§ 3839aa–2. Establishment and administration

(a) Establishment

During each of the 2002 through 2014 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

(b) Practices and term

(1) Practices

A contract under the program may apply to the performance of one or more practices.

(2) Term

A contract under the program shall have a term that—

(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

(B) not to exceed 10 years.

(c) Bidding down

If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

(d) Payments

(1) Availability of payments

Payments are provided to a producer to implement one or more practices under the program.

(2) Limitation on payment amounts

A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

(B) 100 percent of income foregone by the producer; or

(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

(3) Special rule involving payments for foregone income

In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

(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.

(4) Increased payments for certain producers

(A) In general

Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially
disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase
the amount that would otherwise be provided to a producer under this subsection—

(i) to not more than 90 percent of the costs associated with planning, design, materials,
equipment, installation, labor, management, maintenance, or training; and

(ii) to not less than 25 percent above the otherwise applicable rate.

(B) Advance payments

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.

(5) Financial assistance from other sources

Except as provided in paragraph (6), any payments received by a producer from a State or private
organization or person for the implementation of one or more practices on eligible land of the
producer shall be in addition to the payments provided to the producer under this subsection.

(6) Other payments

A producer shall not be eligible for payments for practices on eligible land under the program if the
producer receives payments or other benefits for the same practice on the same land under another
program under this subchapter.

(e) Modification or termination of contracts

(1) Voluntary modification or termination

The Secretary may modify or terminate a contract entered into with a producer under the program
if—

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

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

(2) Involuntary termination

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

(f) Allocation of funding

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.

(g) Funding for federally recognized Native American Indian Tribes and Alaska Native Corporations

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.

(h) Water conservation or irrigation efficiency practice

(1) Availability of payments

The Secretary may provide payments under this subsection to a producer for a water conservation
or irrigation practice.

(2) Priority
In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

(i) Payments for conservation practices related to organic production

(1) Payments authorized

The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

(A) to organic production; and

(B) to the transition to organic production.

(2) Eligibility requirements

As a condition for receiving payments under this subsection, a producer shall agree—

(A) to develop and carry out an organic system plan; or

(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this part.

(3) Payment limitations

Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

(4) Exclusion of certain organic certification costs

Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 6523 of title 7.

(5) Termination of contracts

The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

(A) is not pursuing organic certification; or

(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).


References in Text

The Organic Foods Production Act of 1990, referred to in subsec. (i)(5)(B), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§ 6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

Codification

Prior Provisions

Amendments

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.


Effective Date of 2008 Amendment