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## **Bipartisan call on USDA to tighten farm program payment rules**

**By Agri-Pulse Staff**

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Senators Tom Harkin (D-IA), Chuck Grassley (R-IA) and Byron Dorgan (D-ND) are urging Secretary of Agriculture Tom Vilsack to ensure that farm commodity program payment eligibility rules contain clear standards for measuring whether a person is actively engaged in farming and thus eligible to receive payments.

The senators charge that under previously existing USDA rules, individuals and entities have been able to qualify for payments on the basis of minimal, and sometimes questionable, management contributions to the operation, which may amount to little more than occasionally joining telephone conference calls. The 2008 farm bill requires that in order to qualify for payments, a participant must make significant contributions of capital, equipment or land in addition to personal labor or active personal management. In a letter to Secretary Vilsack this week, the Senators ask USDA to make certain that an interim rule published in the Federal Register does not undermine the intention of this provision.

“GAO recommended that USDA develop measurable standards for significant contribution of active personal management. The interim rule does not implement that recommendation. It requires only regular and substantial participation that is independent and separate from the contributions of other partners or participants,” the senators write. “Unless the local Farm Service Agency offices rigorously implement the active personal management test, the interim rule on its face would leave in place a gaping loophole that may allow ‘conference call farmers’ and the farming operations with which they are associated to qualify for unlimited payments.”

Harkin is Chairman of the Senate Committee on Agriculture, Nutrition and Forestry, Grassley is a member of that Committee and Ranking Member of the Senate Finance Committee and Dorgan is a senior member of the Agriculture Appropriations Subcommittee.

The senators’ complete April 6<sup>th</sup> letter reads as follows:

Dear Mr. Secretary:

We write to express a concern on the interim rule published in the December 29, 2008, Federal Register (74 FR 79267) to implement the farm program payment limitation and payment eligibility provisions of the Food, Conservation, and Energy Act of 2008 (2008 farm bill).

Provisions of the 2008 farm bill require that, in order to be eligible for payment, a person or legal entity must be actively engaged in farming. The statute requires that eligible participants make significant contributions of 1) capital, equipment, or land and 2) personal labor or active personal management. In the Joint Explanatory Statement of the Committee of Conference (H.R.Rpt. 110-627, page 695), it is clearly expected that the rulemaking would include issues such as “actively engaged.”

The additional guidance as to what constitutes a substantial contribution of active personal labor or active personal management and who must make such a contribution is appropriate, necessary and long overdue. When Lawrence J. Dyckman, of the then General Accounting Office testified before the Senate Committee on Finance on June 16, 2004, (GAO-04-861T) he stated:

“Many recipients meet one of the farm program payments’ eligibility requirements by asserting that they have made a significant contribution of active personal management.” Because FSA regulations do not provide a measurable, quantifiable standard for what constitutes a significant management contribution, people who appear to have little involvement are receiving farm program payments. GAO recommended that USDA develop measurable standards for significant contribution of active personal management. The interim rule does not implement that recommendation. It requires only regular and substantial participation that is independent and separate from the contributions of other partners or participants. Unless the local Farm Service Agency offices rigorously implement the active personal management test, the interim rule on its face would leave in place a gaping loophole that may allow ‘conference call farmers’ and the farming operations with which they are associated to qualify for unlimited payments.

As you consider modifications to the interim rule, we urge you to adopt a measurable standard for active personal management. We look forward to working with you to further define eligibility and limitations rules regarding farm program payments.

Sincerely,  
Senator Tom Harkin  
Senator Chuck Grassley  
Senator Byron Dorgan