

(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.

(C) A payment under section 2201 or 2202 of this title.

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

(c) Ineligibility for crop insurance premium assistance**(1) Requirements****(A) In general**

If a person is determined to have committed a violation under subsection (a) or (d)

during a crop year, the person shall be ineligible to receive any payment of any portion of premium paid by the Federal Crop Insurance Corporation for a plan or policy of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) pursuant to this subsection.

(B) Applicability

Ineligibility under this subsection 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.

(2) Conversions**(A) In general**

Notwithstanding paragraph (1), ineligibility for crop insurance premium assistance shall apply in accordance with this paragraph.

(B) New conversions

In the case of a wetland that the Secretary determines was converted after February 7, 2014—

(i) the person shall be ineligible to receive crop insurance premium subsidies in subsequent reinsurance years unless the Secretary determines that an exemption pursuant to section 3822 of this title applies; or

(ii) if a violation that the Secretary determines impacts less than 5 acres of an entire farm, the person may pay a contribution in an amount equal to 150 percent of the cost of mitigation, as determined by the Secretary, to the fund described in section 3841(f) of this title for wetland restoration in lieu of ineligibility to receive crop insurance premium assistance.

(C) Prior conversions

In the case of a wetland that the Secretary determines was converted prior to February 7, 2014, ineligibility under this subsection shall not apply.

(D) Conversions and new policies or plans of insurance

In the case of an agricultural commodity for which an individual policy or plan of insurance is available for the first time to the person after February 7, 2014—

(i) ineligibility shall apply only to conversions that take place after the date on which the policy or plan of insurance first becomes available to the person; and

(ii) the person shall take such steps as the Secretary determines appropriate to mitigate any prior conversion in a timely manner but not to exceed 2 reinsurance years.

(3) Limitations**(A) Mitigation required**

Except as otherwise provided in this paragraph, a person subject to a final determina-

¹ See Change of Name note below.