

for the ACES program who will provide technical services under the ACES program.

(2) Required determination

Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a lay-off status from the same or a substantially-equivalent job or function with the Department; or

(C) affect existing contracts for services.

(c) Funding source

(1) In general

Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this chapter.

(2) Exclusions

Funds made available to carry out the following programs may not be used to carry out the ACES program:

(A) The conservation reserve program.

(B) The wetlands reserve program.

(C) The grassland reserve program.

(D) The conservation stewardship program.

(d) Liability

An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28 if the individual—

(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

(2) is acting within the scope of the agreement.

(Pub. L. 99-198, title XII, § 1252, as added Pub. L. 110-234, title II, § 2710, May 22, 2008, 122 Stat. 1082, and Pub. L. 110-246, § 4(a), title II, § 2710, June 18, 2008, 122 Stat. 1664, 1810.)

REFERENCES IN TEXT

The Community Service Senior Opportunities Act, referred to in subsec. (b)(1), is title V of Pub. L. 89-73, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2563, which is classified generally to subchapter IX (§ 3056 et seq.) of chapter 35 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

This chapter, referred to in subsec. (c)(1), 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.

CODIFICATION

Pub. L. 110-234, § 2710, and Pub. L. 110-246, § 2710, which directed the amendment of subtitle F of title XII of the Food Security Act of 1985 by inserting this section after section 1251, was executed by inserting this section between subtitles E and G of title XII of that Act

to reflect the probable intent of Congress, because subtitle F and section 1251 (16 U.S.C. 2005a) of title XII of the Food Security Act of 1985 were repealed by Pub. L. 104-127, title III, § 336(e), Apr. 4, 1996, 110 Stat. 1007.

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 1252 of Pub. L. 99-198, title XII, Dec. 23, 1985, 99 Stat. 1516, amended sections 2004, 2005, 2006, and 2009 of this title, prior to repeal by Pub. L. 104-127, title III, § 336(e), Apr. 4, 1996, 110 Stat. 1007.

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.

SUBCHAPTER VI—STATE TECHNICAL COMMITTEES

§ 3861. Establishment of State technical committees

(a) Establishment

The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this chapter.

(b) Standards

Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop—

(1) standard operating procedures to standardize the operations of State technical committees; and

(2) standards to be used by State technical committees in the development of technical guidelines under section 3862(b)¹ of this title for the implementation of the conservation provisions of this chapter.

(c) Composition

Each State technical committee shall be composed of agricultural producers and other professionals that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

(1) The Natural Resources Conservation Service.

(2) The Farm Service Agency.

(3) The Forest Service.

(4) The National Institute of Food and Agriculture.

(5) The State fish and wildlife agency.

(6) The State forester or equivalent State official.

(7) The State water resources agency.

(8) The State department of agriculture.

(9) The State association of soil and water conservation districts.

(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

(11) Owners of nonindustrial private forest land.

¹ See References in Text note below.

(12) Nonprofit organizations within the meaning of section 501(c)(3) of title 26 with demonstrable conservation expertise and experience working with agriculture producers in the State.

(13) Agribusiness.

(Pub. L. 99-198, title XII, §1261, as added Pub. L. 101-624, title XIV, §1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 104-127, title III, §342(a), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110-234, title II, §2711, title VII, §7511(c)(38), May 22, 2008, 122 Stat. 1083, 1271; Pub. L. 110-246, §4(a), title II, §2711, title VII, §7511(c)(38), June 18, 2008, 122 Stat. 1664, 1811, 2032.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), 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. (b), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

Section 3862 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 110-246, title II, §2711, June 18, 2008, 122 Stat. 1812, and, as so amended, no longer contains provisions relating to development of technical guidelines.

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.

AMENDMENTS

2008—Pub. L. 110-246, §2711, which directed the general amendment of section 1261 of the “Farm Security Act of 1985”, was executed by making the amendment to this section, which is section 1261 of the Food Security Act of 1985, to reflect the probable intent of Congress. Prior to amendment, section related to the establishment in each State of a technical committee to assist the Secretary in the technical considerations relating to implementation of conservation provisions under this chapter, composition of each such committee, and development of standards to be used in the development of guidelines under former section 3862(b) of this title.

Subsec. (c)(4). Pub. L. 110-246, §7511(c)(38), which directed amendment of par. (4) by substituting “National Institute of Food and Agriculture” for “Extension Service”, could not be executed because “Extension Service” did not appear subsequent to amendment by Pub. L. 110-246, §2711. See above.

1996—Subsec. (c)(9) to (12). Pub. L. 104-127 added pars. (9) to (12).

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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 7511(c)(38) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of Title 7, Agriculture.

§ 3862. Responsibilities

(a) In general

Each State technical committee established under section 3861 of this title shall meet regu-

larly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this chapter.

(b) Public notice and attendance

Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this chapter.

(c) Role

(1) In general

The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this chapter.

(2) Advisory role in establishing program priorities and criteria

Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this chapter, including the review of whether local working groups are addressing those priorities.

(d) FACA requirements

(1) Exemption

Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(2) Local working groups

For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subchapter shall be considered to be a subcommittee of the applicable State technical committee.

(Pub. L. 99-198, title XII, §1262, as added Pub. L. 101-624, title XIV, §1446, Nov. 28, 1990, 104 Stat. 3604; amended Pub. L. 103-354, title II, §246(f)(3), Oct. 13, 1994, 108 Stat. 3225; Pub. L. 104-127, title III, §342(b), Apr. 4, 1996, 110 Stat. 1009; Pub. L. 110-234, title II, §2711, May 22, 2008, 122 Stat. 1084; Pub. L. 110-246, §4(a), title II, §2711, June 18, 2008, 122 Stat. 1664, 1812.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), 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 Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

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.

AMENDMENTS

2008—Pub. L. 110-246, §2711, which directed the general amendment of section 1262 of the “Farm Security