



### Payment Eligibility and Payment Limitations

**Note:** On Dec. 15, 2015, the U.S. Department of Agriculture (USDA) changed the “actively engaged in farming” requirements of certain farm program eligibility provisions. **These changes and the information in this fact sheet are applicable to the 2016 and subsequent program years.** Farms that produce fall-seeded crops for the 2016 crop year have until the 2017 program year to comply.

The changes apply only to farming operations conducted by general partnerships and joint ventures comprised of non-family members, and payment eligibility for 2016 and subsequent crop years for Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs, loan deficiency payments (LDP) and marketing loan gains (MLG) realized via the Marketing Assistance Loan Program.

For information on whether these changes to the “actively engaged in farming” requirements affect you or your current farming operation, please read *Frequently Asked Questions* found on pages 5-7 of this fact sheet. This fact sheet is provided for informational purposes only, other restrictions may apply. For full details, consult with your local USDA Farm Service Agency (FSA) office. To find your local FSA office, visit <http://offices.usda.gov>.

#### OVERVIEW

Congress and the USDA have established requirements to ensure that farm program payments only go to farmers who are actively engaged in farming. The Agricultural Act of 2014 (the 2014 Farm Bill) extends the actively engaged and payment limitation requirements for the 2014 through the 2018 program years. To be eligible for payments, the 2014 Farm Bill requires program participants to meet specific requirements.

#### ACTIVELY ENGAGED IN FARMING

To be considered as “actively engaged in farming,” all participants, whether an individual or a legal entity (partnerships, corporations, etc.), must provide significant contributions to the farming operation. Contributions consist of capital, land, and/or equipment, and active personal labor and/or active personal management. The management contribution must be critical to the profitability of the farming operation and the contributions must be at risk.

#### ADDITIONAL PAYMENT ELIGIBILITY REQUIREMENTS

Each partner, stockholder or member with an ownership interest must contribute active personal

labor and/or active personal management to the farming operation on a regular basis. The contribution must be identifiable and documentable, and separate and distinct from the contributions made by any other partner, stockholder or member. If any partner, stockholder or member with an ownership interest fails to meet this requirement, program payments will be reduced by the corresponding share held by that partner, stockholder or member. There is an exception allowed for legal entities, such as corporations, if total direct payments received both directly and indirectly, by the legal entity and its members do not exceed \$125,000.

#### ADDITIONAL PAYMENT ELIGIBILITY PROVISIONS FOR JOINT OPERATIONS AND LEGAL ENTITIES COMPRISED OF NON-FAMILY MEMBERS OR PARTNERS, STOCKHOLDERS OR PERSONS WITH AN OWNERSHIP INTEREST IN THE FARMING OPERATION

Effective for the 2016 and subsequent crop and program years, non-family general partnerships and joint ventures must document the actions of the members who make significant contributions of management to the farming operation, defined

as 500 hours of specific management activities per year, or 25 percent of the total management time necessary for the success of the farming operation. Most farming operations conducted by non-family general partnerships and joint ventures will be limited to only one member who can meet actively engaged in farming requirements and qualify for payments based solely on the documented contribution of active personal management. Operations that can demonstrate that they are large OR complex farming operations, according to newly established standards, may be allowed an additional manager. Similar, an operation that can demonstrate that it is a large AND complex farming operation may qualify a third manager for payment, but only if all three managers can document substantial management contributions to the farming operation. Compliance with these changes, along with all other payment eligibility requirements, affect the eligibility for 2016 and subsequent crop years for ARC and PLC Programs, LDPs and MLGs realized via the Marketing Assistance Loan Program. Farming operations that produce fall-seeded for the 2016 crop year have until the 2017 program year to comply.

### **EXCEPTIONS TO THE GENERAL REQUIREMENTS**

Landowners may be considered “actively engaged in farming” if they contribute the land to the farming operation and in return, receive rent or income for the use of the land. The landowner’s share of the profits or losses from the farming operation must also be commensurate with the landowner’s contributions to the farming operation and the contributions must be at risk.

If one spouse has been determined “actively engaged in farming,” the other spouse will be considered to have made a significant contribution of active personal labor or active personal management toward meeting the requirements of “actively engaged in farming.”

Sharecroppers may be considered “actively engaged in farming” if the sharecropper makes a significant contribution of active personal labor to the farming operation and in return receives a specified share of the crop(s) produced on the farm.

The sharecropper’s share of the profits or losses from the farming operation must be commensurate with the sharecropper’s contributions and the contributions must be at risk.

A cash-rent tenant will be ineligible to receive payments on the cash-rented land unless the tenant makes a significant contribution of active personal labor. If the cash-rent tenant does not provide labor, he or she must make a significant contribution of both active personal management and equipment to the farming operation. All other “actively engaged in farming” requirements apply as well.

### **FOREIGN PERSONS**

Foreign persons, other than registered aliens, are not eligible to receive any program benefits including commodity loans, unless that person provides a significant contribution of capital, land and active personal labor to the farming operation.

### **NOTIFICATION REQUIREMENTS**

Every legal entity earning payment subject to these rules must report to their local FSA committee the name and social security number of each person who owns, either directly or indirectly, any interest in such legal entity. The legal entity is also required to inform all members of the rules regarding payment eligibility and payment limitation.

### **DIRECT ATTRIBUTION**

The 2014 Farm Bill establishes a maximum dollar amount for each program that can be received annually, directly or indirectly, by each person or legal entity. Such limitations on payments are controlled by direct attribution. Program payments made directly or indirectly to a person are combined with the pro rata interest held in any legal entity that received payment, unless the payments to the legal entity have been reduced by the pro rata share of the person.

Program payments made directly to a legal entity are attributed to those persons that have a direct and indirect interest in the legal entity, unless the payments to the legal entity have been reduced by the pro rata share of the person. Payment

attribution to a legal entity is tracked through four levels of ownership. If any part to the ownership interest at the fourth level is owned by another legal entity, a reduction in payment will be applied to the payment entity in the amount that represents the indirect interest of the fourth level entity in the payment entity.

## **COMMON ATTRIBUTION**

Common attribution means crediting payments made to a person or legal entity collectively to one limitation due to a unique or specific relationship between the persons or legal entities. Common attribution applies to a minor child and a parent or legal guardian; and a parent organization over a secondary organization when the parent organization exercises control over the secondary organization.

## **OWNERSHIP INTEREST FOR DIRECT ATTRIBUTION**

For the purposes of the direct attribution of payments, ownership interest that a person or legal entity holds in a legal entity on June 1 of the current year is used. Direct attribution of payments is not applicable to cooperative associations of producers. The payments will instead be attributed to the members of the association that produced the commodities marketed by the association on behalf of the members.

## **MINOR CHILD RULES**

June 1 of the current year is the date a child is considered to be a minor for payment attribution purposes. Payments received both directly and indirectly by a minor child are attributed to the parent or legal guardian.

## **PAYMENT LIMITS**

Person - Payments made directly or indirectly to a person cannot exceed the annual amounts specified in the table on page 4.

Joint Operations and General Partnerships - Payments made directly or indirectly to a joint operation such as a general partnership, cannot

exceed, for each payment specified in the table on page 4, the amount determined by multiplying the maximum payment amount specified for a program by the number of persons and legal entities that comprise the ownership of the joint operation. Payments to the joint operation will be reduced by an amount that represents the direct or indirect ownership in the joint operation by any person or legal entity that has reached the maximum limitation.

Legal Entities - Payments made directly or indirectly to a legal entity cannot exceed the annual amounts specified in the table on page 4. Payments made to a legal entity will be reduced by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has reached the maximum limitation.

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*Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:*

- 1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410;*
- 2) fax: (202) 690-7442; or*
- 3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).*

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**FACT SHEET****Payment Eligibility and Payment Limitations**

December 2015

This table contains the annual payment limitations for a person or legal entity for programs that are subject to the provisions of the 2014 Farm Bill.

<b>Program Payment Type</b>	<b>Limitation Amount 2014 Through 2018</b>
<b>Commodity Programs</b>	
PLC, ARC, LDP and MLG payments - other than peanuts	\$125,000
PLC, ARC, LDP and MLG payments - peanuts	\$125,000
Cotton Transition Assistance Program (CTAP)	\$40,000 <u>1/</u>
<b>Conservation Programs</b>	
Conservation Reserve Program (CRP) - annual rental payment and incentive payment	\$50,000 <u>2/</u>
Emergency Conservation Program (ECP) - per disaster event	\$200,000
Emergency Forest Restoration Program (EFRP) - per disaster event	\$500,000
Conservation Stewardship Program (CSP)	\$200,000 <u>3/</u>
Environmental Quality Incentives Program (EQIP)	\$450,000 <u>4/</u>
Agricultural Management Assistance (AMA)	\$50,000 <u>5/</u>
<b>Disaster Assistance Programs</b>	
Emergency Assistance for Livestock, Honeybees and Farm-Raised Fish Program (ELAP), Livestock Forage Disaster Program (LFP) and Livestock Indemnity Program (LIP)	\$125,000 <u>6/</u>
Noninsured Crop Disaster Assistance Program (NAP)	\$125,000
Tree Assistance Program (TAP)	\$125,000
<b>Other Programs</b>	
Trade Adjustment Assistance for Farmers (TAAF)	\$10,000

1/ CTAP is only available in the 2014 and 2015 program years.

2/ CRP contracts approved prior to Oct. 1, 2008, may exceed the limitation, subject to payment limitation rules in effect on the date of contract approval.

3/ The \$200,000 limitation is the total limit under all CSP contracts entered into subsequent to the enactment of the 2014 Farm Bill during fiscal years 2014 through 2018.

4/ The \$450,000 limitation is the total limit under all EQIP contracts entered into subsequent to the enactment of the 2014 Farm Bill during fiscal years 2014 through 2018.

5/ The \$50,000 limitation is the total limit that a participant may receive under the AMA program in any fiscal year.

6/ Total payments received under LIP, LFP and ELAP may not exceed \$125,000. A separate limitation applies to TAP payments.

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**USDA Announces Changes to Actively Engaged in Farming Definition***Frequently Asked Questions  
December 2015***Q: What is “actively engaged” in farming?**

A: To receive certain farm program payments, a person or legal entity must be “actively engaged in farming,” which is defined as making significant contributions of (1) land, capital, or equipment, and (2) personal labor, active personal management, or a combination of personal labor and active personal management.

For farming operations that are legal entities, such as corporations and limited liability companies, adding an additional member to the entity does not affect the number of payment limits available; it simply increases the number of members that can share a single \$125,000 payment limit, should such a limit be reached. But for general partnerships and joint ventures, adding another member to the operation can provide an additional \$125,000 payment limit if the new member meets the other eligibility requirements, including being determined as actively engaged in farming.

**Q: Why did the U.S. Department of Agriculture (USDA) revise this rule?**

A: The changes are consistent with provisions enacted by Congress in the 2014 Farm Bill, which are the first changes made by Congress to the definition since it was established in 1987. The changes apply to general partnerships and joint ventures. The definition is designed so that only farming operations and its members who are “actively engaged in farming” (including active management) are eligible for farm program payments.

**Q: Who is affected by the new changes to “actively engaged”?**

A: The new requirements apply to approximately 3,200 nonfamily farming general partnerships and joint ventures seeking to qualify more than one farm manager based solely on providing management or a combination of management and labor. For a member of such a farming operation, the active management now has a recordkeeping requirement, and a measurable standard in hours, or a percentage of the management needed annually for the entire farming operation. Under certain circumstances relating to farm size and complexity, no greater than three active managers may be allowed. Passive management, such as attendance of board meetings or conference calls, will not be considered as contributions of management. The rule does not change existing regulations regarding contributions of land, capital, equipment, or labor, or to landowners with a risk in the crop, or to spouses. Farming operations operated by entities other than general partnerships or joint ventures will not be affected.

**Q: Are general partnerships and joint ventures totally comprised by family members exempt from this rule?**

A: A farming operation with all members as family members is not subject to the provisions of this rule. This rule did not change the definition of “family member.” A family member is “a person to whom another member in the farming operation is related as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.” FSA handbooks clarify that family members include a great grandparent, grandparent, parent, child, including legally adopted children and stepchildren, grandchild, great grandchild, or a spouse or sibling of family members.



**Q: “Actively engaged” affects payments from what programs?**

A: By law, the “actively engaged” requirement applies to payment eligibility for the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs, loan deficiency payments and marketing loan gains realized via the Marketing Assistance Loan program. For most farming operations, the new changes apply to eligibility for 2016 crop, program, or fiscal year payments. For farming operations that have already planted fall crops for the 2016 crop year, the changes will not apply until 2017. USDA data estimates approximately 3,200 operations may be affected by this change.

**Q: What is “active personal management”?**

A: “Active personal management” means personally providing and participating in management activities critical to the profitability of the farming operation and performed under one or more of the following categories:

- (1) Capital (which includes: arranging financing and managing capital; acquiring equipment; acquiring land and negotiating leases; managing insurance; and managing participation in USDA programs);
- (2) Labor (which includes hiring and managing of hired labor); and
- (3) Agronomics and marketing (which includes: selecting crops and making planting decisions; acquiring and purchasing crop inputs; managing crops and making harvest decisions; and pricing and marketing of crop production.)

**Q: What is “significant contribution of active personal management”?**

A: “Significant contribution of active personal management” means active personal management activities performed by a person or member, with a direct or indirect ownership interest in the farming operation, on a regular, continuous, and substantial basis to the farming operation, and meets at least one of the following:

- (1) Performs at least 25 percent of the total management hours required for the farming operation on an annual basis; or
- (2) Performs at least 500 hours of management annually for the farming operation.

**Q: What is a “significant contribution of active personal labor”?**

A: The definition of a “significant contribution of active personal labor” is not changed by this rulemaking. “Significant contribution of active personal labor” means active personal labor activities performed by a person or member, with a direct or indirect ownership interest in the farming operation, on a regular, continuous, and substantial basis to the farming operation, and meets at least one of the following:

- (1) Performs at least 50 percent of the total labor hours required for the farming operation on an annual basis; or
- (2) Performs at least 1,000 hours of labor annually for the farming operation.

**FACT SHEET**

**Payment Eligibility and Payment Limitations**

December 2015

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**Q: What changed based on the comments?**

A: A number of commenters provided that an equitable, measurable standard of significance should be one that combines both labor and management contributions due to the difficulty at times of deciding whether an activity or action is labor or management. In response, FSA clarified the current rule to address the issue when a person contributing both labor and management. The new standard for the combination of labor and management establishes minimum hourly requirements based on the existing hourly standard of labor of 1,000 hours and the new hourly standard of active personal management of 500 hours.

As examples:

- If a person is contributing mostly management with a minimum number of hours of labor, then that person must contribute a minimum of 550 hours combined of management and labor;
- If a person is contributing mostly labor and with a minimum number of hours of management, then that person must contribute a minimum of 950 hours combined of management and labor; and
- Other combinations of management and labor would require between 600 and 900 hours combined of management and labor.

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Combination of Active Personal Labor and Active Personal Management  
Minimum Requirement for a Significant Contribution  
(in hours)

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Management contribution in hours	Labor contribution in hours	Meets the minimum threshold for significant contribution, in hours
475 .....	75 .....	550
450 .....	100 .....	550
425 .....	225 .....	650
400 .....	250 .....	650
375 .....	375 .....	750
350 .....	400 .....	750
325 .....	425 .....	750
300 .....	550 .....	850
275 .....	575 .....	850
250 .....	600 .....	850
225 .....	625 .....	850
200 .....	650 .....	850
175 .....	675 .....	850
150 .....	800 .....	950
125 .....	825 .....	950
100 .....	850 .....	950
75 .....	875 .....	950
50 .....	900 .....	950
25 .....	925 .....	950

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**Q: When is this rule effective?**

A: 2016 crop year for most farming operations. For farming operations that have already planted fall crops for the 2016 crop year, the rule will be effective 2017.

*For more details or to learn more, contact your local Farm Service Agency office.*