

uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act [enacting section 1308-1 of this title, amending this section, and enacting provisions set out as notes under this section and section 1308-1 of this title].

“(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title].

“(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.”

REGULATIONS TO CARRY OUT 1987 AMENDMENTS;
TRANSITION RULES; EQUITABLE ADJUSTMENTS

Pub. L. 100-203, title I, §1305(a), (b), Dec. 22, 1987, 101 Stat. 1330-18, provided that:

“(a) REGULATIONS.—

“(1) ISSUANCE.—The Secretary of Agriculture shall issue—

“(A) proposed regulations to carry out the amendments made by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] not later than April 1, 1988; and

“(B) final regulations to carry out such amendments not later than August 1, 1988.

“(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 [sections 1308 to 1308-3 of this title] shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

“(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle [enacting sections 1308-1 to 1308-3 of this title and amending this section and section 1308-1 of this title] in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E) [section 1308(5)(E) of this title], as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.”

CONSERVATION RESERVE APPLICATION

Section 1305(d) of Pub. L. 100-203 provided that: “Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001 [section 1308(5)-(7) of this title], as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 [sections 1308-1 to 1308-3 of this title] shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3830 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act [Dec. 22, 1987], except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.”

REVISION OF REGULATIONS

Pub. L. 99-500, §108(c), Oct. 18, 1986, 100 Stat. 1783-347, and Pub. L. 99-591, §108(c), Oct. 30, 1986, 100 Stat. 3341-347, provided that:

“(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act [Oct. 18, 1986] that define ‘person’ under section 1001 of the Food Security Act of 1985 [this section] and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

“(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

“(2) Based on the reviews conducted under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

“(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

“(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.”

SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

Pub. L. 99-198 (last sentence), as added by Pub. L. 99-500, §101(a) [title VI, §636], Oct. 18, 1986, 100 Stat. 1783, 1783-34, and Pub. L. 99-591, §101(a) [title VI, §636], Oct. 30, 1986, 100 Stat. 3341, 3341-34, provided that: “Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.”

§ 1308-1. Notification of interests; payments limited to active farmers

(a) Notification of interests

To facilitate administration of section 1308 of this title and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1308 of this title as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.

(b) Actively engaged

(1) In general

To be eligible to receive a payment described in subsection (b) or (c) of section 1308 of this title, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

(2) Classes actively engaged

Except as provided in subsections (c) and (d)—

(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

(I) capital, equipment, or land; and

(II) personal labor or active personal management;

(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

(iii) the contributions of the person are at risk;

(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;

(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and

(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

(c) Special classes actively engaged**(1) Landowner**

A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

(2) Adult family member

If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

(3) Sharecropper

A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

(4) Growers of hybrid seed

In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(5) Custom farming services**(A) In general**

A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

(B) Prohibition

No other rules with respect to custom farming shall apply.

(6) Spouse

If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

(d) Classes not actively engaged**(1) Cash rent landlord**

A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash

rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

(2) Other persons and legal entities

Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.

(Pub. L. 99-198, title X, §1001A, as added and amended Pub. L. 100-203, title I, §§ 1301(a)(3), 1302, Dec. 22, 1987, 101 Stat. 1330-12, 1330-14; Pub. L. 101-624, title XI, §1111(d), (f), Nov. 28, 1990, 104 Stat. 3498, 3499; Pub. L. 102-237, title I, §118(c), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 104-127, title I, §115(c)(1), Apr. 4, 1996, 110 Stat. 903; Pub. L. 107-171, title I, §1603(c)(1), May 13, 2002, 116 Stat. 215; Pub. L. 110-234, title I, §1603(c), (d), May 22, 2008, 122 Stat. 1007, 1008; Pub. L. 110-246, §4(a), title I, §1603(c), (d), June 18, 2008, 122 Stat. 1664, 1735, 1736.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110-246, §1603(c)(1), substituted “Notification of interests” for “Prevention of creation of entities to qualify as separate persons” in section catchline.

Subsec. (a). Pub. L. 110-246, §1603(c)(2), added subsec. (a) and struck out former subsec. (a) which related to prevention of use of multiple legal entities to avoid effective application of payment limitations under section 1308 of this title.

Subsecs. (b) to (d). Pub. L. 110-246, §1603(d), added subsecs. (b) to (d) and struck out former subsec. (b) which related to requirement that a person be an individual or entity described in former section 1308(e)(2)(A) of this title and actively engaged in farming with respect to a particular farming operation to be separately eligible for farm program payments with respect to that operation.

2002—Subsec. (a)(1). Pub. L. 107-171, §1603(c)(1), substituted “section 1308(e)(2)(A) of this title” for “section 1308(5)(B)(i) of this title” and “section 1308(e)(2)(A)(ii) of this title” for “section 1308(5)(B)(i)(II) of this title”.

Subsec. (b)(1). Pub. L. 107-171, §1603(c)(1)(B), substituted “section 1308(e)(2)(A) of this title” for “section 1308(5)(B)(i) of this title”.

Subsec. (b)(2)(B). Pub. L. 107-171, §1603(c)(1)(A), substituted “section 1308(e)(2)(A)(ii) of this title” for “section 1308(5)(B)(i)(II) of this title”.

1996—Subsec. (a)(1). Pub. L. 104-127, §115(c)(1)(A), struck out “under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)” before “may not also hold”.

Subsec. (b)(1). Pub. L. 104-127, §115(c)(1)(B), struck out “under the Agricultural Act of 1949” before “with respect to a particular”.

1991—Subsec. (a)(2). Pub. L. 102-237 struck out “0 to” after “less than”.

1990—Subsec. (a)(2). Pub. L. 101-624, §1111(f), substituted “0 to 10 percent” for “10 percent”.

Subsec. (b)(6). Pub. L. 101-624, §1111(d), added par. (6).
1987—Subsec. (b). Pub. L. 100-203, §1302, added subsec. (b).

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 this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title I, §1302, Dec. 22, 1987, 101 Stat. 1330-14, provided that the amendment made by that section is effective beginning with the 1989 crops.

EFFECTIVE DATE

Pub. L. 100-203, title I, §1301(a), Dec. 22, 1987, 101 Stat. 1330-12, provided that this section is effective beginning with the 1989 crops.

TRANSITION PROVISIONS

Section, as in effect on Sept. 30, 2007, to continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts, see section 1603(h) of Pub. L. 110-246, set out as a note under section 1308 of this title.

§ 1308-2. Denial of program benefits

(a) 2-year denial of program benefits

A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1308 of this title for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

(1) failed to comply with section 1308-1(b) of this title and adopted or participated in adopting a scheme or device to evade the application of section 1308, 1308-1, or 1308-3 of this title; or

(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

(b) Extended ineligibility

If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1308 through 1308-5 of this title, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

(c) Pro rata denial

(1) In general

Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

(2) Cash rent tenant

Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).