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United States General Accounting Office

GAO

Briefing Report to the Honorable
Silvio O. Conte, House of Representatives

October 1987

FARM PAYMENTS

Analysis of Proposals to Amend the \$50,000 Payment Limit



840305

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Resources, Community, and
Economic Development Division

B-225866

October 9, 1987

The Honorable Silvio O. Conte
House of Representatives

Dear Mr. Conte:

In response to your October 1, 1987 request, we analyzed two proposals to amend the current \$50,000 per person payment limitation provisions contained in Section 1001(5) of the Food Security Act of 1985, as amended, and U.S. Department of Agriculture (USDA) regulations. The proposals we analyzed were H.R. 3042--introduced by you and Representative Charles Schumer--and an alternative proposal that has not yet been introduced. We compared these proposals with the existing legislation and regulations to determine if they would prevent certain types of farm reorganizations. The reorganizations targeted by the legislation are those which have the effect of circumventing the payment limitation by adding new persons to farming operations, allowing each to qualify for up to \$50,000.

We reported on such reorganizations in two earlier reports.¹ In those reports, we estimated that farm reorganizations related to the payment limit from 1984-86 added about \$328 million to USDA program costs. We also estimated that continuation of this trend could result in about 31,000 additional new persons receiving payments by 1989. Cumulative payments to these new persons for crop years 1987-89 could total about \$2 billion and could be as much as \$900 million in 1989 alone. We also identified the methods that producers used to avoid the payment limit.

In addition to the basic \$50,000 per person limit applied to combined deficiency and diversion program payments, separate payment limits have been placed on other agricultural programs. The October 30, 1986, Joint Resolution making Appropriations for Government Agencies for the Fiscal Year 1987 (Public Law 99-591) imposes an overall maximum limit of

¹See Farm Payments: Farm Reorganizations and Their Impact on USDA Program Costs (GAO/RCED-87-120BR, Apr. 1, 1987) and Farm Payments: Basic Changes Needed to Avoid Abuse of the \$50,000 Payment Limit (GAO/RCED-87-176, July 20, 1987).

\$250,000 per person on commodity program payments. This limit includes the \$50,000 limit on combined deficiency and diversion payments, as well as payments made under the marketing loan program or when the Secretary of Agriculture reduces the basic loan rate for wheat and feed grains. This same law also placed a \$250,000 limit on outstanding loans made under the honey program. Finally, a \$50,000 limit was placed on rental payments made under the Conservation Reserve Program, which was authorized by the Food Security Act of 1985. While separate, these limits use the same legislative and administrative provisions to determine who qualifies as a person for purposes of applying the payment limits. As such, the proposals addressed in this report would have the same effect on these limits as on the basic \$50,000 limit.

In summary, we found that H.R. 3042, which amends language initially proposed by USDA in a March 1987 report to the Congress,² would prevent the kind of program abuses previously reported. The alternative proposal would close some loopholes in the existing law and regulations, but also would prevent USDA from administratively closing others. The primary reason that the alternative proposal is not as restrictive when compared with H.R. 3042 is that it effectively increases the basic payment limit from \$50,000 to \$100,000 per person. It also effectively doubles the other existing payment limits. For example, the overall maximum limit of \$250,000 would increase to \$500,000. As of October 9, 1987, the alternative proposal was being rewritten. Revision of the alternative proposal could significantly alter the analysis discussed in this report.

This briefing report presents a side-by-side comparison of current law and regulations, H.R. 3042, and the alternative proposal. Section 1 discusses changes that affect the principal methods used to avoid the limit. Section 2 addresses changes to other rules that contribute to avoidance of the limit. Changes to basic eligibility requirements for program payments are covered in section 3. Provisions that are not addressed in both proposals are covered in section 4. Finally, section 5 covers provisions of the alternative proposal that are not in H.R. 3042 or existing law and regulations.

²Report to the Congress by the Secretary of Agriculture with Respect to the Implementation of the Maximum Payment Limitation, Mar. 10, 1987.

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To prepare this report, we used our July 1987 report (see p. 1) that analyzed the types of reorganizations related to the \$50,000 payment limit and identified the provisions in existing law and regulations that allowed such reorganizations. We also determined what effect the proposed changes would have on avoidance of the payment limit. We conducted our review during October 1987 at USDA headquarters in Washington, D.C.

We discussed this report with USDA officials, and incorporated their comments where appropriate. However, as agreed with your office, we did not obtain official agency comments on a draft of this report.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Agriculture; and other interested parties. Copies will be provided to others upon request.

If you have any questions about this report, please contact me at (202) 275-5138. Major contributors are listed in appendix I.

Sincerely yours,



Brian P. Crowley
Senior Associate Director

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ABBREVIATIONS

GAO	General Accounting Office
RCED	Resources, Community, and Economic Development Division (GAO)
USDA	United States Department of Agriculture

SECTION 1

PRINCIPAL METHODS USED TO
AVOID THE PAYMENT LIMIT

OVERVIEW

In comparison to existing law and regulations

- H.R. 3042 removes the advantage of incorporating by counting payments that individuals receive indirectly through ownership of corporations against individual payment limits. H.R. 3042 also reduces the advantage of adding members to a joint operation, such as a general partnership, by requiring that new members be actively engaged in the farming operation to increase payments for the operation.

- The alternative proposal reduces, but does not entirely remove, the advantage of incorporating by limiting the number of corporations from which an individual can receive payments. While this provision effectively doubles the payment limits, from \$50,000 to \$100,000 for example, it does prevent any further use of incorporation to avoid the payment limit beyond that point. The alternative proposal also requires that members of joint operations be actively engaged in farming. However, as written, the definition of actively engaged is such that an unlimited number of members can be added to joint operations and qualify for separate payment limits.

PROVISION

EXISTING LAW AND REGULATIONS

Incorporating

By law, USDA must consider a corporation as a person separate from its owners if no stockholder owns more than 50 percent of its stock, and each corporation as a person separate from any other corporation provided the same two or more individuals do not own more than 50 percent of the stock in the corporation.

By using a combination of two stockholders per corporation, each of whom owns exactly 50 percent of the stock, three individuals--A, B, and C--can form three corporations--AB, BC, and AC. The three individuals and three corporations would then qualify for six payments. In a like manner, four individuals can form six corporations and qualify for 10 payments; six individuals can form 15 corporations and qualify for 21 payments; etc.

Therefore, the increase in the number of persons for payment limitation purposes is controlled only by the number of individuals that are willing to incorporate for this purpose.

H.R. 3042 is more restrictive than existing law and regulations and more restrictive than the alternative proposal.

H.R. 3042 removes the advantage of incorporating by preventing an individual already at the limit from receiving additional payments indirectly through corporate ownership. It attributes the corporation's payments to the owners of the corporations and counts these payments against their individual payment limits. Therefore, no individual will receive more than \$50,000, whether earned through his or her own farming operation or through ownership of a corporation.

The alternative proposal is more restrictive than existing law and regulations but less restrictive than H.R. 3042.

Although the alternative proposal leaves intact the existing legislative provisions concerning the treatment of corporations, it limits the extent to which these provisions can be used to receive additional payments when an individual has reached his or her payment limit. If the individual has a separate farming operation, only two corporations in which the individual has substantial ownership will be eligible for payments. If the individual does not have a separate farming operation, three corporations will be eligible. Therefore, an individual could receive \$100,000, consisting of (1) \$50,000 earned from 50-percent ownership in each of two corporations and (2) \$50,000 from either his or her own farming operation or 100-percent ownership in a third corporation.

PROVISION

EXISTING LAW AND REGULATIONS

Adding Members to a Joint
Operation

Joint operations, like general partnerships or joint ventures, can also be used to increase the number of new persons on a farming operation. Individual members of a joint operation, not the joint operation, are separate persons. To qualify as a separate person with a separate \$50,000 payment limit, each member must make contributions to the joint operation of either capital, land, equipment, labor, or management. These contributions must be in proportion to the member's share of the payments from the joint operation. As a result, joint operations can increase the number of payment limits for their operations simply by adding new members, even if those members are not actively engaged in the actual farming operation. For example, a four-member general partnership can increase the payment limits for its operation from four to five (e.g., from \$200,000 to \$250,000) by adding a fifth general partner, provided the fifth partner's share of the payments is in proportion to that partner's contribution to the partnership, which may consist only of capital.

H.R. 3042 is more restrictive than existing law and regulations and the alternative proposal.

Under H.R. 3042, the addition of a new member to a joint operation will not increase the payment limits for the operation unless the new member is actively engaged in its operations through a significant contribution of (1) capital, land, or equipment and (2) labor or management.

The alternative proposal is less restrictive than existing law and regulations and H.R. 3042.

The alternative proposal does limit payments to joint operations based on the number of its members actively engaged in its farming operation. However, the definition of actively engaged is such that an unlimited number of new members, each qualifying as a separate person, can be added to its operations. Each new member would be required to provide some personal labor or management to the joint operation. The labor or management need not be (1) significant in relationship to the farming cost of the joint operation, (2) at risk, or (3) in proportion to the new member's share of payments from the operation. (See sec. 4.)

SECTION 2

OTHER RULES THAT CONTRIBUTE TO AVOIDANCE OF THE PAYMENT LIMIT

OVERVIEW

In comparison to the existing law and regulations

- H.R. 3042 will reduce the practice of dividing farms and cash leasing the land to multiple investors by requiring that the lessee also make significant contributions of owned-land or owned-equipment and personal labor or active management to qualify for a separate payment limit. H.R. 3042 also will allow USDA to combine entities with common ownership as one person when the same one or more individual(s) owns or controls 50 percent or more of the entities. Finally, H.R. 3042 also will make other rules more restrictive.

- The alternative proposal requires that the lessee provide 50 percent of the labor and equipment but does not require that this be personal labor or owned-equipment. While this proposal does not change the rules for combining entities with common ownership, it does limit the number of entities from which an individual can receive payments as discussed in section 1. However, the alternative proposal would also make other provisions less restrictive.

Division and Cash Lease of
Land to Investors

The basic definition of a person for payment limitation purposes is any individual or legal entity that (1) has a separate and distinct interest in the land or crop, (2) exercises separate responsibility for that interest, and (3) is responsible for farming costs related to the interest from a fund or account separate from that of any other individual or entity.

This definition allows avoidance of the payment limit through the division of land into parcels that earn payments at or near the limit and the cash lease of these parcels to investors not otherwise engaged in farming. The investors' involvement in farming can be limited to investing capital and signing agreements to lease the land, rent equipment, and hire management and labor. In some cases, the investors borrow the investment capital using the anticipated crop or government payment as collateral. This type of reorganization can result in a significant increase in the number of new persons and the payment limit for an operation. For instance, a management firm used this method to increase the payment limit from \$50,000 to \$1.4 million by leasing land it managed to 28 investors.

H.R. 3042 is more restrictive than existing law and regulations and the alternative proposal.

H.R. 3042 will prevent avoidance of the limit through the division and cash lease of land by requiring that the lessee also make a significant contribution of owned-land or owned-equipment and personal labor or active management in addition to capital to be considered a separate person for payment limitation purposes. The definition of what constitutes a significant contribution is left to USDA to define.

The alternative proposal is more restrictive than existing law and regulations but is less restrictive than H.R. 3042.

The alternative proposal requires that a person who is cash leasing land provide at least 50 percent of the labor and equipment to be eligible for payments. It does not require that this be personal labor or owned-equipment.

Custom Farming

Custom farming is the hiring of others to perform services on a farm, such as harvesting a crop, on a unit of work basis (e.g., \$100 per acre harvested).

Individuals that use a custom farmer who has an interest in their crop or land are combined as one person for payment limitation purposes.

However, individuals that use an organization to custom farm their land are not combined as one person for payment limitation purposes unless an owner of the organization has more than a 20-percent interest in the crop or land. This facilitates reorganizations to avoid the limit. For example, an individual can rent a portion of his or her land to four individuals who have not farmed before. The individual then forms a corporation with the four individuals and transfers ownership of his or her equipment to the new corporation, which custom farms for the individual and the four new individuals. The original individual and the four new individuals qualify as separate persons, even though the corporation is farming the land. This effectively increases the number of persons for payment limitation purposes from one to five and the total payment limit from \$50,000 to \$250,000.

Minor Children

USDA regulations require that minor children 17 years of age or younger be combined with their parents and treated as one person for payment limitation purposes. However, minor children can qualify as separate persons if they are the beneficiaries of an irrevocable trust that owns land or if they have a farming operation and a residence or guardianship separate from their parents.

H.R. 3042 does not address custom farming, but USDA has proposed changes in the custom farming rules in H.R. 3042 or similar legislation is enacted that will be more restrictive than existing law and regulations and the alternative proposal.

Under USDA's proposal, individuals or entities that are now separate persons would be combined as one person if the owner(s) of the organization that custom farms for them has any interest in their land or crops.

Under H.R. 3042, the five persons in the example shown under "Existing Provisions" would be combined as one person for payment limitation purposes.

The alternative proposal is less restrictive than existing law and regulations and H.R. 3042, as it eliminates custom farming as a factor to be considered in person determinations.

Elimination of custom farming as a factor for consideration in person determinations will facilitate the use of other provisions of the alternative proposal that are less restrictive than existing law and regulations or H.R. 3042. For example, one member of a joint operation can custom farm for the joint operation under the joint direction (i.e., management) of the remaining members, including an unlimited number of new members added to increase payments to the operation, who also provide labor. (See p. 25.)

Under the alternative proposal, the five persons described in the example under "Existing Provisions" would continue to be treated as five separate persons for payment limitation purposes.

H.R. 3042 does not address minor children, but USDA has proposed changes in the rules for minor children that, if H.R. 3042 or similar legislation is enacted, will be more restrictive than existing law and regulations and the alternative proposal.

Under USDA's proposal, minor children will always be combined as one person with their parents in all situations, except when the child maintains a separate household and carries out the actual farming operation on a farm in which the parents have no interest.

The alternative proposal is less restrictive than existing law and regulations and USDA's proposed changes.

Under the alternative proposal, minor children qualify as persons and are eligible for payments on an equal basis with an adult except in two circumstances -- when they share rent land (rent is based on a fixed percentage of the production from the land) to other individuals or entities who operate the land and when special family rules apply. (See p. 25.) A more complete discussion of when individuals are eligible for payments under the alternative proposal is provided in section 3.

Substantive Change

A substantive change in operations is required in any farm reorganization that increases the number of persons with separate payment limits. USDA payment limitation rules identify several actions that constitute substantive change, including a 20-percent increase or decrease in the land involved and a change from share lease to cash lease or vice versa. Therefore, operations which are incorporating or adding new members can meet the substantive change rule by simply reducing the amount of land farmed, or if land is leased, by changing the type of lease. For example, in one case, a father and his two sons, who qualified as three persons, reorganized their operation to add three more family members for a total of six persons for payment limitation purposes. The substantive change, which USDA officials cited as justification for the increase in persons was a 35-percent decrease in the amount of land farmed. In effect, government program payments on this operation could double, while the amount of land being farmed declined by one-third.

**Entities With Common
Ownership**

Because of legislative restrictions on the treatment of corporations, USDA combines two or more corporations owned by the same two or more individuals for payment limitation purposes only when those individuals own "more than 50 percent" of the corporations. This permits the use of corporations to avoid the payment limit in the manner described on page 8 where six individuals add 15 corporations to become 21 persons.

H.R. 3042 does not address substantive change, but USDA has proposed changes in the substantive change rule that, if H.R. 3042 or similar legislation is enacted, will be more restrictive than existing law and regulations and that can be made under the alternative proposal.

Under USDA's proposal, the substantive change rule that now allows an increase in the number of persons when there is a 20 percent increase or decrease in the land involved would be changed to require that (1) the amount of land being farmed must increase before the number of persons can increase and (2) the number of new persons added would be limited by the payments that result from the increase. For example, if enough crops are grown on the added land to qualify for an additional \$100,000 in payments, only two new persons--each with a \$50,000 limit--could be added. In addition, the rule that now allows an increase in the number of persons in a reorganized farming operation when a different land lease arrangement is used would be changed to allow an increase in the number of persons only if the new person(s) is the landowner and the change is from a cash lease to a share lease arrangement.

H.R. 3042 is more restrictive than existing law and regulations and the alternative proposal.

H.R. 3042 will allow USDA to combine entities with common ownership as one person when the same one or more individual(s) owns or controls 50 percent or more of the entities, rather than when "the same two or more" individuals own or control "more than 50 percent" of the entities. As a result of this change, the six individuals discussed on page 8 could not reorganize as 21 persons by forming 15 corporations. Such a reorganization would result in seven persons--the six individuals plus the 15 corporations which would be combined as one person.

The alternative proposal grants the Secretary of Agriculture authority to require a substantive change in any farm reorganization that increases the number of persons for payment limitation purposes.

The alternative proposal is more restrictive than the existing law and regulations but less restrictive than H.R. 3042.

The alternative proposal does not change the existing legislative restrictions on how USDA must consider corporations, but it reduces the advantage of incorporating by limiting the number of corporations in which an individual can have an interest and be eligible for payments. If the individual has a separate farming interest, then only two corporations in which the individual has an interest can be eligible for payments. Therefore, the six individuals discussed on page 8 could receive payments equivalent to the \$50,000 per person payment limit for 12 persons.

SECTION 3

BASIC ELIGIBILITY FOR PROGRAM PAYMENTS

OVERVIEW

In comparison to existing law and regulations

- H.R. 3042, like existing payment limitation provisions, does not address the issue of who qualifies to receive farm program payments. Instead, it addresses the issue of which eligible producers qualify for separate payment limits. H.R. 3042 does establish, however, a payment limit for entities based on the number of its members actively engaged in farming.

- The alternative proposal makes nonresident alien and foreign operators ineligible for payments and requires all other persons to be actively engaged in farming in order to receive payments. The definition of actively engaged in farming varies depending on whether the person is an individual, an entity such as a corporation, a member of a joint operation or family operation, a landlord, or a sharecropper. In some cases (for example, publicly held corporations), these provisions may prevent some persons from receiving payments.

PROVISION

EXISTING LAW AND REGULATIONS

Eligibility for Program
Payments

Existing payment limitation provisions do not address who is eligible for program payments. Instead, these provisions address which eligible individuals and entities may be considered as separate persons for payment limitation purposes and which must be combined.

H.R. 3042, like the existing law and regulations, addresses which individuals and entities may be separate persons for payment limitation purposes, not who is eligible for program payments.

However, H.R. 3042 does establish a separate payment limit for all entities based on the number of its members actively engaged in the entity's farming operation.

The alternative proposal defines which individuals and entities may be persons for payment limitation purposes and then requires that these persons be actively engaged in farming in order to be eligible for program payments and loans subject to the payment limit. As discussed on page 25, the definition of actively engaged in farming varies depending on whether the person is an individual, an entity such as a corporation that is a person, or an entity such as a joint operation that is not a person but whose members are.

As a result of these requirements, entities such as publicly held corporations will no longer be eligible to receive payments unless their members provide more than 50 percent of the labor and management for the entity's operation.

Actively Engaged in
Farming

Under existing provisions, only members of a joint operation are required to be actively engaged in farming to be considered a separate person for payment limitation purposes. However, the definition of actively engaged in farming is such that they do not have to be actually engaged in the farming operation per se. To be actively engaged, they must make a contribution of either capital, land, equipment, labor or management to the joint operation in proportion to their share of payments from the joint operation.

H.R. 3042 determines a separate payment limit for all legal entities based on the number of the entities' members actively engaged in the entities' operation. This limit is in increments of \$50,000 for each member actively engaged, except that an entity with no members so engaged has a limit of \$50,000. Payments to a legal entity, within the limit established by the number of its members actively engaged in its operations, are attributed to the members of the entity and applied against their individual payment limits.

To be considered actively engaged in an entity's farming operation, a member of the entity must make a significant contribution (based on the total value of the farming operation) of (1) capital, land, or equipment and (2) labor or management to the entity's operation. Under USDA's proposal for implementing legislation similar to H.R. 3042, such contributions would have to be at risk (i.e., return on contribution is dependent upon entity's profits.)

The alternative proposal defines "actively engaged" differently depending on the nature of the farming operation. To be considered actively engaged:

An individual must contribute (1) capital, land, or equipment and (2) labor or management. These contributions must be significant in relationship to the individual's farming operation, at risk, and commensurate with the individual's share of profit or loss.

Entities such as corporations must provide (1) a significant contribution (based on total value of the farming operation) of capital, land, or equipment that is at risk and commensurate with the entities' share of profit or loss and (2) its members must personally provide more than 50 percent of the labor and management.

Members of joint operations must (1) personally provide labor or management (amount not specified) to an entity that is providing a significant contribution (based on total value of the farming operation) of capital, land, or equipment that is at risk and commensurate with the entity's share of profit or loss.

In a family operation, the only requirement for adult family members is that they make a significant contribution of labor or management (based on the total value of the farming operation) that is at risk and commensurate with their share of profit or loss from the operation. A family operation is defined as one where a majority of the members are of direct lineal descent or siblings.

Landlords (excluding minor children) must share rent land.

Sharecroppers must make a significant contribution of labor (based on the total value of the farming operation) that is at risk and commensurate with their share of profit or loss from the operation.

PROVISION

EXISTING LAW AND REGULATIONS

Nonresident Alien and
Foreign Operators

Existing provisions do not distinguish between U.S. citizen, resident aliens, or foreign operators.

Husband and Wife

Spouses are always combined as one person for payment limitation purposes under existing payment limitation provisions.

H.R. 3042 does not address this provision.

Under the alternative proposal, only U.S. citizens and resident aliens are eligible for payments.

H.R. 3042 is the same as current law.

The alternative proposal leaves the basic rule unchanged but allows a man and woman who, prior to their marriage, were separately engaged in unrelated farming operations to be separate persons with respect to the farming operations brought into the marriage.

SECTION 4

PROVISIONS NOT ADDRESSED

OVERVIEW

In comparison to each other

- H.R. 3042 does not address who qualifies as a person for purposes of the separate \$50,000 limit on rental payments made under the Conservation Reserve Program (Section 1234(f) of the Food Security Act of 1985). As a result, USDA would be using two sets of sometimes conflicting provisions on who or what constitutes a person for payment limitation purposes, one set for the Conservation Reserve Program payments and another set for other payments subject to a payment limitation.
- The alternative proposal amends all payment limitation provisions, including those applicable to Conservation Reserve Program payments.
- The alternative proposal does not specifically address the issue of separate financing, but it will prevent USDA from requiring individuals or entities who are separate persons to finance their operations separately from any other person.

PROVISION

EXISTING LAW AND REGULATIONS

Conservation Reserve
Program Payment
Limitation

Provisions of the current law establishing the per person payment limitation appear in two sections of the Food Security Act of 1985. Section 1001(5) of the act establishes the per person limit for all payments except for Conservation Reserve Program payments, which are discussed in section 1234(f) of the act. In each section of the act, the provisions related to person determinations are the same. Each section gives the Secretary of Agriculture authority to define a person for payment limitation purposes, and each imposes the legislative restrictions about how USDA must consider corporations for payment limitation purposes that were discussed on page 8.

Separate Financing

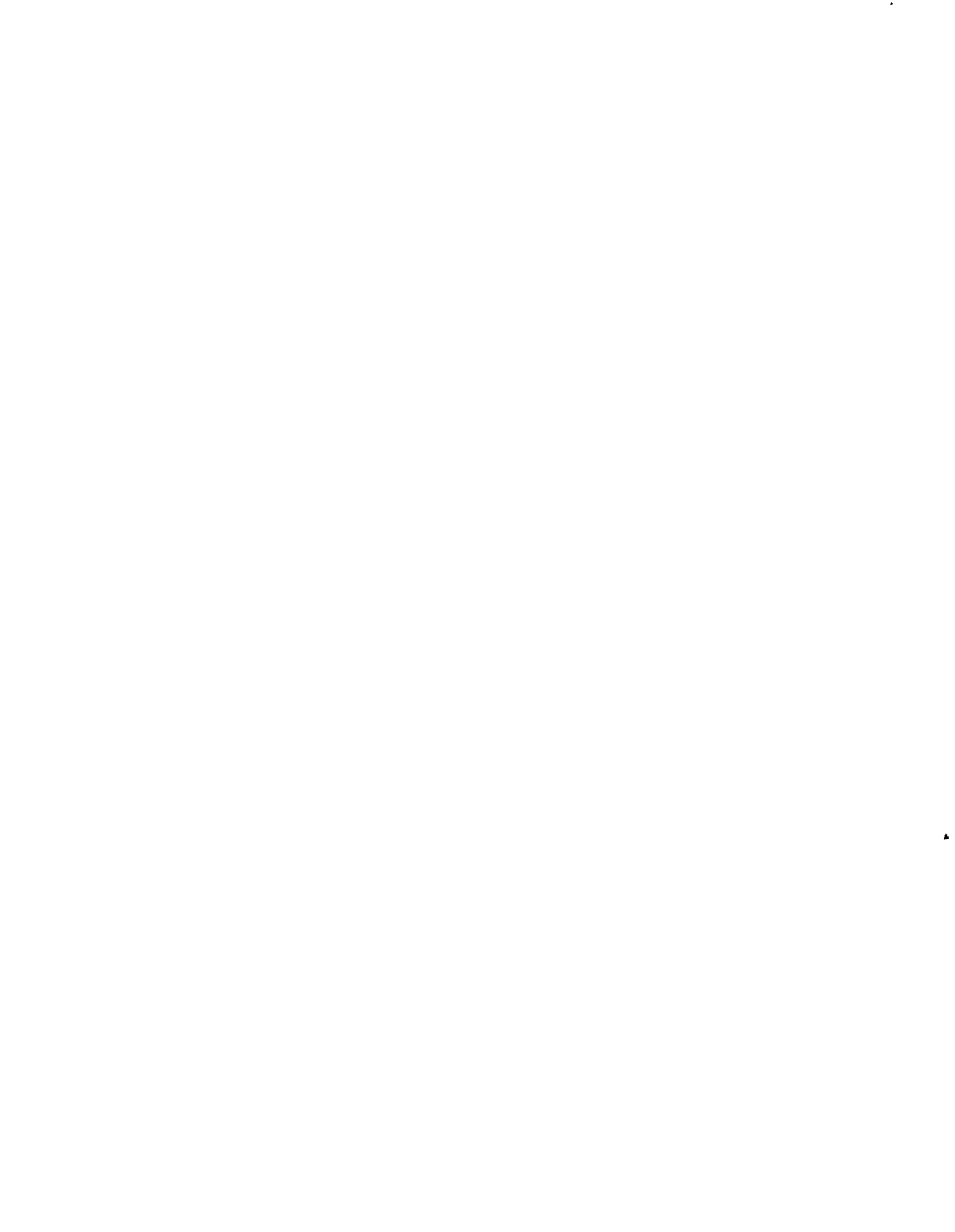
Under its legislative authority to define a person for payment limitation purposes, USDA requires each person to finance his or her own operations from a fund or account separate from that of any other person. If they do not and if the person providing the financing has any interest in the land or crop of the person receiving the financing, then they are combined as one person for payment limitation purposes.

H.R. 3042 amends section 1001(5) of the act only. Unless section 1234(f) of the act is also amended, the existing legislative restrictions about how a corporation must be considered for payment limitation purposes will continue to apply to the Conservation Reserve Program.

The alternative proposal amends the payment limitation provisions of both sections 1001(5) and 1234(f).

H.R. 3042 will not change this requirement.

The alternative proposal does not specifically address the issue of separate financing, but it will prevent USDA from requiring separate financing. The alternative proposal, unlike existing law, defines who is a person for payment limitation purposes and also requires that any person who qualifies for payments because they are actively engaged in farming will be considered a separate person for payment limitation purposes.



SECTION 5

PROVISIONS OF THE
ALTERNATIVE PROPOSAL NOT IN
EXISTING LAW OR H.R. 3042

OVERVIEW

The alternative proposal also includes the following provisions that are not in existing law or H.R. 3042:

- Statutory relief for failure to comply with the payment limitation provisions.
- Review of certain payment limitation regulations by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry prior to publication.
- Publication of clarifying instructions prior to implementation.
- A payment limit education program for USDA personnel.
- Transition period rules.

PROVISION

EXISTING LAW AND REGULATIONS

Statutory Relief for
Failure to Comply

Existing law does not provide statutory relief for failure to comply with the payment limitation provisions.

Publication of Regulations
and Instructions

The Secretary of Agriculture, as required by law, has issued regulations to implement the payment limitation provisions.

USDA supplements and clarifies these regulations in a payment limitation handbook for use by its personnel in administering the payment limitation. USDA advises its county offices of any additional instructions or clarifications through a system of notices between periodic updates of the handbook. The handbook is available to the public, but additional instructions and clarification notices generally are not made public until incorporated in the handbook.

USDA Payment Limitation
Education Program

Existing provisions do not provide for this program.

Effective Date and
Transition Period

Not applicable.

H.R. 3042 does not provide statutory relief for failure to comply with the payment limit.

The alternative proposal gives the Secretary of Agriculture authority to make payments and loans to individuals or entities that fail to comply with the payment limitation provisions in amounts deemed equitable in relation to the seriousness of their failure to comply.

H.R. 3042 will not change the existing procedure for issuing either regulations or clarifying instructions.

The alternative proposal does not change existing procedure for issuing regulations--except that regulations defining significant contribution for purposes of determining actively engaged in farming must be provided to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry prior to being made public. It also requires that all instructions be made available to the public prior to implementation.

H.R. 3042 does not provide for this program.

The alternative proposal will require USDA to implement and complete a payment limitation education program for its personnel administering the payment limitation by January 31, 1988. This should improve USDA's administration of the payment limitation provisions.

H.R. 3042, if enacted, will be effective for crop year 1988. It does not provide for a transition period or separate transition period rules.

The alternative proposal, if enacted, will also be effective in crop year 1988. However, it gives the Secretary of Agriculture authority to waive the application of any or all provisions of his proposal in the 1988 crop year as necessary to ensure an orderly transition in the program.

MAJOR CONTRIBUTORS TO THIS REPORT

RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION,
WASHINGTON, D.C.

Brian P. Crowley, Senior Associate Director
John W. Harman, Associate Director
Cliff Fowler, Group Director
Ed Zadjura, Evaluator-in-Charge
Mona Findley, Evaluator
Lydia Ferrante, Evaluator

KANSAS CITY REGIONAL OFFICE

Dave Ashley, Evaluator

(022944)

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