

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).

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.

§ 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.

(4) Crop insurance premium assistance

For the purpose of determining the eligibility of a person for the payment described in section 3811(a)(1)(E) of this title, the Secretary shall apply the procedures described in section 3821(c)(3)(E) of this title and coordinate the certification process so as to avoid duplication or unnecessary paperwork.

(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; amended Pub. L. 113-79, title II, § 2611(a)(3), Feb. 7, 2014, 128 Stat. 763.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2014—Subsec. (d)(4). Pub. L. 113-79 added par. (4).

§ 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) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

- (1) 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.

- (2) A loan made 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 the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subchapter) to produce an agricultural commodity.

- (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.

¹ See Change of Name note below.