

tion 2401, and the amendments to the conservation reserve program made by subtitle A, the Secretary [of Agriculture] shall use the regulations in existence as of the day before the date of enactment of this Act [Feb. 7, 2014] that are applicable to the wetlands reserve program, the grassland reserve program, the farmland protection program, the farm viability program, the wildlife habitat incentive program, the agricultural water enhancement program, the Chesapeake Bay watershed program, the cooperative conservation partnership initiative, and the Great Lakes basin program repealed by this subtitle [subtitle H (§§2701–2713) of title II of Pub. L. 113–79, see Tables for classification], to the extent that the terms and conditions of such regulations are consistent with—

“(1) the provisions of the agricultural conservation easement program and the regional conservation partnership program; and

“(2) the amendments to the environmental quality incentives program and the conservation reserve program made by this title.

“(c) FUNDING.—The Secretary may only use funds authorized in this title [see Tables for classification] or in the amendments made by this title for the specific programs listed in subsection (b), including any restrictions on the use of those funds, for the purposes identified in paragraphs (1) and (2) of subsection (b).

“(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out subsection (b) shall terminate on the date that is 270 days after the date of enactment of this Act.

“(e) PERMANENT ADMINISTRATION.—Effective beginning on the termination date described in subsection (d), the Secretary shall provide technical assistance, financial assistance, and easement enrollment in accordance with any final regulations that the Secretary considers necessary to carry out this title and the amendments made by this title.”

CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008

Pub. L. 110–234, title II, §2903(a), May 22, 2008, 122 Stat. 1091, and Pub. L. 110–246, §4(a), title II, §2903(a), June 18, 2008, 122 Stat. 1664, 1819, provided that: “Except as otherwise provided by an amendment made by this title [see Tables for classification], the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act [June 18, 2008] and using funds made available under such title for fiscal year 2008 for the program or activity.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

REFORM AND ASSESSMENT OF CONSERVATION PROGRAMS

Pub. L. 107–171, title II, §2005, May 13, 2002, 116 Stat. 237, required the Secretary of Agriculture to develop a plan to coordinate land retirement and agricultural working land conservation programs that are administered by the Secretary to achieve the goals of eliminating redundancy, streamlining program delivery, and improving services provided to agricultural producers and to submit to Congress a report on this plan by Dec. 31, 2005.

CONSERVATION CORRIDOR DEMONSTRATION PROGRAM

Pub. L. 110–114, title V, §5059, Nov. 8, 2007, 121 Stat. 1215, which authorized the Secretary of the Army to provide technical assistance to the Secretary of Agriculture for use in carrying out the Conservation Corridor Demonstration Program established under subtitle G of title II of Pub. L. 107–171, formerly set out below, was repealed by Pub. L. 115–334, title II, §2811(b), Dec. 20, 2018, 132 Stat. 4602.

Pub. L. 107–171, title II, subtitle G, May 13, 2002, 116 Stat. 275, which related to a Conservation Corridor

Demonstration Program to integrate agriculture and forestry conservation programs of the Department of Agriculture with State and local efforts to address farm conservation needs on the Delmarva Peninsula, was repealed by Pub. L. 115–334, title II, §2811(a), Dec. 20, 2018, 132 Stat. 4602.

CRANBERRY ACREAGE RESERVE PROGRAM

Pub. L. 107–171, title X, §10608, May 13, 2002, 116 Stat. 515, which authorized the Secretary of Agriculture to establish a program to purchase permanent easements in wetlands or buffer strips that were used or had a history of being used for the cultivation of cranberries and that were located in environmentally sensitive areas, was repealed by Pub. L. 115–334, title II, §2812, Dec. 20, 2018, 132 Stat. 4602.

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

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 predominant, or designates land on which highly erodible land is predominant 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;

(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,¹ 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; or

(E) any portion of the premium paid by the Federal Crop Insurance Corporation for a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), on the condition that if a person is determined to have committed a violation

¹ See Change of Name note below.

under this subsection during a crop year, ineligibility under this subparagraph shall—

(i) only apply to reinsurance years subsequent to the date of final determination of a violation, including all administrative appeals; and

(ii) not apply to the existing reinsurance year or any reinsurance year prior to the date of final determination;

(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 subpart A of part IV of subchapter IV;

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

(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; Pub. L. 113-79, title II, §§2611(a)(1), 2713(b), Feb. 7, 2014, 128 Stat. 762, 772; Pub. L. 115-334, title II, §2301(d)(1)(A), Dec. 20, 2018, 132 Stat. 4553.)

Editorial Notes

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, 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, 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.

The Federal Crop Insurance Act, referred to in subsec. (a)(1)(E), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

AMENDMENTS

2018—Subsec. (a)(3)(A). Pub. L. 115-334 inserted “subpart A of” before “part IV”.

2014—Subsec. (a). Pub. L. 113-79, §2713(b), substituted “predominant” for “predominate” in two places in introductory provisions.

Subsec. (a)(1)(E). Pub. L. 113-79, §2611(a)(1), added subpar. (E).

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).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Consolidated Farm Service Agency effectively renamed Farm Service Agency by the amendments made to section 6932 of Title 7, Agriculture, by Pub. L. 115-334, title XII, §12404(a), Dec. 20, 2018, 132 Stat. 4974.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-127, title III, §311, Apr. 4, 1996, 110 Stat. 982, provided that the amendment made by that section is effective 90 days after Apr. 4, 1996.

SHORT TITLE

Pub. L. 99-198, title XII, subtitle B, Dec. 23, 1985, 99 Stat. 1506, which is classified generally to this subchapter, is popularly known as the sodbuster provisions.

WIND EROSION ESTIMATION PILOT PROJECT

Pub. L. 104-127, title III, §317, Apr. 4, 1996, 110 Stat. 986, 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) ELIGIBILITY BASED ON COMPLIANCE WITH CONSERVATION PLAN.—

(A) IN GENERAL.—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.

(B) MINIMIZATION OF DOCUMENTATION.—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.

(C) CROP INSURANCE.—

(i) OPERATIONS NEW TO COMPLIANCE.—Notwithstanding section 3811(a) of this title, in the case of a person that is subject to section 3811 of this title for the first time solely due to the amendment made by section 2611(a) of the Agricultural Act of 2014, any person who produces an agricultural commodity on the land that is the basis of the payments described in section 3811(a)(1)(E) of this title shall have 5 reinsurance years after the date on which such payments become subject to section 3811 of this title to develop and comply with an approved conservation plan so as to maintain eligibility for such payments.

(ii) EXISTING OPERATIONS WITH PRIOR VIOLATIONS.—Notwithstanding section 3811(a) of this title, in the case of a person that the Secretary determines would have been in violation of section 3811(a) of this title if the person had continued participation in the programs requiring compliance at any time after February 7, 2014, and is currently in violation of section 3811(a) of this title, the person shall have 2 reinsurance years after the date on which the payments described in section 3811(a)(1)(E) of this title become subject to section 3811 of this title to develop and comply with an approved conservation plan, as determined by the Secretary, so as to maintain eligibility for such payments.

(iii) APPLICABLE REINSURANCE YEAR.—Ineligibility for the payment described in section 3811(a)(1)(E) of this title for a violation under this subparagraph during a crop year shall—

(I) only apply to reinsurance years subsequent to the date of a final determination of a violation, including all administrative appeals; and

(II) not apply to the existing reinsurance year or any reinsurance year prior to the date of the final determination.

(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 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,