

part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2401e. Qualifying requirements for agricultural commodity producers**

**(a) In general**

**(1) Requirements**

Payment of a<sup>1</sup> adjustment assistance under this part shall be made to an adversely affected agricultural commodity producer covered by a certification under this part who files an application for such assistance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 2401b of this title, if the following conditions are met:

(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under this subsection that was produced by the producer in the most recent year.

(B) The producer certifies that the producer has not received cash benefits under any provision of this subchapter other than this part.

(C) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this part.

(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

**(2) Limitations**

**(A) Adjusted gross income**

**(i) In general**

Notwithstanding any other provision of this part, an agricultural commodity producer shall not be eligible for assistance under this part in any year in which the average adjusted gross income of the producer exceeds the level set forth in section 1308-3a of title 7.

**(ii) Certification**

To comply with the limitation under subparagraph (A),<sup>2</sup> an individual or entity shall provide to the Secretary—

(I) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed the level set forth in section 1308-3a of title 7; or

(II) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

**(B) Counter-cyclical payments**

The total amount of payments made to an agricultural producer under this part during any crop year may not exceed the limitation on counter-cyclical payments set forth in section 1308(c) of title 7.

**(C) Definitions**

In this subsection:

**(i) Adjusted gross income**

The term “adjusted gross income” means adjusted gross income of an agricultural commodity producer—

(I) as defined in section 62 of title 26 and implemented in accordance with procedures established by the Secretary; and

(II) that is earned directly or indirectly from all agricultural and non-agricultural sources of an individual or entity for a fiscal or corresponding crop year.

**(ii) Average adjusted gross income**

**(I) In general**

The term “average adjusted gross income” means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

**(II) Effective adjusted gross income**

In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

**(b) Amount of cash benefits**

**(1) In general**

Subject to the provisions of section 2401g of this title, an adversely affected agricultural commodity producer described in subsection (a) of this section shall be entitled to adjustment assistance under this part in an amount equal to the product of—

(A) one-half of the difference between—

(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) of this section for the 5 marketing years preceding the most recent marketing year, and

(ii) the national average price of the agricultural commodity for the most recent marketing year, and

(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

<sup>1</sup> So in original. Probably should be “an”.

<sup>2</sup> So in original. Probably should be a reference to clause (i).

**(2) Special rule for subsequent qualified years**

The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1), except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

**(c) Maximum amount of cash assistance**

The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed \$10,000.

**(d) Limitations on other assistance**

An agricultural commodity producer entitled to receive a cash benefit under this part—

(1) shall not be eligible for any other cash benefit under this subchapter, and

(2) shall be entitled to employment services and training benefits under division II of subpart B of part 2 of this subchapter.

(Pub. L. 93-618, title II, §296, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 949; amended Pub. L. 108-429, title II, §2004(a)(9), Dec. 3, 2004, 118 Stat. 2590.)

## AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-429, §2004(a)(9)(A)(i), substituted “adjustment assistance under this part” for “trade adjustment allowance” and “such assistance” for “such allowance” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 108-429, §2004(a)(9)(A)(ii), made technical amendment to reference in original act which appears in text as reference to this subsection.

Subsec. (b)(2). Pub. L. 108-429, §2004(a)(9)(B), substituted “paragraph (1), except” for “paragraph (1) except”.

## TERMINATION DATE

No adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2401f. Fraud and recovery of overpayments****(a) In general****(1) Repayment**

If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this part to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such person; and

(B) requiring such repayment would be contrary to equity and good conscience.

**(2) Recovery of overpayment**

Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part.

**(b) False statement**

A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this part—

(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this part to which the person was not entitled.

**(c) Notice and determination**

Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) of this section by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

**(d) Payment to Treasury**

Any amount recovered under this section shall be returned to the Treasury of the United States.

**(e) Penalties**

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this part shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

(Pub. L. 93-618, title II, §297, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116 Stat. 952.)

## TERMINATION DATE

No adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2401g. Authorization of appropriations****(a) In general**

There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed \$90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this part, and there are authorized to be appropriated and there are appropriated to the Department of Agriculture to carry out this part \$9,000,000 for the 3-month period beginning on October 1, 2007.

**(b) Proportionate reduction**

If in any year the amount appropriated under this part is insufficient to meet the requirements for adjustment assistance payable under this part, the amount of assistance payable under this part shall be reduced proportionately.

(Pub. L. 93-618, title II, §298, as added Pub. L. 107-210, div. A, title I, §141(a), Aug. 6, 2002, 116