

§ 2397a. Sense of Congress

It is the sense of Congress that the Secretaries of Labor, Commerce, and Agriculture should apply the provisions of part 2 (relating to adjustment assistance for workers), part 3 (relating to adjustment assistance for firms), part 4 (relating to adjustment assistance for communities), and part 6 (relating to adjustment assistance for farmers), respectively, with the utmost regard for the interests of workers, firms, communities, and farmers petitioning for benefits under such parts.

(Pub. L. 93-618, title II, § 288, as added Pub. L. 111-5, div. B, title I, § 1856(a), Feb. 17, 2009, 123 Stat. 394, and Pub. L. 112-40, title II, § 201(b), (c), Oct. 21, 2011, 125 Stat. 403, and Pub. L. 114-27, title IV, § 402(b), (c), June 29, 2015, 129 Stat. 374.)

TERMINATION OF SECTION

For termination of section beginning on July 1, 2021, with certain exceptions and subject to section 406(b) of Pub. L. 114-27, see Codification and Effective and Termination Dates notes below.

CODIFICATION

Section 233 of Pub. L. 112-40, which provided for Jan. 1, 2014, termination of section, was repealed by Pub. L. 114-27, title IV, § 402(a), June 29, 2015, 129 Stat. 374, and this section, as added by Pub. L. 112-40 and as in effect on Dec. 31, 2013, was temporarily revived, effective June 29, 2015, until July 1, 2021, by Pub. L. 114-27, §§ 402(b), (c), 406. See Effective and Termination Dates notes below.

Section 1893 of Pub. L. 111-5, which provided for Feb. 13, 2011, termination of section, was repealed by Pub. L. 112-40, title II, § 201(a), Oct. 21, 2011, 125 Stat. 403, and this section, as added by Pub. L. 111-5 and as in effect on Feb. 12, 2011, was temporarily revived, effective Oct. 21, 2011, until Jan. 1, 2014, by Pub. L. 112-40, §§ 201(b), (c), 233. See Effective and Termination Dates notes below.

EFFECTIVE AND TERMINATION DATES

For revival and applicability, beginning on June 29, 2015, of this section as in effect on Dec. 31, 2013, see section 402(b), (c) of Pub. L. 114-27, set out as an Effective and Termination Dates of 2015 Revival note preceding section 2271 of this title.

For termination of section, beginning on July 1, 2021, with certain exceptions and subject to section 406(b) of Pub. L. 114-27, see section 406 of Pub. L. 114-27, set out as an Effective and Termination Dates of 2015 Revival note preceding section 2271 of this title.

For revival and applicability, beginning on Oct. 21, 2011, of this section as in effect on Feb. 12, 2011, see section 201(b), (c) of Pub. L. 112-40, set out as an Effective and Termination Dates of 2011 Revival note preceding section 2271 of this title.

Section 233 of Pub. L. 112-40, formerly set out as an Effective and Termination Dates of 2011 Revival note preceding section 2271 of this title, which provided for the termination of this section beginning on Jan. 1, 2014, subject to certain exceptions, was repealed by Pub. L. 114-27, title IV, § 402(a), June 29, 2015, 129 Stat. 374, effective June 29, 2015. See Codification note above.

Except as otherwise provided and subject to certain applicability provisions, section effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of this title.

Section 1893 of Pub. L. 111-5, formerly set out as a Termination Date of 2009 Amendment note preceding section 2271 of this title, which provided that, except as otherwise provided, section not applicable on or after Feb. 13, 2011, and that this section be applied and ad-

ministered beginning Feb. 13, 2011, as if this section had never been enacted, was repealed by Pub. L. 112-40, title II, § 201(a), Oct. 21, 2011, 125 Stat. 403, effective Oct. 21, 2011. See Codification note above.

PART 6—ADJUSTMENT ASSISTANCE FOR FARMERS**TERMINATION DATE**

Except as otherwise provided, assistance may not be provided under this part after June 30, 2021, see section 285 of Pub. L. 93-618, set out as a note preceding section 2271 of this title.

§ 2401. Definitions

In this part:

(1) Agricultural commodity

The term “agricultural commodity” includes—

(A) any agricultural commodity (including livestock) in its raw or natural state;

(B) any class of goods within an agricultural commodity; and

(C) in the case of an agricultural commodity producer described in paragraph (2)(B), wild-caught aquatic species.

(2) Agricultural commodity producer

The term “agricultural commodity producer” means—

(A) a person that shares in the risk of producing an agricultural commodity and that is entitled to a share of the commodity for marketing, including an operator, a sharecropper, or a person that owns or rents the land on which the commodity is produced; or

(B) a person that reports gain or loss from the trade or business of fishing on the person’s annual Federal income tax return for the taxable year that most closely corresponds to the marketing year with respect to which a petition is filed under section 2401a of this title.

(3) Contributed importantly**(A) In general**

The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(B) Determination of contributed importantly

The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this part was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

(4) Duly authorized representative

The term “duly authorized representative” means an association of agricultural commodity producers.

(5) National average price

The term “national average price” means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture.

(7) Marketing year

The term “marketing year” means—

(A) a marketing year designated by the Secretary with respect to an agricultural commodity; or

(B) in the case of an agricultural commodity with respect to which the Secretary does not designate a marketing year, a calendar year.

(Pub. L. 93-618, title II, §291, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 946; amended Pub. L. 109-280, title XIV, §1635(f)(4), Aug. 17, 2006, 120 Stat. 1171; Pub. L. 110-234, title I, §1603(g)(6), May 22, 2008, 122 Stat. 1012; Pub. L. 110-246, §4(a), title I, §1603(g)(6), June 18, 2008, 122 Stat. 1664, 1740; Pub. L. 111-5, div. B, title I, §1881, Feb. 17, 2009, 123 Stat. 414; Pub. L. 112-40, title II, §201(b), (c), Oct. 21, 2011, 125 Stat. 403; Pub. L. 113-79, title I, §1609(b)(1), Feb. 7, 2014, 128 Stat. 709; Pub. L. 114-27, title IV, §402(b), (c), June 29, 2015, 129 Stat. 374.)

REVERSION TO PROVISIONS IN EFFECT ON JANUARY 1, 2014

For reversion, beginning on July 1, 2021, to provisions in effect on Jan. 1, 2014, with certain exceptions and subject to section 406(b) of Pub. L. 114-27, see Codification and Effective and Termination Dates of 2015 Revival notes below.

CODIFICATION

Section 233 of Pub. L. 112-40, which provided for the Jan. 1, 2014, revival of this section as in effect on Feb. 13, 2011, was repealed by Pub. L. 114-27, title IV, §402(a), June 29, 2015, 129 Stat. 374, and the provisions of this section, as in effect on Dec. 31, 2013, were temporarily revived, effective June 29, 2015, until July 1, 2021, by Pub. L. 114-27, §§402(b), (c), 406. See 2011 and 2015 Amendment notes, Effective and Termination Dates of 2011 Revival notes, and Effective and Termination Dates of 2015 Revival notes below.

Section 1893 of Pub. L. 111-5, which provided for Feb. 13, 2011, termination of amendment by Pub. L. 111-5, was repealed by Pub. L. 112-40, title II, §201(a), Oct. 21, 2011, 125 Stat. 403, and the provisions of this section, as amended by Pub. L. 111-5 and as in effect on Feb. 12, 2011, were temporarily revived, effective Oct. 21, 2011, until Jan. 1, 2014, by Pub. L. 112-40, §§201(b), (c), 233. See 2009 and 2011 Amendment notes, Effective and Termination Dates of 2009 Amendment notes, and Effective and Termination Dates of 2011 Revival notes below.

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.

AMENDMENTS

2015—Pub. L. 114-27, §§402(b), (c), 406, temporarily revived the provisions of this section, as in effect on Dec. 31, 2013. See Codification note above and 2011 Amendment and Effective and Termination Dates of 2015 Revival notes below.

2014—Par. (2), Pub. L. 113-79, §1609(b)(1), amended language inserted by Pub. L. 110-246, §1603(g)(6). See 2008 Amendment note below.

2011—Pub. L. 112-40, §§201(b), (c), 233, temporarily revived the provisions of this section, as in effect on Feb. 12, 2011. See Codification note above and 2009 Amendment and Effective and Termination Dates of 2011 Revival notes below.

2009—Par. (1), Pub. L. 111-5, §§1881(1), 1893, temporarily amended par. (1) generally. Prior to amendment, text read as follows: “The term ‘agricultural commodity’ means any agricultural commodity (including livestock) in its raw or natural state.” See Codification

note above and Effective and Termination Dates of 2009 Amendment note below.

Par. (2), Pub. L. 111-5, §§1881(2), 1893, temporarily amended par. (2) generally. Prior to amendment, text read as follows: “The term ‘agricultural commodity producer’ has the same meaning as the term ‘person’ as prescribed by regulations promulgated under section 1308(e) of title 7 (before the amendment made by section 1603(a) of the Food, Conservation, and Energy Act of 2008).” See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Par. (7), Pub. L. 111-5, §§1881(3), 1893, temporarily added par. (7). See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

2008—Par. (2), Pub. L. 110-246, §1603(g)(6), as amended by Pub. L. 113-79, §1609(b)(1), inserted “(before the amendment made by section 1603(a) of the Food, Conservation, and Energy Act of 2008)” before period at end.

2006—Par. (2), Pub. L. 109-280 substituted “1308(e)” for “1308(5)”.

EFFECTIVE AND TERMINATION DATES OF 2015 REVIVAL

For revival and applicability, beginning on June 29, 2015, of the provisions of this section as in effect on Dec. 31, 2013, see section 402(b), (c) of Pub. L. 114-27, set out as a note preceding section 2271 of this title.

For reversion, beginning on July 1, 2021, to the provisions of this section as in effect on Jan. 1, 2014, with certain exceptions and subject to section 406(b) of Pub. L. 114-27, see section 406 of Pub. L. 114-27, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-79 effective as if included in Pub. L. 110-246, see section 1609(b)(2) of Pub. L. 113-79, set out as a note under section 1471g of Title 7, Agriculture.

EFFECTIVE AND TERMINATION DATES OF 2011 REVIVAL

For revival and applicability, beginning on Oct. 21, 2011, of the provisions of this section as in effect on Feb. 12, 2011, see section 201(b), (c) of Pub. L. 112-40, set out as a note preceding section 2271 of this title.

Section 233 of Pub. L. 112-40, formerly set out as a note preceding section 2271 of this title, which provided for the reversion, beginning on Jan. 1, 2014, of the provisions of this section to those in effect on Feb. 13, 2011, subject to certain exceptions, was repealed by Pub. L. 114-27, title IV, §402(a), June 29, 2015, 129 Stat. 374, effective June 29, 2015. See Codification note above.

EFFECTIVE AND TERMINATION DATES OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as a note under section 2271 of this title.

Section 1893 of Pub. L. 111-5, formerly set out as a Termination Date of 2009 Amendment note preceding section 2271 of this title, which provided that, except as otherwise provided, amendment by Pub. L. 111-5 not applicable on or after Feb. 13, 2011, and that this section be applied and administered beginning Feb. 13, 2011, as if amendment by Pub. L. 111-5 had never been enacted, was repealed by Pub. L. 112-40, title II, §201(a), Oct. 21, 2011, 125 Stat. 403, effective Oct. 21, 2011. See Codification note above.

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.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse

for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE DATE

Pub. L. 107-210, div. A, title I, § 141(b), Aug. 6, 2002, 116 Stat. 953, as amended by Pub. L. 108-429, title II, § 2004(a)(10), Dec. 3, 2004, 118 Stat. 2590, provided that: “The amendments made by this subtitle [subtitle C §§ 141 to 143] of title I of Pub. L. 107-210, enacting this part and amending section 2395 of this title] shall take effect on the date that is 180 days after the date of enactment of this Act [Aug. 6, 2002].”

TERMINATION DATE

Except as otherwise provided, assistance may not be provided under this section after June 30, 2021, see section 285 of Pub. L. 93-618, set out as a note preceding section 2271 of this title.

§ 2401a. Petitions; group eligibility

(a) In general

A petition for a certification of eligibility to apply for adjustment assistance under this part may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) Hearings

If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(c) Group eligibility requirements

The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this part if the Secretary determines that—

(1)(A) the national average price of the agricultural commodity produced by the group during the most recent marketing year for which data are available is less than 85 percent of the average of the national average price for the commodity in the 3 marketing years preceding such marketing year;

(B) the quantity of production of the agricultural commodity produced by the group during such marketing year is less than 85 percent of the average of the quantity of production of the commodity produced by the group in the 3 marketing years preceding such marketing year;

(C) the value of production of the agricultural commodity produced by the group during such marketing year is less than 85 percent of the average value of production of the commodity produced by the group in the 3 marketing years preceding such marketing year; or

(D) the cash receipts for the agricultural commodity produced by the group during such marketing year are less than 85 percent of the average of the cash receipts for the commodity produced by the group in the 3 marketing years preceding such marketing year;

(2) the volume of imports of articles like or directly competitive with the agricultural commodity produced by the group in the marketing year with respect to which the group files the petition increased compared to the average volume of such imports during the 3 marketing years preceding such marketing year; and

(3) the increase in such imports contributed importantly to the decrease in the national average price, quantity of production, or value of production of, or cash receipts for, the agricultural commodity, as described in paragraph (1).

(d) Eligibility of certain other producers

An agricultural commodity producer or group of producers that resides outside of the State or region identified in the petition filed under subsection (a) may file a request to become a party to that petition not later than 15 days after the date the notice is published in the Federal Register under subsection (a) with respect to that petition.

(e) Treatment of classes of goods within a commodity

In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining under subsection (c)—

(1) group eligibility;

(2) the national average price, quantity of production, or value of production, or cash receipts; and

(3) the volume of imports.

(Pub. L. 93-618, title II, § 292, as added Pub. L. 107-210, div. A, title I, § 141(a), Aug. 6, 2002, 116 Stat. 947; amended Pub. L. 111-5, div. B, title I, § 1882(a), Feb. 17, 2009, 123 Stat. 415; Pub. L. 112-40, title II, § 201(b), (c), Oct. 21, 2011, 125 Stat. 403; Pub. L. 114-27, title IV, § 402(b), (c), June 29, 2015, 129 Stat. 374.)

REVERSION TO PROVISIONS IN EFFECT ON JANUARY 1, 2014

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CODIFICATION

Section 233 of Pub. L. 112-40, which provided for the Jan. 1, 2014, revival of this section as in effect on Feb. 13, 2011, was repealed by Pub. L. 114-27, title IV, § 402(a), June 29, 2015, 129 Stat. 374, and the provisions of this section, as in effect on Dec. 31, 2013, were temporarily revived, effective June 29, 2015, until July 1, 2021, by Pub. L. 114-27, §§ 402(b), (c), 406. See 2011 and 2015 Amendment notes, Effective and Termination Dates of 2011 Revival notes, and Effective and Termination Dates of 2015 Revival notes below.

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