

“(B) create any buffer zone on such unenrolled land.

“(4) GREATER BENEFITS.—The conservation programs incorporated through the plan provide benefits greater than the benefits that would likely be achieved through individual application of the conservation programs.

“(5) SUFFICIENT STAFFING.—Staffing, considering both Federal and non-Federal resources, is sufficient to ensure success of the plan.

“SEC. 2603. IMPLEMENTATION OF CONSERVATION CORRIDOR PLAN.

“(a) MEMORANDUM OF AGREEMENT.—On approval of a conservation corridor plan, the Secretary may enter into a memorandum of agreement with the State, local government, or combination of States that submitted the plan to—

“(1) guarantee specific program resources for implementation of the plan;

“(2) establish various compensation rates to the extent that the parties to the agreement consider justified; and

“(3) provide streamlined and integrated paperwork requirements.

“(b) CONTINUED COMPLIANCE WITH PLAN APPROVAL CRITERIA.—The Secretary shall terminate the memorandum of agreement entered into under subsection (a) with respect to an approved conservation corridor plan and cease the provision of resources for implementation of the plan if the Secretary determines that, in the implementation of the plan—

“(1) the State, local government, or combination of States that submitted the plan has deviated from—

“(A) the plan;

“(B) the criteria specified in section 2602(d) on which approval of the plan was conditioned; or

“(C) the cost-sharing requirements of section 2604(a) or any other condition of the plan; or

“(2) the economic viability of agriculture in the geographic region designated in the plan is being hindered.

“(c) PROGRESS REPORT.—At the end of the 3-year period that begins on the date on which funds are first provided with respect to a conservation corridor plan under the demonstration program, the State, local government, or combination of States that submitted the plan shall submit to the Secretary—

“(1) a report on the effectiveness of the activities carried out under the plan; and

“(2) an evaluation of the economic viability of agriculture in the geographic region designated in the plan.

“(d) DURATION.—The demonstration program shall be carried out for not less than 3 nor more than 5 years beginning on the date on which funds are first provided under the demonstration program.

“SEC. 2604. FUNDING REQUIREMENTS.

“(a) COST SHARING.—

“(1) REQUIRED NON-FEDERAL SHARE.—Subject to paragraph (2), as a condition on the approval of a conservation corridor plan, the Secretary shall require the State and local participants to contribute financial resources sufficient to cover at least 50 percent of the total cost of the activities carried out under the plan.

“(2) EXCEPTION.—The Secretary may reduce the cost-sharing requirement in the case of a specific project or activity under the demonstration program on good cause and on demonstration that the project or activity is likely to achieve extraordinary natural resource benefits.

“(b) RESERVATION OF FUNDS.—The Secretary may consider directing funds on a priority basis to the demonstration program and to projects in areas identified by the plan.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of fiscal years 2002 through 2007.”

CRANBERRY ACREAGE RESERVE PROGRAM

Pub. L. 107-171, title X, § 10608, May 13, 2002, 116 Stat. 515, provided that:

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE AREA.—The term ‘eligible area’ means a wetland or buffer strip adjacent to a wetland that, as determined by the Secretary—

“(A)(i) is used, and has a history of being used, for the cultivation of cranberries; or

“(ii) is an integral component of a cranberry-growing operation;

“(B) is located in an environmentally sensitive area.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(b) PROGRAM.—The Secretary shall establish a program to purchase permanent easements in eligible areas from willing sellers.

“(c) PURCHASE PRICE.—The Secretary shall ensure, to the maximum extent practicable, that each easement purchased under this section is for an amount that appropriately reflects the range of values for agricultural and nonagricultural land in the region in which the eligible area subject to the easement is located (including whether that land is located in 1 or more environmentally sensitive areas, as determined by the Secretary).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000.”

SUBCHAPTER II—HIGHLY ERODIBLE LAND CONSERVATION

§ 3811. Program ineligibility

(a) In general

Except as provided in section 3812 of this title, and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on a field on which highly erodible land is predominate, or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary shall be ineligible for—

(1) as to any commodity produced during that crop year by such person—

(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) a disaster payment; or

(D) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible land;

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) during such crop

year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation; or

(3) during the crop year—

(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under part IV of subchapter IV of this chapter;

(B) a payment under any other provision of subchapter IV of this chapter;

(C) a payment under section 2201 or 2202 of this title; or

(D) a payment, loan, or other assistance under section 1003 or 1006a of this title.

(b) Highly erodible land

The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subchapter.

(Pub. L. 99-198, title XII, §1211, Dec. 23, 1985, 99 Stat. 1506; Pub. L. 101-624, title XIV, §1411, Nov. 28, 1990, 104 Stat. 3569; Pub. L. 102-237, title II, §204(1), Dec. 13, 1991, 105 Stat. 1854; Pub. L. 104-127, title III, §311, Apr. 4, 1996, 110 Stat. 982; Pub. L. 107-171, title II, §2002(a), May 13, 2002, 116 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a)(1)(A), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§7201 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 7201 of Title 7 and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a)(1)(A), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (a)(1)(D), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

AMENDMENTS

2002—Pub. L. 107-171 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104-127, §311(1), struck out “following December 23, 1985,” before “any person who” in introductory provisions.

Par. (1)(A). Pub. L. 104-127, §311(2)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;”.

Par. (1)(C). Pub. L. 104-127, §311(2)(B), (E), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: “crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);”.

Par. (1)(D). Pub. L. 104-127, §311(2)(E), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 104-127, §311(2)(C), struck out before semicolon “made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), under section 132 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989”.

Par. (1)(E). Pub. L. 104-127, §311(2)(D), (E), substituted “Consolidated Farm Service Agency” for “Farmers

Home Administration” and redesignated subpar. (E) as (D).

Par. (3). Pub. L. 104-127, §311(3), added par. (3) and struck out former par. (3) which read as follows: “during such crop year—

“(A) a payment made under section 590h, section 590l or section 590p(b) of this title;

“(B) a payment made under section 2201 or section 2202 of this title;

“(C) a payment under any contract entered into pursuant to section 3831 of this title;

“(D) a payment under part II of subchapter IV of this chapter;

“(E) a payment under part III of subchapter IV of this chapter; or

“(F) a payment, loan or other assistance under section 1003 or section 1006a of this title.”

1991—Par. (1)(D). Pub. L. 102-237, §204(1)(A), substituted “(7 U.S.C. 1421 note)” for “(16 U.S.C. 1421 note)”.

Par. (3)(D), (E). Pub. L. 102-237, §204(1)(B), (C), made technical amendments to references to part II of subchapter IV of this chapter and part III of subchapter IV of this chapter, in subpars. (D) and (E), respectively, to clarify references in corresponding provisions of original Act.

1990—Pub. L. 101-624, §1411(1), inserted “, or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary” after “is predominate” in first sentence.

Par. (1)(D). Pub. L. 101-624, §1411(2), inserted reference to section 132 of the Disaster Assistance Act of 1989 and similar provisions enacted after Aug. 14, 1989.

Par. (3). Pub. L. 101-624, §1411(3)-(5), added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 311 of Pub. L. 104-127 provided that the amendment made by that section is effective 90 days after Apr. 4, 1996.

WIND EROSION ESTIMATION PILOT PROJECT

Section 317 of Pub. L. 104-127 provided that:

“(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

“(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

“(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act [16 U.S.C. 3801 et seq.];

“(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

“(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act [16 U.S.C. 3801(a)(9)(A)] (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

“(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.”

§ 3812. Exemptions**(a) Persons eligible for program benefits in connection with production or reduced production of crops on certain lands; eligibility based upon compliance with conservation plan by January 1, 1995; minimization of documentation**

(1) During the period beginning on December 23, 1985, and ending on the later of January 1, 1990, or the date that is 2 years after the date land on which a crop of an agricultural commodity is produced was mapped by the Soil Conservation Service for purposes of classifying such land under the land capability classification system in effect on December 23, 1985, except as provided in paragraph (2), no person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity on any land that was—

(A) cultivated to produce any of the 1981 through 1985 crops of an agricultural commodity; or

(B) set aside, diverted or otherwise not cultivated under a program administered by the Secretary for any such crops to reduce production of an agricultural commodity.

(2) If, as of January 1, 1990, or 2 years after the Soil Conservation Service has completed a soil survey for the farm, whichever is later, a person is actively applying a conservation plan, such person shall have until January 1, 1995, to comply with the plan without being subject to program ineligibility. In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.

(3) Any person who owns or operates highly erodible land that was the subject of a contract entered into under subpart B of part I of subchapter IV of this chapter shall only be required to apply a conservation plan established under this subchapter. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall have until 2 years after the expiration of such contract to comply with the conservation plan, or a longer period of time if the Secretary determines compliance is otherwise technically or economically not feasible, or such longer period is otherwise appropriate, before such person will be subject to program ineligibility with respect to such land under section 3811 of this title.

(4) On the expiration of a contract entered into under subpart B of part I of subchapter IV of this chapter, the provisions of this subchapter shall apply to the acreage that was the subject of such contract.

(b) Persons eligible for program benefits in connection with production of certain planted crops or production of crops on highly erodible land

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity—

(1) planted before December 23, 1985; or

(2) planted during any crop year beginning before December 23, 1985.

(c) Ineligibility for loans and payments under section 3811

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity or the designation of land to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity (hereafter in this subsection referred to as "set aside")—

(1) on highly erodible land in an area—

(A) within a conservation district, under a conservation system that has been approved by a conservation district after the district has determined that the conservation system is in conformity with technical standards set forth in the Soil Conservation Service technical guide for such district; or

(B) not within a conservation district, under a conservation system determined by the Secretary to be adequate for the protection of highly erodible land that has been set aside or for the production of such agricultural commodity on any highly erodible land subject to this chapter; or

(2) on highly erodible land that is planted or set aside in reliance on a determination by the Soil Conservation Service that such land was not highly erodible land, except that this paragraph shall not apply to any agricultural commodity that was planted or set aside on any land after the Soil Conservation Service determines that such land is highly erodible land; or

(3) on highly erodible land planted to alfalfa during each of the 1981 through 1985 crop years as part of a rotation practice approved by the Secretary, if the person has submitted a conservation plan, in which case, such person shall have until June 1, 1988, to comply with the plan without being subject to program ineligibility under section 3811 of this title.

(d) Program ineligibility inapplicable to pre-December 23, 1985, section 3811 loans

Section 3811 of this title shall not apply to a loan described in section 3811 of this title made before December 23, 1985.

(e) Limitations on ineligibility for tenants

If a tenant is determined to be ineligible for payments and other benefits under section 3811 of this title, the Secretary may limit such ineligibility only to the farm which is the basis for such ineligibility determination if—

(1) the tenant has established to the satisfaction of the Secretary that—

(A) the tenant has made a good faith effort to meet the requirements of this section, including enlisting the assistance of the Secretary to obtain a reasonable conservation plan for such farm; and

(B) the landlord on the farm refuses to comply with such plan on such farm; and

(2) the Secretary determines that such lack of compliance is not a part of a scheme or device to avoid such compliance.

The Secretary shall provide an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the ineligibility determinations limited during the previous 12-month period under this subsection.

(f) Graduated penalties

(1) Ineligibility

No person shall become ineligible under section 3811 of this title for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subchapter.

(2) Eligible reviewers

A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

(A) State Executive Director, with the technical concurrence of the State Conservationist; or

(B) district director, with the technical concurrence of the area conservationist.

(3) Period for implementation

A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

(4) Penalties

(A) Application

This paragraph applies if the Secretary determines that—

(i) a person has failed to comply with section 3811 of this title with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 3811 of this title; or

(ii) the violation—

(I) is technical and minor in nature; and

(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

(B) Reduction

If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 3811 of this title, reduce program benefits described in section 3811 of this title that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

(5) Subsequent crop years

Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section 3811 of this title for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary deter-

mines that the person is actively applying a conservation plan according to the schedule specified in the plan.

(g) Preparation or revision of conservation plan

The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information—

(1) concerning cost effective and applicable erosion control measures that may be available to such individual to meet the requirements of this section; and

(2) concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of titles X, XII, and XIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendments made by such titles).

(h) Noncommercial production of agricultural commodities

Section 3811 of this title shall not apply to the noncommercial production of agricultural commodities on a farm if such production is limited to two acres or less and if the Secretary determines that such production is not intended to circumvent the conservation requirements otherwise applicable to lands under this subchapter.

(Pub. L. 99-198, title XII, §1212, Dec. 23, 1985, 99 Stat. 1506; Pub. L. 100-28, §§2, 3, Apr. 24, 1987, 101 Stat. 291; Pub. L. 101-624, title XIV, §1412, Nov. 28, 1990, 104 Stat. 3569; Pub. L. 102-237, title II, §204(2), Dec. 13, 1991, 105 Stat. 1854; Pub. L. 104-127, title III, §§301(d), 312-314, Apr. 4, 1996, 110 Stat. 981-983; Pub. L. 110-234, title II, §2002, May 22, 2008, 122 Stat. 1027; Pub. L. 110-246, §4(a), title II, §2002, June 18, 2008, 122 Stat. 1664, 1755.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1)(B), 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 Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3359, as amended. Title X of the Act enacted section 1446h of Title 7 and amended section 1425a of Title 7. Title XII of the Act, known as the Forest Stewardship Act of 1990, is classified principally to amended chapter 41 (§2101 et seq.) of this title. Title XIII of the Act enacted sections 138 to 138i and 499b-1 of Title 7, amended sections 499c, 608c, and 608e-1 of Title 7, and enacted provisions set out as notes under sections 499a and 1622 of Title 7. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1421 of Title 7 and Tables.

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—Subsec. (f). Pub. L. 110-246, §2002, added subsec. (f) and struck out former subsec. (f) which related to graduated sanctions.

1996—Subsec. (a)(2). Pub. L. 104-127, §301(d)(1), in first sentence, struck out “that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 590h(b) of this title and the Secretary, or by the Secretary” after “applying a conservation plan”.

Subsec. (a)(3). Pub. L. 104-127, §312, substituted “shall only be required to apply a conservation plan established under this subchapter. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person’s conservation plan requires structures to be constructed, the person shall” for “shall, if the conservation plan established under this subchapter for such land requires structures to be constructed.”.

Subsec. (c)(3). Pub. L. 104-127, §301(d)(2), substituted “, in which case,” for “based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 590h(b) of this title and the Secretary.”.

Subsec. (e)(1)(A). Pub. L. 104-127, §301(d)(3), substituted “conservation plan” for “conservation compliance plan”.

Subsec. (f)(1). Pub. L. 104-127, §313(a), substituted “No person” for “Except to the extent provided in paragraph (2), no person” and substituted “the person has acted in good faith and without an intent to violate this subchapter. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person’s conservation plan.” for “such person has—

“(A) not violated the provisions of section 3811 of this title within the previous 5 years on a farm; and

“(B) acted in good faith and without the intent to violate the provisions of this subchapter.”

Pub. L. 104-127, §301(d)(4)(A), struck out “that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a) of this section” after “apply a conservation plan”.

Subsec. (f)(2). Pub. L. 104-127, §313(b), substituted “with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions” for “meets the requirements of paragraph (1)”.

Subsec. (f)(3). Pub. L. 104-127, §301(d)(4)(B), struck out “prepared under subsection (a) of this section” after “a conservation plan”.

Subsec. (f)(4). Pub. L. 104-127, §313(c), struck out concluding sentence which read as follows: “A determination or the granting of a variance by the Secretary under this paragraph shall not be counted as a violation for the purposes of paragraph (1)(A).”

Pub. L. 104-127, §301(d)(4)(C), in introductory provisions, struck out “that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a) of this section” after “apply a conservation plan”.

Subsec. (f)(4)(C). Pub. L. 104-127, §314(1), substituted “problem, including weather, pest, and disease problems” for “problem”.

Subsec. (f)(5). Pub. L. 104-127, §314(2), added par. (5).

1991—Subsec. (f)(4)(A). Pub. L. 102-237, §204(2)(A), substituted “such violation” for “such violations” after “which”.

Subsec. (g)(2). Pub. L. 102-235, §204(2)(B), struck out comma after “XIII”.

1990—Subsec. (a)(3), (4). Pub. L. 101-624, §1412(a), added pars. (3) and (4).

Subsec. (b)(1), (2). Pub. L. 101-624, §1412(b)(1), (2), inserted “or” in par. (1) and substituted a period for a semicolon in par. (2).

Subsec. (b)(3) to (5). Pub. L. 101-624, §1412(b)(4), redesignated pars. (3) to (5) as pars. (1) to (3), respectively, of subsec. (c).

Subsec. (c). Pub. L. 101-624, §1412(b)(3), (4), added subsec. (c) introductory provisions, and redesignated former subsec. (c) as (d).

Subsec. (c)(1). Pub. L. 101-624, §1412(b)(4), (5), redesignated par. (3) of subsec. (b) as par. (1) of subsec. (c) and in subpar. (B) inserted “for the protection of highly erodible land that has been set aside or” after “adequate”.

Subsec. (c)(2). Pub. L. 101-624, §1412(b)(4), (6), redesignated par. (4) of subsec. (b) as par. (2) of subsec. (c) and inserted “or set aside” in two places.

Subsec. (c)(3). Pub. L. 101-624, §1412(b)(4), redesignated par. (5) of subsec. (b) as par. (3) of subsec. (c).

Subsec. (d). Pub. L. 101-624, §1412(b)(3), redesignated subsec. (c) as (d).

Subsecs. (e) to (h). Pub. L. 101-624, §1412(c)–(f), added subsecs. (e) to (h).

1987—Subsec. (a)(2). Pub. L. 100-28, §3, inserted “that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is” after “conservation plan”, and inserted at end “In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.”

Subsec. (b)(5). Pub. L. 100-28, §2(b), added par. (5).

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.

§ 3812a. Development and implementation of conservation plans and conservation systems

(a) Technical requirements

In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

- (1) is technically and economically feasible;
- (2) is based on local resource conditions and available conservation technology;
- (3) is cost-effective; and
- (4) does not cause undue economic hardship on the person applying the conservation system under the person’s conservation plan.

(b) Measurement of erosion reduction

For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person’s conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

(c) Residue measurement

(1) Responsibilities of the Secretary

For the purpose of measuring the level of residue on a field, the Secretary shall—

(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

(B) provide technical guidelines for acceptable residue measurement methods;

(C) provide a certification system for third parties to perform residue measurements; and

(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

(2) Acceptance of producer measurements

Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

(d) Certification of compliance

(1) In general

For the purpose of determining the eligibility of a person for program benefits specified in section 3811 of this title at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

(2) Status reviews

If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

(3) Revisions and modifications

The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

(e) Technical assistance

The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

(f) Encouragement of on-farm research

To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.

(Pub. L. 99-198, title XII, § 1213, as added Pub. L. 104-127, title III, § 315(a)(2), Apr. 4, 1996, 110 Stat. 984.)

PRIOR PROVISIONS

A prior section 1213 of Pub. L. 99-198 was renumbered section 1214 and is classified to section 3813 of this title.

§ 3813. Soil surveys

The Secretary shall, as soon as is practicable after December 23, 1985, complete soil surveys on those private lands that do not have a soil survey suitable for use in determining the land capability class for purposes of this subchapter. In carrying out this section, the Secretary shall, insofar as possible, concentrate on those localities where significant amounts of highly erodible land are being converted to the production of agricultural commodities.

(Pub. L. 99-198, title XII, § 1214, formerly § 1213, Dec. 23, 1985, 99 Stat. 1507; renumbered § 1214, Pub. L. 104-127, title III, § 315(a)(1), Apr. 4, 1996, 110 Stat. 983.)

§ 3814. Notice and investigation of possible compliance deficiencies

(a) In general

An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subchapter while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subchapter. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

(b) Corrective action

The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

(c) Review

If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subchapter.

(Pub. L. 99-198, title XII, § 1215, as added Pub. L. 104-127, title III, § 316, Apr. 4, 1996, 110 Stat. 985.)

SUBCHAPTER III—WETLAND
CONSERVATION

§ 3821. Program ineligibility

(a) Production on converted wetland

Except as provided in this subchapter and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

(1) in violation of this section; and

(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

(b) Ineligibility for certain loans and payments

If a person is determined to have committed a violation under subsection (a) of this section during a crop year, the Secretary shall determine which of, and the amount of, the following