

Commodity Credit Corporation, USDA

§ 1400.104

parent or to any court-appointed person such as a guardian or conservator who is responsible for the minor if all of the following apply:

(1) The minor is a producer on a farm and the minor's parents or any court-appointed person such as guardian or conservator who is responsible for the minor, does not have any interest in the farm;

(2) The minor has established and maintains a separate household from the minor's parents or any court-appointed person such as a guardian or conservator who is responsible for the minor, and the minor personally carries out the farming activities with respect to the minor's farming operation for which there is a separate accounting; and

(3) The minor does not live in the same household as the minor's parents and:

(i) Is represented by a court-appointed guardian or conservator who is responsible for the minor and

(ii) Ownership of the farm is vested in the minor.

(c) A person will be considered to be a minor until the age 18 is reached. Court proceedings conferring majority on a person under 18 years of age will not change the person's status as a minor.

[73 FR 79273, Dec. 29, 2008, as amended at 75 FR 899, Jan. 7, 2010; 85 FR 52038, Aug. 24, 2020]

§ 1400.102 States, political subdivisions, and agencies thereof.

(a) A State, political subdivision, and agency thereof, is not eligible for payments or benefits under programs specified in §1400.1, unless the exception provided in paragraph (b) of this section applies.

(b) Subject to the limitation in paragraph (c) of this section, a State, political subdivision, and any agency thereof, may receive payments or benefits under programs specified in §1400.1(a)(1) if both of the following apply:

(1) The land for which payments are received is owned by the State, political subdivision, or agency thereof and

(2) The payments are used solely for the support of public schools;

(c) The total payments described in paragraph (b) of this section cannot ex-

ceed \$500,000 annually except for States with a population less than 1,500,000, as established by the most recent U.S. Census Bureau annual estimate of the State's resident population.

[73 FR 79273, Dec. 29, 2008, as amended at 75 FR 899, Jan. 7, 2010; 85 FR 52038, Aug. 24, 2020]

§ 1400.103 Charitable organizations.

(a) A charitable organization, including a club, society, fraternal organization, or religious organization will be considered a separate legal entity for payment limitation purposes to the extent that the entity is independently engaged in the production of crops, agricultural commodities, or livestock, except where the land or the proceeds from the farming operation may transfer to a legal entity that exercises control or authority over the organization.

(b) If the land or the proceeds from the farming operation may transfer to a legal entity that exercises control or authority over the charitable organization, payments to the charitable organization will be attributed to the parent organization.

[73 FR 79273, Dec. 29, 2008, as amended at 85 FR 52038, Aug. 24, 2020]

§ 1400.104 Changes in farming operations.

(a) Any change in a farming operation that would increase the number of persons to which the provisions of this part apply must be bona fide and substantive. If bona fide, the following will be considered to be a substantive change in the farming operation:

(1) The addition of a family member to a farming operation in accordance with §1400.208, except that the addition will not affect the status of any other person or legal entity that is added to the farming operation; or

(2) With respect to a landowner only, a change from a cash rent to a share rent; or

(3) An increase through the acquisition of land used for agricultural production not previously involved in the farming operation of at least 20 percent or more in the total land involved in the farming operation.

(i) For the purpose of payment limitations, the increase in agricultural land will be considered an applicable

§ 1400.105

7 CFR Ch. XIV (1–1–24 Edition)

bona fide and substantive change for the increase of only one person or legal entity to the farming operation, unless;

(ii) A representative of the State FSA office determines, based on the magnitude and complexity of the change represented, the increase in agricultural land supports additional persons or legal entities to the farming operation; or

(4) A change in ownership by sale or gift of equipment from a person or legal entity previously engaged in a farming operation to a person or legal entity that has not been involved in the operation. The sale or gift of equipment will be considered to be bona fide and substantive only if:

(i) The transferred amount of the equipment is commensurate with the new person's or legal entity's share of the farming operation;

(ii) The sale or gift of the equipment was based on the equipment's fair market value;

(iii) The former owner of the equipment has no direct or indirect control over the equipment;

(iv) The transaction was not financed by the former owner; and

(v) Preference was not given to the former owner to re-purchase the equipment at a later date; or

(5) A change in ownership by sale or gift of land or livestock from a person or legal entity who previously has been engaged in a farming operation to a person or legal entity that has not been involved in the operation. The sale or gift of land or livestock will be considered to be bona fide and substantive only if:

(i) The transferred amount of the land or livestock is commensurate with the new person's or legal entity's share of the farming operation;

(ii) The sale or gift of land or livestock was based on land's or livestock's fair market value;

(iii) The former owner of the land or livestock has no direct or indirect control over the land or livestock;

(iv) The transaction was not financed by the former owner; and

(v) Preference was not given to the former owner to re-purchase the land or livestock at a later date.

(b) Unless the requirements in paragraph (a) of this section are met, the increase in persons in the farming operation will not be recognized for payment limitation purposes and the additional persons or legal entities are not eligible for program payment identified in §1400.1 otherwise resulting from the farming operation.

[73 FR 79273, Dec. 29, 2008, as amended at 75 FR 899, Jan. 7, 2010; 85 FR 52038, Aug. 24, 2020]

§ 1400.105 Attribution of payments.

(a) A payment made directly to a person or legal entity will be combined with the pro rata interest of the person or legal entity in payments received by a legal entity in which the person or legal entity has a direct or indirect ownership interest, unless the payments of the legal entity have been reduced by the pro rata share of the person or legal entity.

(b) A payment made to a legal entity will be attributed to those persons who have a direct and indirect ownership interest in the legal entity, unless the payment of the legal entity has been reduced by the pro rata share of the person.

(c) Attribution of payments made to legal entities will be tracked through four levels of ownership in legal entities as follows:

(1) First level of ownership—any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in an amount that represents the direct ownership interest in the first-tier or payment legal entity;

(2)(i) Second level of ownership—any payment made to a first-tier legal entity that is owned in whole or in part by another legal entity (referred to as a second-tier legal entity) will be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity;

(ii) If the second-tier legal entity is owned in whole or in part by a person, the amount of the payment made to the first-tier legal entity will be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.