(C) under normal circumstances does support a prevalence of such vegetation. For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils. [1201–5]

(b) The Secretary shall develop—

(1) criteria for the identification of hydric soils and hydrophytic vegetation; and

(2) lists of such soils and such vegetation.

SUBTITLE B—HIGHLY ERODIBLE LAND CONSERVATION

SEC. 1211. [16 U.S.C. 3811] PROGRAM INELIGIBILITY. [1211–1]

(a) IN GENERAL.—Except as provided in section 1212, and notwithstanding any other provision of law, [1211–2] 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— [1211–3]

(1) [1211–4] as to any commodity produced during that crop year by such person—

(A) [1211–5] 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, 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) [1211–6] a disaster payment; or

(D) [1211–7] 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 adminis-

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[1201–5] The last sentence was added by the Urgent Supplemental Appropriation Act, 1986, P.L. 99–349, 100 Stat. 714, July 8, 1986.

[1211–1] Sec. 2002(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 233, May 13, 2002, amended this sec. by striking the section heading and all that follows through "Except as provided in" and inserting the sec. heading and all that follows through "Except as provided in".

[1211–2] Sec. 311(1) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–982, 110 Stat. 1004, April 4, 1996, amended this section by striking "following the date of enactment of this Act,".

[1211–3] Sec. 1411(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3569, Nov. 28, 1990, revised the first sentence by adding the phrase ", or designates" through "determine by the Secretary".

[1211–4] Sec. 311(2) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 982, April 4, 1996, amended this paragraph by striking former subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively. For the previous version of this paragraph, see pp. 5–3 and 5–4 of Vol. III—Conservation and Miscellaneous Programs (as of January 16, 1996).

[1211–5] Sec. 311(2)(A) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 982, April 4, 1996, amended subparagraph (A) in its entirety.

[1211–6] Sec. 311(2)(C) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 982, April 4, 1996, amended this subparagraph by striking "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".

[1211–7] Sec. 1411(4) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3569, Nov. 28, 1990, deleted "or" after the semicolon.

tered by the Consolidated Farm Service Agency,[1211–8] 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)[1211–9] 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)[1211–10] during the crop year—

(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

(B) a payment under any other provision of subtitle D;

(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).

(b)[1211–11] 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.

EXEMPTIONS

SEC. 1212. [16 U.S.C. 3812] (a)[1212–1](1) During the period beginning on the date of the enactment of this Act 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 the date of enactment of this Act, except as provided in paragraph (2), no person shall become ineligible under section 1211 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,[1212–2] such person shall have until January 1, 1995, to comply with the plan

[1211–8] Sec. 311(2)(D) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 982, April 4, 1996, amended this subparagraph by striking "Farmers Home Administration" and inserting "Consolidated Farm Service Agency".

[1211–9] Sec. 1411(4) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3569, Nov. 28, 1990, deleted the period and inserted "; or".

[1211–10] Sec. 311(3) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 982, April 4, 1996, amended this paragraph in its entirety. For the previous version of this paragraph, see p. 5–4 of Vol. III—Conservation and Miscellaneous Programs (as of January 16, 1996).

[1211–11] Subsec. (b) added by sec. 2002(a)(2) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 233.

[1212–1] Sec. 1412(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3569, Nov. 28, 1990, added paragraphs (3) and (4).

[1212–2] Sec. 301(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 981, April 4, 1996, amended this paragraph by striking "that documents" and all that follows through "by the Secretary". For the previous version of this paragraph, see pp. 5–4 and 5–5 of Vol. III—Conservation and Miscellaneous Programs (as of January 16, 1996).