, § 1244, as added Pub. L. 107-171, title II, § 2004(a), May 13, 2002, 116 Stat. 235; amended Pub. L. 110-234, title II, §§ 2707(a), 2708, May 22, 2008, 122 Stat. 1077, 1079; Pub. L. 110-246, § 4(a), title II, §§ 2707(a), 2708, June 18, 2008, 122 Stat. 1664, 1805, 1807; Pub. L. 113-79, title II, §§ 2301(b), 2606, Feb. 7, 2014, 128 Stat. 743, 760; Pub. L. 115-141, div. A, title VII, § 766, Mar. 23, 2018, 132 Stat. 397; Pub. L. 115-334, title II, §§ 2202(b)(2), 2301(d)(1)(K), (L), 2503, 2821(f), Dec. 20, 2018, 132 Stat. 4538, 4554, 4580, 4603; Pub. L. 117-169, title II, § 21001(c)(6), Aug. 16, 2022, 136 Stat. 2017.)

Editorial Notes

REFERENCES IN TEXT

Section 2279(e) of title 7, referred to in subsec. (a)(2)(E), was redesignated section 2279(a) of title 7 by Pub. L. 115-334, title XII, § 12301(b)(3), Dec. 20, 2018, 132 Stat. 4951.

This chapter, referred to in subsecs. (b)(2)(D)(ii), (i)(1), (j)(1)(A), (k), (l), (n)(3), and (o), 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 enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (i)(3), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

This Act, referred to in subsec. (l)(1), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, known as the Food Security Act of 1985. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

The Agricultural Act of 1949, referred to in subsec. (l)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Agricultural Act of 2014, referred to in subsec. (l)(3), is Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 649. For complete classification of this Act to the Code, see Tables.

CODIFICATION

The text of section 3843(a), (c), and (d) of this title, which was transferred to this section and redesignated as subsecs. (c), (d), and (e), respectively, by Pub. L. 110-246, § 2707(a), was based on Pub. L. 99-198, title XII, § 1243(a), (c), (d), as added Pub. L. 104-127, title III, § 341, Apr. 4, 1996, 110 Stat. 1008, 1009.

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 3844, Pub. L. 99-198, title XII, § 1244, Dec. 23, 1985, 99 Stat. 1515, related to issuance of regulations to carry out subchapters I to V of this chapter, prior to the general amendment of this subchapter by Pub. L. 104-127.

AMENDMENTS

2022—Subsec. (n)(3)(A). Pub. L. 117-169 substituted “2031” for “2023”.

2018—Subsec. (b)(4)(B). Pub. L. 115-334, § 2821(f), substituted “Government Accountability Office” for “General Accounting Office”.

Subsec. (c)(3). Pub. L. 115-334, § 2301(d)(1)(K), inserted “subpart A of” before “part IV”.

Subsec. (f)(1)(B). Pub. L. 115-334, § 2503(a)(1), substituted “15 percent” for “10 percent”.

Subsec. (f)(3). Pub. L. 115-334, § 2202(b)(2), substituted “section 3831a” for “subsection (d)(2)(A)(ii) or (g)(2) of section 3834”.

Subsec. (f)(5). Pub. L. 115-334, § 2503(a)(2), substituted “December 20, 2018,” for “February 7, 2014.”

Subsecs. (j), (k). Pub. L. 115-334, § 2503(b)(2), (3), added subsec. (j) and redesignated former subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 115-334, § 2503(b)(2), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Pub. L. 115-334, § 2301(d)(1)(L), substituted “subpart B of part IV of subchapter IV” for “subpart B of part II of subchapter IV” and “subpart A of part IV of subchapter IV” for “part IV of subchapter IV”.

Subsec. (m). Pub. L. 115-334, § 2503(c), designated existing provisions as introductory provisions and pars. (1) and (3) and added par. (2), substituted “shall” for “may” in introductory provisions and “arrangements;” for “arrangements, and that” in par. (1), and inserted “, except that the Secretary may approve a waiver if the Secretary is authorized to approve a waiver under the statutory authority of the applicable program” before period at end of par. (3).

Pub. L. 115-334, § 2503(b)(2), redesignated subsec. (l) as (m).

Pub. L. 115-334, § 2503(b)(1), struck out subsec. (m) which related to exemption from certain reporting requirements.

Pub. L. 115-141 added subsec. (m).

Subsec. (n). Pub. L. 115-334, § 2503(d), added subsec. (n).

Subsec. (o). Pub. L. 115-334, § 2503(e), added subsec. (o).

Subsec. (p). Pub. L. 115-334, § 2503(f), added subsec. (p).

2014—Subsec. (a)(2)(E). Pub. L. 113-79, § 2606(1), added subpar. (E).

Subsec. (c)(1). Pub. L. 113-79, § 2301(b)(1)(A), inserted “and” after semicolon in subpar. (A), struck out “and” after semicolon in subpar. (B), and struck out subpar. (C) which read as follows: “the wetlands reserve program established under subpart C of part I of subchapter IV; and”.

Subsec. (c)(2), (3). Pub. L. 113-79, § 2301(b)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d). Pub. L. 113-79, § 2606(2), inserted “, VII, and VIII” before period at end.

Subsec. (f)(1)(A). Pub. L. 113-79, § 2301(b)(2)(A)(i), substituted “conservation reserve program established under subpart B of part I of subchapter IV and wetland reserve easements under section 3865c of this title” for “programs administered under subparts B and C of part I of subchapter IV”.

Subsec. (f)(1)(B). Pub. L. 113-79, § 2606(3)(A), substituted “county” for “country”.

Pub. L. 113-79, § 2301(b)(2)(A)(ii), substituted “a wetland reserve easement under section 3865c of this title” for “an easement acquired under subpart C of part I of subchapter IV”.

Subsec. (f)(3). Pub. L. 113-79, § 2606(3)(B), substituted “subsection (d)(2)(A)(ii) or (g)(2)” for “subsection (c)(2)(B) or (f)(4)”.

Subsec. (f)(4). Pub. L. 113-79, § 2301(b)(2)(B), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subpart C of part I of subchapter IV that is used for the establishment of shelterbelts and windbreaks.”

Subsec. (f)(5). Pub. L. 113-79, § 2301(b)(2)(C), added par. (5).

Subsec. (h)(2). Pub. L. 113-79, § 2606(4), inserted “, including, to the extent practicable, practices that maximize benefits for honey bees” before period at end.

Subsecs. (j) to (l). Pub. L. 113-79, § 2606(5), added subsecs. (j) to (l).

2008—Subsec. (a). Pub. L. 110-246, §2708(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 3838 of this title) and limited resource agricultural producers incentives to participate in the conservation program to—

“(1) foster new farming and ranching opportunities; and
“(2) enhance environmental stewardship over the long term.”

Subsecs. (c) to (e). Pub. L. 110-246, §2707(a), transferred subsecs. (a), (c), and (d) of section 3843 of this title and redesignated them as subsecs. (c) to (e), respectively, of this section. See Codification note above.

Subsecs. (f) to (i). Pub. L. 110-246, §2708(2), added subsecs. (f) to (i).

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.

§ 3845. Environmental services markets

(a) Technical guidelines required

The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

(b) Establishment

The Secretary shall establish guidelines under subsection (a) for use in developing the following:

- (1) A procedure to measure environmental services benefits.
- (2) A protocol to report environmental services benefits.
- (3) A registry to collect, record and maintain the benefits measured.

(c) Verification requirements

(1) Verification of reports

The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

(2) Role of third parties

In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

(d) Use of existing information

In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

(e) Consultation

In carrying out this section, the Secretary shall consult with the following:

- (1) Federal and State government agencies.
- (2) Nongovernmental interests including—
 - (A) farm, ranch, and forestry producers;
 - (B) financial institutions involved in environmental services trading;
 - (C) institutions of higher education with relevant expertise or experience;
 - (D) nongovernmental organizations with relevant expertise or experience; and
 - (E) private sector representatives with relevant expertise or experience.

- (3) Other interested persons, as determined by the Secretary.

(Pub. L. 99-198, title XII, §1245, as added Pub. L. 110-234, title II, §2709, May 22, 2008, 122 Stat. 1081, and Pub. L. 110-246, §4(a), title II, §2709, June 18, 2008, 122 Stat. 1664, 1809.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec (d), 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 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3845, Pub. L. 99-198, title XII, §1245, Dec. 23, 1985, 99 Stat. 1516; Pub. L. 101-624, title XIV, §1443, Nov. 28, 1990, 104 Stat. 3602; Pub. L. 102-552, title V, §516(b)(1), Oct. 28, 1992, 106 Stat. 4137, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 104-127.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

§ 3846. Regulations

(a) In general

The Secretary shall promulgate such regulations as are necessary to implement programs under this chapter, including such regulations as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under section 3844(f) of this title.

(b) Rulemaking procedure

The promulgation of regulations and administration of programs under this chapter—

- (1) shall be carried out without regard to chapter 35 of title 44 (commonly known as the Paperwork Reduction Act); and