

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.

## RULEMAKING RELATED TO SIGNIFICANT CONTRIBUTION FOR ACTIVE PERSONAL MANAGEMENT

Pub. L. 113-79, title I, §1604, Feb. 7, 2014, 128 Stat. 706, provided that:

“(a) REGULATIONS REQUIRED.—Within 180 days after the date of the enactment of this Act [Feb. 7, 2014], the Secretary shall promulgate, with an opportunity for notice and comment, regulations—

“(1) to define the term ‘significant contribution of active personal management’ for purposes of section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1); and

“(2) if the Secretary determines it is appropriate, to establish limits for varying types of farming operations on the number of individuals who may be considered to be actively engaged in farming with respect to the farming operation when a significant contribution of active personal management is the basis used to meet the requirement of being actively engaged in farming under section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) by an individual or entity.

“(b) CONSIDERATIONS.—In promulgating the regulations required under subsection (a), the Secretary shall consider—

“(1) the size, nature, and management requirements of each type of farming operation;

“(2) the changing nature of active personal management due to advancements of farming operations; and

“(3) the degree to which the regulations promulgated pursuant to subsection (a) will adversely impact the long-term viability of the farming operation.

“(c) FAMILY FARMS.—The Secretary shall not apply the regulations promulgated pursuant to subsection (a) to individuals or entities comprised solely of family members (as that term is defined in section 1001(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308(a)(2))).

“(d) MONITORING.—The regulations promulgated pursuant to subsection (a) shall include a plan for monitoring the status of compliance reviews for whether a person or entity is in compliance with the regulations.

“(e) PAPERWORK REDUCTION.—In order to conserve Federal resources and prevent unnecessary paperwork burdens, the Secretary shall ensure that any additional paperwork required as a result of the regulations promulgated pursuant to subsection (a) be limited to those persons who are subject to such regulations.

“(f) RELATION TO OTHER REQUIREMENTS.—Nothing in this section may be construed to authorize the Secretary to alter, directly or indirectly, existing regulations for other requirements in section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1).

“(g) EFFECTIVE DATE.—The requirements of any regulation promulgated pursuant to this section shall apply beginning with the 2015 crop year.”

## § 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).

### (d) Joint and several liability

Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1308, 1308–1, or 1308–3 of this title shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

### (e) Release

The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1308, 1308–1, and 1308–3 of this title, and this section.

(Pub. L. 99–198, title X, §1001B, as added Pub. L. 100–203, title I, §1304(b), Dec. 22, 1987, 101 Stat. 1330–17; amended Pub. L. 107–171, title I, §1603(c)(2), May 13, 2002, 116 Stat. 215; Pub. L. 110–234, title I, §1603(e), May 22, 2008, 122 Stat. 1010; Pub. L. 110–246, §4(a), title I, §1603(e), June 18, 2008, 122 Stat. 1664, 1738.)

#### CODIFICATION

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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(e), amended section generally. Prior to amendment, text read as follows: “If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1308, 1308–1, or 1308–3 of this title, such person shall be ineligible to receive farm program payments (as described in subsections (b), (c), and (d) of section 1308 of this title as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.”

2002—Pub. L. 107–171 substituted “as described in subsections (b), (c), and (d) of section 1308 of this title” for “as described in paragraphs (1) and (2) of section 1308 of this title”.