

I of the 1999 Emergency Supplemental Appropriations Act (Public 106–31; 113 Stat. 59).

(6) Section 1111(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277; 112 Stat. 2681–44).

SEC. 1618. PRODUCER RETENTION OF ERRONEOUSLY PAID LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding any other provision of law, the Secretary and the Commodity Credit Corporation shall not require producers in Erie County, Pennsylvania, to repay loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned by the Commodity Credit Corporation for certain 1998 and 1999 crops under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.). In the case of a producer who has already made the repayment on or before the date of the enactment of this Act, the Commodity Credit Corporation shall reimburse the producer for the full amount of the repayment.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

SEC. 2001. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by inserting after chapter 1 the following:

“CHAPTER 2—CONSERVATION SECURITY AND FARMLAND PROTECTION

“Subchapter A—Conservation Security Program

“SEC. 1238. DEFINITIONS.

“In this subchapter:

“(1) BASE PAYMENT.—The term ‘base payment’ means an amount that is—

“(A) determined in accordance with the rate described in section 1238C(b)(1)(A); and

“(B) paid to a producer under a conservation security contract in accordance with clause (i) of subparagraph (C), (D), or (E) of section 1238C(b)(1), as appropriate.

“(2) BEGINNING FARMER OR RANCHER.—The term ‘beginning farmer or rancher’ has the meaning given the term under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

“(3) CONSERVATION PRACTICE.—The term ‘conservation practice’ means a conservation farming practice described in section 1238A(d)(4) that—

“(A) requires planning, implementation, management, and maintenance; and

- “(B) promotes 1 or more of the purposes described in section 1238A(a).
- “(4) CONSERVATION SECURITY CONTRACT.—The term ‘conservation security contract’ means a contract described in section 1238A(e).
- “(5) CONSERVATION SECURITY PLAN.—The term ‘conservation security plan’ means a plan described in section 1238A(c).
- “(6) CONSERVATION SECURITY PROGRAM.—The term ‘conservation security program’ means the program established under section 1238A(a).
- “(7) ENHANCED PAYMENT.—The term ‘enhanced payment’ means the amount paid to a producer under a conservation security contract that is equal to the amount described in section 1238C(b)(1)(C)(iii).
- “(8) NONDEGRADATION STANDARD.—The term ‘nondegradation standard’ means the level of measures required to adequately protect, and prevent degradation of, 1 or more natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service.
- “(9) PRODUCER.—
- “(A) IN GENERAL.—The term ‘producer’ means an owner, operator, landlord, tenant, or sharecropper that—
- “(i) shares in the risk of producing any crop or livestock; and
- “(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).
- “(B) HYBRID SEED GROWERS.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.
- “(10) RESOURCE-CONSERVING CROP ROTATION.—The term ‘resource-conserving crop rotation’ means a crop rotation that—
- “(A) includes at least 1 resource-conserving crop (as defined by the Secretary);
- “(B) reduces erosion;
- “(C) improves soil fertility and tilth;
- “(D) interrupts pest cycles; and
- “(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces the need for irrigation).
- “(11) RESOURCE MANAGEMENT SYSTEM.—The term ‘resource management system’ means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of land, water, and other natural resources, as defined in accordance with the technical guide of the Natural Resources Conservation Service.
- “(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service.
- “(13) TIER I CONSERVATION SECURITY CONTRACT.—The term ‘Tier I conservation security contract’ means a contract described in section 1238A(d)(5)(A).

“(14) **TIER II CONSERVATION SECURITY CONTRACT.**—The term ‘Tier II conservation security contract’ means a contract described in section 1238A(d)(5)(B).

“(15) **TIER III CONSERVATION SECURITY CONTRACT.**—The term ‘Tier III conservation security contract’ means a contract described in section 1238A(d)(5)(C).

“SEC. 1238A. CONSERVATION SECURITY PROGRAM.

“(a) **IN GENERAL.**—The Secretary shall establish and, for each of fiscal years 2003 through 2007, carry out a conservation security program to assist producers of agricultural operations in promoting, as is applicable with respect to land to be enrolled in the program, conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and any other conservation purposes, as determined by the Secretary.

“(b) **ELIGIBILITY.**—

“(1) **ELIGIBLE PRODUCERS.**—To be eligible to participate in the conservation security program (other than to receive technical assistance under section 1238C(g) for the development of conservation security contracts), a producer shall—

“(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

“(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

“(2) **ELIGIBLE LAND.**—Except as provided in paragraph (3), private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation shall be eligible for enrollment in the conservation security program.

“(3) **EXCLUSIONS.**—

“(A) **CONSERVATION RESERVE PROGRAM.**—Land enrolled in the conservation reserve program under subchapter B of chapter 1 shall not be eligible for enrollment in the conservation security program.

“(B) **WETLANDS RESERVE PROGRAM.**—Land enrolled in the wetlands reserve program established under subchapter C of chapter 1 shall not be eligible for enrollment in the conservation security program.

“(C) **GRASSLAND RESERVE PROGRAM.**—Land enrolled in the grassland reserve program established under subchapter C of chapter 2 shall not be eligible for enrollment in the conservation security program.

“(D) **CONVERSION TO CROPLAND.**—Land that is used for crop production after the date of enactment of this subchapter that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date (except for land enrolled in the conservation reserve program under subchapter B of chapter 1) or that has been maintained using long-term crop rotation practices, as determined by the Secretary, shall not be the basis for any payment under the conservation security program.

“(4) *ECONOMIC USES.*—The Secretary shall permit a producer to implement, with respect to all eligible land covered by a conservation security plan, economic uses that—

“(A) maintain the agricultural nature of the land; and

“(B) are consistent with the natural resource and conservation objectives of the conservation security program.

“(c) *CONSERVATION SECURITY PLANS.*—

“(1) *IN GENERAL.*—A conservation security plan shall—

“(A) identify the designated land and resources to be conserved under the conservation security plan;

“(B) describe the tier of conservation security contract, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term; and

“(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract.

“(2) *RESOURCE PLANNING.*—The Secretary may assist producers that enter into conservation security contracts in developing a comprehensive, long-term strategy for improving and maintaining all natural resources of the agricultural operation of the producer.

“(d) *CONSERVATION CONTRACTS AND PRACTICES.*—

“(1) *IN GENERAL.*—

“(A) *ESTABLISHMENT OF TIERS.*—The Secretary shall establish, and offer to eligible producers, 3 tiers of conservation contracts under which a payment under this subchapter may be received.

“(B) *ELIGIBLE CONSERVATION PRACTICES.*—

“(i) *IN GENERAL.*—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices.

“(ii) *DETERMINATION.*—In determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, that the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

“(2) *ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.*—With respect to land enrolled in the conservation security program, the Secretary may approve a conservation security plan that includes—

“(A) on-farm conservation research and demonstration activities; and

“(B) pilot testing of new technologies or innovative conservation practices.

“(3) *USE OF HANDBOOK AND GUIDES; STATE AND LOCAL CONSERVATION CONCERNS.*—

“(A) *USE OF HANDBOOK AND GUIDES.*—In determining eligible conservation practices and the criteria for implementing or maintaining the conservation practices under the conservation security program, the Secretary shall use

the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

“(B) *STATE AND LOCAL CONSERVATION PRIORITIES.*—*The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with—*

“(i) *the State technical committee established under subtitle G; and*

“(ii) *local agricultural producers and conservation working groups.*

“(4) *CONSERVATION PRACTICES.*—*Conservation practices that may be implemented by a producer under a conservation security contract (as appropriate for the agricultural operation of a producer) include—*

“(A) *nutrient management;*

“(B) *integrated pest management;*

“(C) *water conservation (including through irrigation) and water quality management;*

“(D) *grazing, pasture, and rangeland management;*

“(E) *soil conservation, quality, and residue management;*

“(F) *invasive species management;*

“(G) *fish and wildlife habitat conservation, restoration, and management;*

“(H) *air quality management;*

“(I) *energy conservation measures;*

“(J) *biological resource conservation and regeneration;*

“(K) *contour farming;*

“(L) *strip cropping;*

“(M) *cover cropping;*

“(N) *controlled rotational grazing;*

“(O) *resource-conserving crop rotation;*

“(P) *conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops;*

“(Q) *partial field conservation practices;*

“(R) *native grassland and prairie protection and restoration; and*

“(S) *any other conservation practices that the Secretary determines to be appropriate and comparable to other conservation practices described in this paragraph.*

“(5) *TIERS.*—*Subject to paragraph (6), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:*

“(A) *TIER I CONSERVATION SECURITY CONTRACTS.*—*A conservation security plan for land enrolled under a Tier I conservation security contract shall—*

“(i) *be for a period of 5 years; and*

“(ii) *include conservation practices appropriate for the agricultural operation, that, at a minimum (as determined by the Secretary)—*

“(I) *address at least 1 significant resource of concern for the enrolled portion of the agricultural*

operation at a level that meets the appropriate nondegradation standard; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(B) TIER II CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier II conservation security contract shall—

“(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer;

“(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum—

“(I) address at least 1 significant resource of concern for the entire agricultural operation, as determined by the Secretary, at a level that meets the appropriate nondegradation standard; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(C) TIER III CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier III conservation security contract shall—

“(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer; and

“(ii) include conservation practices appropriate for the agricultural operation that, at a minimum—

“(I) apply a resource management system that meets the appropriate nondegradation standard for all resources of concern of the entire agricultural operation, as determined by the Secretary; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(6) MINIMUM REQUIREMENTS.—The minimum requirements for each tier of conservation contracts implemented under paragraph (5) shall be determined and approved by the Secretary.

“(e) CONSERVATION SECURITY CONTRACTS.—

“(1) IN GENERAL.—On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.

“(2) MODIFICATION.—

“(A) OPTIONAL MODIFICATIONS.—A producer may apply to the Secretary for a modification of the conservation security contract of the producer that is consistent with the purposes of the conservation security program.

“(B) OTHER MODIFICATIONS.—

“(i) IN GENERAL.—The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change

made to the type, size, management, or other aspect of the agricultural operation of the producer would, without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program.

“(ii) PARTICIPATION IN OTHER PROGRAMS.—If appropriate payment reductions and other adjustments (as determined by the Secretary) are made to the conservation security contract of a producer, the producer may—

“(I) simultaneously participate in—

“(aa) the conservation security program;

“(bb) the conservation reserve program under subchapter B of chapter 1; and

“(cc) the wetlands reserve program under subchapter C of chapter 1; and

“(II) may remove land enrolled in the conservation security program for enrollment in a program described in item (bb) or (cc) of subclause (I).

“(3) TERMINATION.—

“(A) OPTIONAL TERMINATION.—A producer may terminate a conservation security contract and retain payments received under the conservation security contract, if—

“(i) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

“(ii) the Secretary determines that termination of the contract would not defeat the purposes of the conservation security plan of the producer.

“(B) OTHER TERMINATION.—A producer that is required to modify a conservation security contract under paragraph (2)(B)(i) may, in lieu of modifying the contract—

“(i) terminate the conservation security contract; and

“(ii) retain payments received under the conservation security contract, if the producer has fully complied with the terms and conditions of the conservation security contract before termination of the contract, as determined by the Secretary.

“(4) RENEWAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), at the option of a producer, the conservation security contract of the producer may be renewed for an additional period of not less than 5 nor more than 10 years.

“(B) TIER 1 RENEWALS.—In the case of a Tier I conservation security contract of a producer, the producer may renew the contract only if the producer agrees—

“(i) to apply additional conservation practices that meet the nondegradation standard on land already enrolled in the conservation security program; or

“(ii) to adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the nondeg-

radation standard under the terms of the Tier I conservation security contract.

“(f) NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF PRODUCERS.—The Secretary shall include in the conservation security contract a provision, and may permit modification of a conservation security contract under subsection (e)(1), to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

“SEC. 1238B. DUTIES OF PRODUCERS.

“Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

“(1) to implement the applicable conservation security plan approved by the Secretary;

“(2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;

“(3) not to engage in any activity that would interfere with the purposes of the conservation security program; and

“(4) on the violation of a term or condition of the conservation security contract—

“(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

“(i) to forfeit all rights to receive payments under the conservation security contract; and

“(ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payments and interest on the payments, as determined by the Secretary; or

“(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

“SEC. 1238C. DUTIES OF THE SECRETARY.

“(a) TIMING OF PAYMENTS.—The Secretary shall make payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.

“(b) ANNUAL PAYMENTS.—

“(1) CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.—

“(A) BASE PAYMENT.—A base payment under this paragraph shall be (as determined by the Secretary)—

“(i) the average national per-acre rental rate for a specific land use during the 2001 crop year; or

“(ii) another appropriate rate for the 2001 crop year that ensures regional equity.

“(B) PAYMENTS.—A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (E).

“(C) TIER I CONSERVATION SECURITY CONTRACTS.—The payment for a Tier I conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 5 percent of the applicable base payment for land covered by the contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of—

“(I) the adoption of new management, vegetative, and land-based structural practices;

“(II) the maintenance of existing land management and vegetative practices; and

“(III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.

“(iii) An enhanced payment that is determined by the Secretary in a manner that ensures equity across regions of the United States, if the producer—

“(I) implements or maintains multiple conservation practices that exceed minimum requirements for the applicable tier of participation (including practices that involve a change in land use, such as resource-conserving crop rotation, managed rotational grazing, or conservation buffer practices);

“(II) addresses local conservation priorities in addition to resources of concern for the agricultural operation;

“(III) participates in an on-farm conservation research, demonstration, or pilot project;

“(IV) participates in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area; or

“(V) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

“(D) TIER II CONSERVATION SECURITY CONTRACTS.—The payment for a Tier II conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 10 percent of the applicable base payment for land covered by the conservation security contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

“(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

“(E) TIER III CONSERVATION SECURITY CONTRACTS.—The payment for a Tier III conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 15 percent of the base payment for land covered by the conservation security contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

“(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

“(2) LIMITATION ON PAYMENTS.—

“(A) IN GENERAL.—Subject to paragraphs (1) and (3), the Secretary shall make an annual payment, directly or indirectly, to an individual or entity covered by a conservation security contract in an amount not to exceed—

“(i) in the case of a Tier I conservation security contract, \$20,000;

“(ii) in the case of a Tier II conservation security contract, \$35,000; or

“(iii) in the case of a Tier III conservation security contract, \$45,000.

“(B) LIMITATION ON BASE PAYMENTS.—In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clause (i) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds—

“(i) in the case of Tier I contracts, 25 percent of the applicable payment limitation; or

“(ii) in the case of Tier II contracts and Tier III contracts, 30 percent of the applicable payment limitation.

“(C) OTHER USDA PAYMENTS.—A producer shall not receive payments under the conservation security program and any other conservation program administered by the Secretary for the same practices on the same land.

“(D) COMMENSURATE SHARE.—To be eligible to receive a payment under this subchapter, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

“(3) EQUIPMENT OR FACILITIES.—A payment to a producer under this subchapter shall not be provided for—

“(A) construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

“(B) the purchase or maintenance of equipment or a non-land based structure that is not integral to a land-based practice, as determined by the Secretary.

“(c) *MINIMUM PRACTICE REQUIREMENT.*—In determining a payment under subsection (b) for a producer that receives a payment under another program administered by the Secretary that is contingent on complying with requirements under subtitle B or C (relating to the use of highly erodible land or wetland), a payment under this subchapter on land subject to those requirements shall be for practices only to the extent that the practices exceed minimum requirements for the producer under those subtitles, as determined by the Secretary.

“(d) *REGULATIONS.*—The Secretary shall promulgate regulations that—

“(1) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

“(2) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (b).

“(e) *TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.*—

“(1) *IN GENERAL.*—Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

“(2) *TRANSFER OF DUTIES AND RIGHTS.*—Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to, and assumed by, the transferee.

“(f) *ENROLLMENT PROCEDURE.*—In entering into conservation security contracts with producers under this subchapter, the Secretary shall not use competitive bidding or any similar procedure.

“(g) *TECHNICAL ASSISTANCE.*—For each of fiscal years 2003 through 2007, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 15 percent of amounts expended for the fiscal year.”

(b) *REGULATIONS.*—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations implementing the amendment made by subsection (a).

SEC. 2002. CONSERVATION COMPLIANCE.

(a) *HIGHLY ERODIBLE LAND.*—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) by striking the section heading and all that follows through “Except as provided in” and inserting the following:

“SEC. 1211. PROGRAM INELIGIBILITY.

“(a) *IN GENERAL.*—Except as provided in”; and

(2) by adding at the end the following:

“(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 subtitle.”.

(b) *WETLAND.*—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended by adding at the end the following: