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USDA's Actively Engaged in Farming (AEF) Requirement

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Summary

In 1987, Congress enacted what is commonly known as the Farm Program Payments Integrity Act (Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, §§1301-1307), which requires that an individual or legal entity be "actively engaged in farming" (AEF) to be eligible for federal commodity revenue-support programs. AEF requirements apply equally to U.S. citizens, resident aliens, and foreign entities. Designing a transparent and comprehensive AEF definition has proven difficult and has evolved over the years. The current set of laws and rules governing farm program eligibility—particularly for family members on farm operations—remain subject to considerable scrutiny and criticism from both rural and farm advocacy groups as well as certain Members of Congress. In particular, critics contend that current U.S. Department of Agriculture (USDA) eligibility criteria—especially for providing active personal management—remain broad and subjective and may represent a low threshold to qualify for payments, thus facilitating the creation of new farm operation members simply to expand an operation's farm payment receipts.

Three major categories of legal entities are subject to AEF requirement for program payment eligibility: an individual, a partnership, and a corporation. An individual must meet three specific AEF criteria. First, independently and separately from other individuals with an interest in the farm business, the person makes a significant contribution to the operation of (a) capital, equipment, or land; and (b) active personal labor and/or active personal management. Second, the person's share of profits or losses is commensurate with his/her contribution to the farming operation. Third, the person shares in the risk of loss from the farming operation. An individual that meets the AEF criteria is eligible for farm program payments but subject to annual payment limits. If a married person meets the AEF requirements, any spouse will also be considered to have met the AEF requirements, thus effectively doubling the individual payment limit. Another exception to AEF requirements is made for landowners provided they receive income based on the farm's operating results.

A general partnership is an association of multiple persons whereby each member is treated separately and individually for purposes of determining eligibility and payment limits. A partnership's potential payment limit is equal to the limit for a single person times the number of persons or legal entities that comprise the operation's ownership and meet the AEF requirements. Thus, adding a new member can potentially provide an additional payment limit. A corporation is an association of joint owners that is treated as a single person for purposes of determining eligibility and payment limits, provided that the entity meets the AEF and other eligibility criteria. Adding a new member generally does not affect a corporation's payment limit but only increases the number of members that can share a single payment limit.

In accordance with a provision in the 2014 farm bill (P.L. 113-79; §1604), USDA added more specificity to the role that a nonfamily member of a partnership or joint venture must play to qualify for farm program benefits. However, considerable issues remain that may be of interest to Congress. Longstanding concerns remain that some farm operations are organized to overcome program payment limits and maximize the amount of their farm program payments. In particular, some advocacy groups suggest that USDA's new rule did not go far enough in tightening AEF criteria and that it continues to allow for a high number of farm managers and associated payment limits for both family and nonfamily farm operations.

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Introduction

The U.S. Department of Agriculture (USDA), under the authority of Congress as enunciated in periodic farm legislation, provides support to the U.S. farm economy through a variety of federal farm programs.[1] Direct support can often involve the transfer of billions of dollars each year. For example, USDA's Commodity Credit Corporation (CCC) outlays on farm programs have averaged $13.9 billion per year from 1996 through 2015.[2]

Program payments vary across commodities and regions[3] as well as by size of farm operations.[4] This variation has generated considerable interest—by both the general public and Congress—in who is eligible to participate in farm programs and, thus, may receive payments. The concern over program eligibility also derives, in part, from instances where farm payments have accrued to individuals who have never engaged in farming.[5]

Program eligibility requirements and payment limits are central to how many U.S. farm programs operate and how support dollars are distributed across the nation. In particular, eligibility requirements and payment limits determine who receives federal farm program payments and how much they receive. A number of statutory and regulatory requirements govern federal farm program eligibility for benefits under various programs. Not all farm programs are subject to the same criteria, and the criteria often apply differently based on the type of legal entity owning the farm operation.

Report Overview

This report describes current laws and regulations that define who is eligible to receive payments under the principal commodity programs. In addition, it addresses issues associated with existing eligibility. It is not intended to discuss the merits, or lack thereof, of federal farm program payments.

This report begins by briefly discussing the historical development of congressional efforts to define and tighten eligibility criteria for farm program payments. This is followed by a description of all of the key terms and concepts involved in defining a farm business and farm program payment recipient, including the major types of farm business organizations. Then the

[1] "Federal farm programs" generally refers to a suite of commodity support, conservation, and disaster assistance programs administered by USDA. Many such programs are authorized in omnibus farm bills including the Agricultural Act of 2014 (2014 farm bill, P.L. 13-79). For more information see, CRS Report R43076, *The 2014 Farm Bill (P.L. 113-79): Summary and Side-by-Side*; or CRS Report RS22131, *What Is the Farm Bill?*

[2] Outlays are for commodity, conservation, and disaster assistance programs. USDA, Economic Research Service (ERS), federal government direct farm program payments, data as of February 9, 2016, http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics.aspx.

[3] For example, see USDA, Farm Service Agency (FSA), "Table 35-CCC Net Outlays by Commodity and Function, Fiscal Years 2007-2016E," February 7, 2016, http://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/AboutFSA/Budget/pdf/pb16_table_35a.pdf.

[4] For example, see T. Kirke White and Robert A. Hoppe, *Changing Farm Structure and the Distribution of Farm Payments and Federal Crop Insurance*, ERS, February 2012, http://www.ers.usda.gov/publications/eib-economic-information-bulletin/eib91.aspx.

[5] For example, see Dan Morgan, Gilbert M. Gaul, and Sarah Cohen, "Farm Program Pays $1.3 Billion to People Who Don't Farm," *Washington Post*, July 2, 2006. See also Robert Coleman, "The Rich Get Richer: 50 Billionaires Got Federal Farm Subsidies," Environmental Working Group, April 18, 2016. This latter article documents several instances where persons with little apparent interest in farming other than owning farm assets, often as part of an investment portfolio, received substantial U.S. farm payments during the 1995-2003 period.

report discusses current requirements used to define a person or entity as being "actively engaged in farming" (AEF) by type of legal entity. This is followed by a description of a new USDA rule—subsequent to the 2014 farm bill (P.L. 113-79)—that clarifies what constitutes AEF for nonfamily members of a farming operation, how more than one nonfamily person may qualify as an active farm manager (subject to a limit of three farm managers), and the recordkeeping requirements necessary to meet this new criteria. Finally, the report discusses several issues that may be of potential interest to Congress concerning regulations governing the implementation and monitoring of AEF criteria.

Farm program payment limits and eligibility requirements may differ by both type of program and type of participating legal entity (i.e., an individual, a partnership, or a corporation). This report discusses these various factors and their interaction under current law. However, this report is not a legal brief, nor does it represent a CRS legal analysis. A 2014 discussion of farm program payment limit and eligibility issues by *farmdoc daily* states:

> Payment limits are a technical and legal issue. Any decision on the number of entities receiving payments should be made with due diligence, including careful consideration of the business and legal implications, and should be discussed with both the Farm Service Agency (FSA) and a lawyer who is an expert on payment limits.[6]

Given its complexities, a review of the key aspects of U.S. farm program eligibility and annual payment limit policy can facilitate a conceptual understanding of issues of potential interest to Congress.

This report focuses on current program eligibility requirements—in particular, the requirements to successfully be determined as AEF. This subject is often associated with a discussion of payment limits, but a detailed description of payment limits may be found elsewhere.[7]

Congressional Efforts to Tighten Eligibility Criteria

The initial attempt to restrict payments to actual farmers was in 1987, when Congress enacted what is commonly known as the Farm Program Payments Integrity Act (Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, §§1301-1307).[8] According to the Government Accountability Office (GAO), Congress was motivated to pass the Farm Program Payments Integrity Act after hearing several concerns about farm payments going to individuals not involved in farming.[9] This law required that an individual or entity be AEF to receive farm program payments.[10]

[6] C. Zulauf et al., "2014 Farm Bill Decisions: Payment Limits and Adjusted Gross Income Eligibility," *farmdoc daily*, vol. 4, no. 157, August 21, 2014.

[7] FSA, *Payment Limitations*, online information, as of July 1, 2016, http://www.fsa.usda.gov/programs-and-services/payment-eligibility/pay-limitations/index.

[8] FSA, "Legislative History of Payment Eligibility and Payment Limitation Provisions," FSA Handbook, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income—Agricultural Act of 2014*, as of February 10, 2016 (hereafter FSA Handbook), http://www.fsa.usda.gov/Internet/FSA_File/5-pl_r00_a03.pdf.

[9] GAO, "USDA Needs to Strengthen Regulations and Oversight to Better Ensure Recipients Do Not Circumvent Payment Limitations," GAO-04-407, April 2004.

[10] The Agricultural Reconciliation Act of 1987 was enacted as Title I of the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, 101 Stat. 1330. The relevant provisions of the act became effective in the 1989 crop year.

A substantial portion of farm programs have been subject to AEF criteria as a standard for payment eligibility. Since 1996, an average of about $8 billion per year in farm support program payments have been subject to the AEF criteria.

Designing a transparent and comprehensive definition of what it means to be AEF has proven difficult. In 2004, GAO contended that USDA regulations failed to specify a measurable standard for what constituted "a significant contribution of active personal management."[11] Furthermore, GAO argued that, by not specifying such a measurable standard, USDA allowed individuals with little or no involvement in a farming operation to qualify for payments.

As a consequence, the definition of AEF has evolved over the years. Congress and USDA—via its regulatory powers—have attempted to tighten payment eligibility criteria. For example, the 2008 farm bill (P.L. 110-246) added more specificity to the definition of *person* and *legal entity*. It limited qualifying payments via direct attribution[12] to persons or legal entities with ownership interests in joint ventures that pooled the resources of multiple payment recipients. It also expanded a separate payment limit to the spouses of qualifying farm payment recipients.[13] Yet GAO continued to argue that further specificity was needed for AEF criteria.[14]

The 2014 farm bill (P.L. 113-79, §1604) required USDA, in new regulations, to add more specificity to the role that a nonfamily producer who is a member of a legal entity—principally a partnership or joint venture—must have to qualify for farm program benefits.[15] However, the current set of laws and rules governing farm program eligibility—particularly for family members of a farm operation—remain subject to considerable scrutiny and criticism from both rural and farm advocacy groups as well as certain Members of Congress. Critics contend that current USDA eligibility criteria—especially for providing active personal management—remain broad and subjective and may represent a low threshold to qualify for payments, thus facilitating the creation of partnership members to increase the farm business's payment limit and expand its farm payment receipts.

What Constitutes a Farm Business?

Key Terms Related to a Farming Operation

For purposes of assessing program eligibility and payment limitations, USDA uses the following terminology.

- **Farming operation** means a business enterprise engaged in the production of agricultural products, commodities, or livestock operated by a person or legal entity. A member of a farming operation can be either a person or a legal entity. A person or legal entity may have more than one farming operation if such person or legal entity is a member of one or more joint operations.
- **Person** means a single individual, natural person and does not include a legal entity.
- **Legal entity** means an entity created under federal or state law that (1) owns land or an agricultural commodity, product, or livestock; or (2) produces an agricultural commodity, product, or livestock.[16] This definition encompasses various types of business ventures and institutional arrangements (described below).

[11] GAO, "USDA Needs to Strengthen Regulations."

[12] Attribution refers to the assignment of program payments to a specific recipient for purposes of evaluating whether the recipient's payment limit has been met or exceeded. See report section "Identification".

[13] See FSA Handbook, pp. 1-3 to 1-14.

[14] GAO, "Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming," GAO-13-781, September 2013.

[15] U.S. farm program payment limits, adjusted gross income limits, and other eligibility criteria are discussed in FSA, *Payment Eligibility*, online information, as of July 1, 2016, http://www.fsa.usda.gov/programs-and-services/payment-eligibility/index.

[16] 7 U.S.C. §1308(a)(3).

- **Family membership** in a farm business is defined by being a sibling, spouse, lineal ancestor (e.g., great-grandparent, grandparent, or parent), or lineal descendant (e.g., son, daughter, grandchild, or great-grandchild) of the principal operator.[17]
- **Farm manager** means any person who is responsible for the management and general maintenance of a farm operation. In particular, a farm manager personally provides and participates in (1) the general supervision and direction of activities and labor involved in the farming operation, or (2) services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.[18]
- **Farm laborer** provides the actual physical labor needed to undertake the activities of the farm—done under the guidance of the farm manager.[19]
- **Payment recipient** means any person or entity that is eligible to receive payments, directly or indirectly, under one or more of certain farm programs.

Types of Farm Businesses

Farmers organize their farming operations in various ways (**Table 1**) to reduce their exposure to farming's financial risks.[20] For example, certain business structures may limit a farmer's liability when the farming operation has legal problems or debt that cannot be paid from farm earnings. Some of the most common ways farmers organize their business and how these business organizations are treated under payment limitation rules are as follows:

- **Sole proprietorship.** About 87% of farming operations are owned, operated, and managed by a single individual (often as a family unit). A sole proprietorship has no legal existence independent of its owner, which means that only the owner, not the farming operation, can be sued. Owners of sole proprietorships are personally liable for all their farm's debts. An individual running a sole proprietorship is limited to a single payment limit for the farming operation. However, the operator's spouse and other adult family members (18 years or older) who participate in the farming operation also each qualify for an additional payment limit.
- **Joint venture.** A joint venture is an association where two or more individuals pool resources and share profits or losses. As with sole proprietorships, joint ventures have no legal existence independent of their owners. Members in a joint venture have unlimited personal liability for the farm's debts. Each member in a joint venture is limited to a single farm program payment limit. Adding members to the joint venture could qualify the farming operation for an additional payment limit for each new member (depending on each member's ownership interest in the joint venture).
- **General partnership.**[21] This is the simplest form of partnership. Most states permit their formation with just an oral agreement. FSA makes farm program payments directly to the partnership rather than to the partnership members, which may be individuals or entities. However, each partner can qualify the general partnership for a payment limit. Thus, the general partnership can qualify for additional payments by adding more individuals or entities to the partnership. Each partner is personally liable for that partner's own conduct and for the conduct of those under that partner's direct supervision as well as negligence, wrongful acts, and misconduct of other partners and partnership employees. Partners are personally liable for partnership commercial obligations such as loans or taxes.
- **Joint operation.** This includes general partnerships, joint ventures, or other similar business organizations in which the members are jointly and severally liable for the obligations of the organization. Each member is treated separately and individually for purposes of determining eligibility and payment limits. Thus, a partnership's potential payment limit is equal to the number of qualifying members times the individual payment limit. Joint operations make up about 6.5% of farming operations receiving payments.
- **Corporations.**[22] Business associations that have a separate legal existence from their owners, meaning that the corporation (rather than the owners) is ordinarily responsible for farm business debts and that the corporation

[17] 7 U.S.C. §1308(a)(2).

[18] 7 C.F.R. §1400.3, Definitions, as of July 25, 2016. Qualifying management activities are briefly described in the section of this report titled "Active Personal Management".

[19] For more information, see the report section titled "Active Personal Labor".

[20] The material in this section is from GAO, "USDA Needs to Strengthen Regulations."

[21] Other forms of partnerships can be more complex and may include hybrid organizational forms such as limited liability partnerships and limited partnerships that are more appropriately categorized as corporations from both a liability and payment limit perspective.

[22] Corporate entities include limited liability companies and hybrid limited liability partnership organizations.

can be sued. As a result, some individuals may choose the corporate form of farm business organization to protect their personal assets in case of farm financial difficulties. Unlike joint operations, corporations qualify as a single person under current payment limitation rules. About 5% of farming operations are organized as corporations, but a majority of these are family-held operations.

- **Other** refers to those types of legal entities that may also qualify as single persons under current payment limitation rules. This includes trusts, estates, cooperatives, charitable organizations, and state and local governments. Less than 2% of farm businesses are organized as "other" (**Table 1**).

Table 1. Total Farm Program Payments by Farm Type, 2012

(All farm program payments are included)

Farm Type	Total		Farm Operations Receiving Government Payments[a]			Payments Received	
	Number	Share	%	Number	Share	$1,000's	Share
Family or Individual	1,828,946	86.7%	37.2%	679,663	83.8%	$5,586,645	69.4%
Partnership[b]	137,987	6.5%	49.1%	67,695	8.3%	$1,384,933	17.2%
Corporation	106,716	5.1%	45.3%	48,293	6.0%	$937,280	11.6%
Family-held Corp.	*95,142*	*4.5%*	*47.0%*	*44,761*	*5.5%*	*$888,698*	*11.0%*
Other Corp.	*11,574*	*0.5%*	*30.5%*	*3,532*	*0.4%*	*$48,582*	*0.6%*
Other[c]	35,654	1.7%	44.1%	15,736	1.9%	$144,488	1.8%
Total	**2,109,303**	**100%**	**38.5%**	**811,387**	**100%**	**$8,053,346**	**100%**

Source: USDA, National Agricultural Statistics Service, 2012 Census of Agriculture, Table 67, May 2014.

a. The farm program payments in this table include both payments subject to the AEF criteria as well as those farm payments (e.g., conservation, disaster assistance, etc.) not subject to AEF criteria.

b. A breakout of partnerships by family-held and nonfamily-held is not available from public sources.

c. This includes trusts, estates, cooperatives, charitable organizations, and institutional (e.g., state and local government or a public school) and other.

Three Principal Farm Business Categories

Many types of farm business entities own and operate some sort of agricultural production activity. For purposes of determining the extent to which the participants of a farm operation qualify as potential farm program participants, three major categories are considered (**Table 1**).

1. **Sole proprietorship or family farm.** The farm business is run by a single operator or multiple adult family members—where each qualifying member is subject to an individual payments limit. Thus, a family farm potentially qualifies for an additional payment limit for each family member associated with the principal operator. Family farm or sole proprietorships comprised nearly 87% of U.S. farm operations in 2012.
2. **Joint operation.** Each member is treated separately and individually for purposes of determining eligibility and payment limits. Thus, a partnership's potential payment limit is equal to the number of qualifying members (plus any special exemptions such as spouses) times the individual payment limit.

3. **Corporation.** This refers to an association of joint owners or shareholders that is treated as a single person for purposes of determining eligibility and payment limits. Most corporate-owned and/or corporate-managed farm operations are family held.

These three categories represent over 98% of U.S. farm operations (**Table 1**). Special rules exist for evaluating both the eligibility of and relevant payment limits for institutional and other exceptional types of potential legal entities.[23] However, because of their small number and unique nature, they are not discussed further in this report.

Identification and Attribution

Generally, program participation begins with identification: who or what is participating, ascertaining if requisite eligibility criteria have been met, and delineating how program payments may be attributed. Every person or legal entity (both U.S. and non-U.S. citizens alike), to be eligible to receive any farm program payment, must provide a name and address and have either a Social Security Number in the case of a person or a Taxpayer Identification Number (TIN) in the case of a legal entity with multiple persons having ownership interests. In this latter situation, each person with an interest in the farm operation must be identified, including some form of TIN, and must declare his or her interest share in the joint entity using the requisite USDA forms described below.

Payment attribution to multi-person legal entities such as joint ventures and corporations is tracked through four levels of attribution. For example, a joint operation can be made up of a combination of individuals, partnerships, and/or corporate entities. A particular individual may be part of each of these three component entities as well as additional sub-entities within each of these components. Identification at the individual payment-recipient level is critical for assessing the cumulative payments of each individual against the annual payment limit. Such direct attribution thus follows the flow of payments from the government through all entities to the individuals within an entity who are receiving the payments.

All participants in programs subject to payment eligibility and payment limitation requirements must submit to USDA two completed forms. The first, CCC-901[24] (Members' Information), identifies the participating persons and/or entities (through four levels of attribution if needed) and their interest share in the operation. The second form, CCC-902 (Farm Operating Plan), identifies the nature of each person's or entity's stake—that is, capital, land, equipment, active personal labor, or active personal management—in the operation.[25] These forms need be submitted only once (not annually) but must be kept current in regard to any change in the farming operation. Critical changes to a farming operation might include adding a new family member, changing the land rental status from cash basis to share basis, purchasing additional base acres equivalent to at least 20% of the previous base, or substantially altering the interest share of

[23] Federal regulations exist for evaluating the eligibility of exceptional types of potential legal entities, including a spouse, minor children, marketing cooperatives, trusts and estates, cash rent tenants, landlords, federal agencies, state and local governments, sharecroppers, deceased and incapacitated persons, military personnel, and other exceptional circumstances. More details on these types of institutional or legal arrangements can be found in the FSA Handbook. See also 7 C.F.R. §§1400.205-1400.2013.

[24] The CCC abbreviation signifies USDA's Commodity Credit Corporation.

[25] FSA Handbook, p. 2-59, paragraph 44. All forms are available at the local USDA county office or online at http://www.sc.egov.usda.gov.

capital or equipment contributed to the farm operation. This information is critical in determining the extent to which each person is actively engaged in the farming operation as described below.

AEF Requirement

To be eligible for major commodity program benefits, participants—individuals as well as other types of legal entities—must meet specific requirements concerning their "active participation" in the farming operation.[26] In particular, the AEF criteria are limited to eligibility for payments to covered commodities under the Agriculture Risk Coverage and Price Loss Coverage programs and benefits under the marketing assistance loan program, including loan deficiency payments and marketing loan gains (**Appendix**).[27] The amount of payments that an individual can receive under these programs is capped at a single $125,000 limit.[28] In contrast, AEF criteria are not applicable for other farm programs including crop insurance and conservation programs.

The AEF requirements apply equally to U.S. citizens, resident aliens, and foreign entities. This section briefly reviews the specific requirements for each type of legal entity to qualify as AEF.

AEF Criteria: Person

To understand what it means to be AEF, consider first the case of a single producer. The 2014 farm bill (§1111) defines a producer as an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to a share of the crop that is produced on the farm.

A person, as an individual producer, must meet the following three AEF criteria:

P1. The person, independently and separately from other individuals with an interest in the farm business, makes a significant contribution to the operation of:

a. capital, equipment, or land; and

b. active personal labor, active personal management, or a combination of personal labor and active personal management;

P2. The person's share of profits or losses is commensurate with his/her contribution to the farming operation; and

P3. The person shares in the risk of loss from the farming operation.

However, with respect to the latter two criteria (P2 and P3), USDA has generally interpreted them as having been met if a person or entity participating in a farm program receives income based on the farm's operating results and, thus shares in the profits and losses from the crop.[29] The criteria for meeting ownership or rental control of farm assets (P1.a.) are straightforward. The active personal labor and/or management requirement (P1.b.) are described in more detail below.

[26] 2014 farm bill (§1604), and 7 U.S.C. §1308-1(b)(1).

[27] For information on these programs, see CRS Report R43758, *Farm Safety Net Programs: Background and Issues*.

[28] This applies to cumulative annual payments for all covered program crops with the exception of peanuts, which has its own separate limit of $125,000.

[29] FSA Handbook, "Landowner Exemption," par. 92, p. 2-158.

Active Personal Labor

"Active personal labor" means personally providing physical activities necessary in a farming operation, including activities involved in land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other physical activities include those required to establish and maintain conserving cover crops on Conservation Reserve Program acreages and those physical activities necessary in livestock operations. The personal labor contribution by an individual must be at least the smaller of 1,000 hours annually or 50% of the total hours needed to conduct a farming operation comparable in size to the individual's ownership interest in the operation.[30]

Active Personal Management

The requirement for active personal management is less specific. For an individual it means personally providing and participating in management activities "critical to the profitability of the farming operation." Such management activities may be performed under one or more of the following categories:[31]

- Capital (which includes arranging financing and managing capital), acquiring equipment, acquiring land and negotiating leases, managing insurance, and managing participation in USDA programs;
- Labor (which includes hiring and managing of hired labor); and
- 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.

The GAO, in a 2013 report to Congress, pointed out that this broad definition of active personal management made it very difficult for USDA to determine whether individual contributions are significant.[32] Furthermore, GAO suggested that, under this broad definition, management responsibilities could be distributed among farming operation members so as to increase the number of individuals who can claim eligibility for payments based on management contributions.[33]

In terms of evaluating an individual's eligibility for program payments, the "active" personal labor requirement clearly implies that a person must be routinely "on site" to undertake physical activities in support of the farming operation. The "active" personal management requirement is less clear on physical location and potentially allows a person to make significant contributions of active personal management without physically visiting the farming operation.

[30] Ibid., par. 109, p. 2-200.

[31] FSA, "Payment Eligibility and Payment Limitations," December 2015, p. 6.

[32] GAO, "Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming," GAO-13-781, September 2013, p. 16-19.

[33] Evidence provided in **Table 3** and discussed later in this report would appear to support this argument.

Exceptions for Spouses

Current law allows for special treatment of a spouse. If one spouse is determined to be actively engaged in farming, then the other spouse shall also be determined to have met the requirement.[34] Thus, a married farmer and spouse qualify for a doubling of the individual payment limit.

Exceptions for Landowners

An exception is also made for landowners who may forgo the AEF labor and management requirement and still be deemed in compliance with all AEF requirements if the landowner receives income based on the farm's operating results and, thus, shares in the risk of profits (P2) and losses (P3) from the crop.[35]

Failure to Meet AEF Criteria for a Person

Any person or legal entity that does not satisfy the AEF requirements will not be eligible for farm program benefits under relevant programs. For example, a landowner who rents farmland to another farming operation for a fixed rental rate (i.e., under a fixed cash-rental arrangement) would bear no risk nor be subject to any potential loss from the farming operation. In other words, the landowner would fail to meet AEF criteria P2 and P3 described earlier. In such cases, the landowner would not be eligible for the relevant farm program benefits. Similarly, a landlord who rents land to a farming operation for a share of the crop that is guaranteed in volume or value independent of the actual harvest results would also not bear any risk and, thus, not be eligible for farm program benefits.

AEF Criteria: Joint Operation

In the case of a joint operation, the amount of farm payments that can be earned in a year depends on the number of qualifying members and their ownership share. Each partner or member must separately meet all of the AEF criteria required for a person.[36] In particular, each partner or member with an ownership interest must contribute active personal labor and/or active personal management to the farming operation (but subject to certain exemptions, such as the spousal and landlord exceptions listed above). The contribution must be identifiable and documentable, separate and distinct from the contributions made by any other partner or member, and critical to the profitability of the farming operation.

Since a partnership's potential payment limit is equal to the number of qualifying members (plus qualifying exemptions) times the individual payment limit,[37] the partnership's total limit could be expanded by the addition of each new qualifying member. Similarly, the partnership's total limit could be reduced by one individual payment limit for each member that fails to meet the AEF requirements and any other eligibility criteria.[38]

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[34] 7 U.S.C. §1308-1(c)(6). See also the FSA Handbook, "Spouses," par. 171, p. 4-1.

[35] FSA Handbook, "Landowner Exemption," par. 92, p. 2-158.

[36] FSA, "Payment Eligibility and Payment Limitations," December 2015, p. 1.

[37] Actual program payments for a partnership would also consider each member's ownership share before evaluating whether payment limits have been met. Adjusting actual payments for ownership shares may result in their total falling below the unadjusted payment limit. See FSA, *Costs & Benefits of Proposed Rule "Payment Limitations and Payment Eligibility—Actively Engaged in Farming*, March 18, 2015.

[38] Because of direct attribution of payment limits to an individual, some partners may receive payments from outside the partnership that would count toward their individual payment limits, thus potentially reducing the overall payment (continued...)

There is an exception to the AEF criteria for certain partnerships. When a partnership owns all of the land it uses for farming (i.e., no land is rented), then its members are automatically deemed to be actively engaged in farming, provided that the partners receive income based on the farm's operating results and, thus, share in the risk of profits and losses from the crop.

Nonfamily Members in a Joint Operation

In the case of a nonfamily member of a joint venture seeking to satisfy AEF criteria, his or her individual labor and management contributions must be recorded in a special log to verify that a "significant contribution" has been achieved. This is described later in this report in the section entitled "Recordkeeping Requirement of Personal Hours Worked".

AEF Criteria: Corporation

In the case of a corporation or similar entity with multiple owners (or shareholders), the entity is essentially treated as a single individual.[39] It is considered as "actively engaged in farming" with respect to a farming operation if:

C1. The corporation makes a significant contribution of capital, equipment, or land (or a combination thereof);[40]

C2. Each member with an ownership interest in the corporate entity makes a significant contribution of personal labor or active personal management—whether compensated or not—to the operation that are:

a. performed on a regular basis;

b. identifiable and documentable; and

c. separate and distinct from such contributions of other members;

C3. The collective contribution of corporate members is significant and commensurate with contributions to the farming operation; and

C4. The corporation also meets the AEF criteria cited above for a person of (P2) sharing commensurate profits or losses, and (P3) bearing commensurate risk.

If any member of the corporation fails to meet the labor and management requirements of C2 above, then any program payment or benefit to the corporation will be reduced by an amount commensurate with the ownership share held by that member. An exception to this requirement applies if (a) at least 50% of the entity's stock is held by members that are "actively engaged in providing labor or management," and (b) the total annual farm program payments received collectively by the stockholders or members of the entity is less than one payment limitation.

There is an additional exception to the AEF criteria for certain corporate entities. When a corporation owns all of the land it uses for farming (i.e., no land is rented), then the corporation is

(...continued)

to the partnership.

[39] U.S. e-CFR; 7 CFR 1400.204, "Limited partnerships, limited liability partnerships, limited liability companies, corporations, and other similar legal entities," accessed on April 13, 2016.

[40] If the corporation is also a member of a joint venture, then its input contribution must be made independently and separately of other partners in that joint venture.

automatically deemed to meet the AEF criteria provided the corporation receives income based on the farm's operating results and, thus, shares in the risk of profits and losses from the crop.

AEF-Related Farm Payments by Farm Type

When considering institutional recipients of farm payments subject to AEF criteria (i.e., ignoring family and individual payment recipients and recipients of farm payments not subject to AEF criteria), USDA data for 2012 suggests that there were 103,235 qualifying institutional arrangements (**Table 2**). This is substantially fewer than the 811,387 farm operations that received any type of farm payment that same year (**Table 1**).

Table 2. Distribution of AEF-Relevant Farm Program Payments by Farm Type, 2012

(Only farm payments subject to AEF criteria are included)

Farm Type	Farm Operations Receiving Government Payments[a]		Payments Received	
	Number	Share	$1,000	Share
Partnership	33,525	32.5%	$861,354	58.1%
Corporation	54,762	53.0%	$565,995	38.2%
Other[b]	14,948	14.5%	$55,337	3.7%
Total	**103,235**	**100%**	**$1,482,686**	**100%**

Source: GAO, "Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming," GAO-13-781, September 2013, p. 32.

Notes:

a. The farm payments in this table include only payments subject to the AEF criteria—that is, under the 2008 farm bill (P.L. 113-79). This included direct payments, counter-cyclical payments, and MALP benefits. For more information see, CRS Report RL34594, *Farm Commodity Programs in the 2008 Farm Bill*.

b. Includes limited partnerships, irrevocable and revocable trusts, estates, and individuals operating as small businesses.

New AEF Rule: Nonfamily Member Compliance

A nonfamily member of a farming operation is, by default, anyone who fails to meet the criteria of family membership. The 2014 farm bill (§1604) required USDA to add more specificity to the role that a nonfamily producer who is a member of a legal entity—primarily a partnership or joint venture—must play to qualify for farm program benefits. In the rule, USDA was directed to explicitly:

1. Define what constitutes a **"<u>significant contribution of active personal management</u>"** for the purpose of payment eligibility.
2. Consider limits on the number of persons per farming operation who may be considered actively engaged in farming **<u>based on a significant contribution of active personal management</u>**. Such consideration should take into account:
    a. the size, nature, and management requirements of a farming operation;
    b. the changing nature of active personal management due to advancements of farming operations; and
    c. the degree to which these new regulations will adversely impact the long-term viability of the farming operation.

3. Exclude operations comprised solely of family members from these provisions.
4. Include a plan for monitoring the status of compliance reviews.

The resulting USDA rule,[41] published on December 16, 2015, specifies how legal entities comprised, either entirely or in part, of nonfamily members may be determined eligible for payments, based on a contribution of active personal management. The provisions of this rule do not apply to persons or entities comprised entirely of family members. It is noteworthy that, based on 2012 evidence in **Table 1**, nonfamily farm operations comprise a relatively small share (less than 9%) of total farm operations. USDA estimates that the rule's limit on the number of farm managers could affect around 1,400 general partnerships and joint ventures, reducing USDA outlays (and benefits to producers) by about $50 million total for crop years 2016 through 2018, with an annual impact of $4 million to $38 million.[42]

As a result of the rule, several additional requirements now apply to nonfamily farming operations seeking to qualify more than one farm manager. Specifically, in addition to the existing AEF requirements, a limit is placed on the number of nonfamily members of a farming operation that can be qualified as a farm manager. Also, an additional recordkeeping requirement now applies for each member of such farming operations contributing any active personal management.

Limit on Number of Nonfamily Farm Managers

This rule restricts the number of nonfamily farm managers per farming operation to **one farm manager**, with the following exceptions:

- **Two farm managers.** If one person of the farming operation meets the AEF requirements by making a contribution of active personal management, and that farming operation seeks to qualify a second farm manager, the farming operation must also meet the requirement that it is *either* a large operation[43] or a complex operation.[44]
- **Three farm managers.** To qualify a total of three farm managers, the operation is required to meet the requirements for *both* size and complexity.[45]
- **No more than three farm managers.** Under no circumstances is a nonfamily farming operation allowed to qualify more than three persons as farm managers.

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[41] CCC, "Payment Limitation and Payment Eligibility; Actively Engaged in Farming," 80 *Federal Register* 78119-78130, December 16, 2015.

[42] FSA, *Costs & Benefits of Proposed Rule "Payment Limitations and Payment Eligibility—Actively Engaged in Farming,* March 18, 2015.

[43] A large farming operation is an operation with crops on more than 2,500 acres (planted or prevented from being planted due to weather) or honey or wool with more than 10,000 hives or 3,500 ewes, respectively.

[44] Complexity factors account for the diversity of an operation including the number of agricultural commodities produced; whether irrigation is used; the types of agricultural crops produced such as field, vegetable, or orchard crops; the geographical area in which a farm operates; alternative marketing channels (that is, fresh, wholesale, farmers market, or organic); and other aspects about the farming operation such as the production of livestock, types of livestock, and the various livestock products produced and marketed annually.

[45] The spousal exception would expand this limit to a potential maximum of six payment limits.

Recordkeeping Requirement of Personal Hours Worked

If a farming operation (comprised, in part, of nonfamily members) seeks to qualify one or more nonfamily farm managers as actively engaged in farming, then all persons that provide any management to the farming operation are required to maintain contemporaneous records or activity logs of their management activities, including the management activities that may not qualify as active personal management under this rule. Specifically, activity logs must include information about the location of where the management activity was performed (either on-site or remote) and the time expended or duration of the management and/or labor (see below) performed for the farming operation. In addition, a person's contributions must be identifiable and documentable, separate and distinct from the contributions of other members of the farm operation, and critical to the profitability of the farming operation.

Active Personal Management: Significant Contribution Redefined

The new definition for a significant contribution of active personal management (for nonfamily members only) requires an annual contribution of 500 hours of management or at least 25% of the total management required for that operation. Eligible management activities must be performed under one or more of the management categories listed earlier in the report section entitled "Active Personal Management".

The final rule also takes into consideration all of the actions of the farming operation associated with the financing.[46] Passive management activities such as attendance at board meetings or on conference calls, or watching commodity markets or input markets (without making trades), are not considered as making a significant contribution of active personal management.

Significant Combinations of Labor and Management

The final rule, in response to public comment on the difficulty in discriminating between management and labor for farming operations, expanded the measurable standard of what constitutes a significant contribution to include a potential combination of both active personal labor and active personal management. A minimum hourly requirement for a significant contribution of active personal labor of 1,000 hours was established and joined with the hourly standard of 500 hours adopted for defining a significant contribution of active personal management. USDA published a table showing the qualifying minimum combinations of hours contributed to management and labor activities.[47] The table includes five minimum thresholds of combined hours, ranging from 550 hours with predominantly management-identified hours to 950 hours with predominantly labor-identified hours.

[46] Such actions include including securing production loans; crop selection and planting decisions; land acquisitions and retention of the land assets for an extended period of time; risk management, crop insurance, and legal liability decisions; purchases of inputs and services; labor contracting; use of the most efficient field practices; decisions made to achieve regulatory compliance; and prudent marketing decisions, including hedging and forward contracting. In addition, the 2014 farm bill manager's report requested that the Secretary pay special attention to a broad range of farm operating activities that take into account the changing nature of active personal management due to technological and economic advancements in farming, communication, and marketing technologies that producers must avail themselves to remain competitive and economically viable operations in today's farming world including crop genetics, farming practices such as no-till and minimal-till farming, and telecommuting. Agricultural Act of 2014 (P.L. 113-79), Managers' Statements, "(46) Payment Limited to Active Farmers."

[47] CCC, "Payment Limitation and Payment Eligibility."

Issues for Congress

Since 1987, when Congress first introduced the term "actively engaged in farming" and required that an individual or entity meet AEF criteria to receive farm program payments, U.S. legislators have continued their efforts to limit payments to those who are actual farmers.[48] However, longstanding concerns remain that some farm operations are organized to overcome program payment limits and maximize the amount of their farm program payments. In particular, some advocacy groups suggest that USDA's new rule did not go far enough in tightening AEF criteria and that it continues to allow for a high number of farm managers and associated payment limits for both family and nonfamily farm operations.[49] These concerns include the lack of specificity in eligibility criteria that continues to allow for as many as three nonfamily farm managers (each, plus their spouses, qualifying for a full payment limit) and no limit on the number of potential farm managers from family-held farm operations. This is noteworthy because family-operated farm businesses represent over 91% of all farm operations.[50]

As an example of the lack of specificity, critics point out that the 2014 farm bill provision (§1604) permits exceptions under the rationale of "concern for the long-term viability" of the farming operation. Furthermore, critics contend that, under the current monitoring system, it can be difficult for USDA to verify the management claims of farm operation partners. Several of these concerns are briefly described here.

GAO Studies: Program Eligibility, Monitoring, and Enforcement

GAO has undertaken several studies of program eligibility and of USDA efforts to monitor and enforce program payment limits.[51] GAO has cited three principal hindrances to USDA oversight and enforcement of AEF regulations for members—both family and nonfamily alike—of a farming operation that claim AEF compliance by providing active personal management: (1) the definition of active personal management is broad and can be interpreted to include many potential activities, (2) requirements of what constitutes significant contributions of management are subjective, and (3) it is difficult to verify individuals' evidence of claimed contributions of active personal management and personal labor—often depending on interviews with individual payment recipients.[52]

GAO has said that the three concerns cited aboveprevent USDA from rigorously enforcing payment eligibility criteria. As a result, large farm operations can distribute various management activities among a partnership's members so as to increase the number of individuals who can claim eligibility for payments based on different types of management contributions.

[48] The Farm Program Payments Integrity Act (Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, §§1301-1307).

[49] National Sustainable Agriculture Coalition (NSAC), "Historic Commodity Title Payment Limitation Reform Included in both House and Senate Farm Bills," http://sustainableagriculture.net/wp-content/uploads/2013/11/Payment-Limitation-Reform.pdf.

[50] By definition all individuals are family members. Family or individuals represented an 86.7% share of operations in 2012 (**Table 1**). In addition, family-held corporations represented over 89% of all incorporated farm operations. A break-out for family-held partnerships or joint ventures was not available.

[51] For example: GAO, *USDA Needs to Do More to Prevent Improper Payments to Deceased Individuals*, GAO-13-503, June 2013; and the earlier cited GAO-13-781 and GAO-04-407.

[52] GAO, citing discussions with FSA officials, states that "during appeal interviews, individuals with little involvement in farming operations can overstate their management contributions by giving rehearsed answers or providing new information that has not been verified, often with assistance of hired consultants." GAO-13-781, p. 15-23.

Furthermore, broad regulations allow members to claim that they are making a significant management contribution without physically visiting the farming operation.[53] Thus, the federal government risks distributing payments to individuals who may have little actual involvement in farming operations.

In a 2010 regulation, USDA recognized that it has the regulatory authority to tighten eligibility criteria but that it is unlikely to use that authority unless explicitly directed to do so by Congress:

> The definition of what constitutes a significant contribution is provided by regulation, not by statute and could be changed. We recognize the difficulty in determining the significance of a management contribution under the current definition and the desirability of a measurable, quantifiable standard. However, unlike labor, the significance of a management contribution is not appropriately measured by the amount of time a person spends doing the claimed contribution. The current regulatory definition of a significant contribution of active personal management has been in effect for over 20 years; Congress has not mandated a more restrictive definition during that time, including in the 2008 Farm Bill.[54]

As a result, GAO stated that "it appears unlikely that FSA will change its regulatory definition of active personal management in view of its 2010 statements in the *Federal Register*."[55]

USDA data from 2012 (**Table 3**) demonstrated that partnerships and joint ventures with larger numbers of members relied more heavily on active personal management criteria to meet AEF qualifications.

Table 3. Distribution of Farm Payments to Partnerships by Member Count, 2012

(Only farm payments subject to AEF criteria are included)

# of Members	# of Entities	Average Payment per Entity ($s)	Active Personal Management		Active Personal Labor		Combined Labor-Management	
			Avg. Pmt.	% of Pmts.[a]	Avg. Pmt.	% of Pmts.[a]	Avg. Pmt.	% of Pmts.[a]
1	449	$7,322	$2,521	34.4%	$10	0.1%	$4,790	65.4%
2	15,852	$20,692	$2,530	12.2%	$280	1.4%	$17,883	86.4%
3-5	9,622	$29,713	$8,730	29.4%	$926	3.1%	$20,057	67.5%
6-10	1,388	$51,609	$27,973	54.2%	$1,775	3.4%	$21,861	42.4%
11 or more	175	$59,532	$48,895	82.1%	$3,658	6.1%	$6,979	11.7%
Total	**27,486**	**$25,440**	**$6,280**	**100%**	**$599**	**100%**	**$18,561**	**100%**

Source: GAO, "Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming," GAO-13-781, September 2013, Appendix IV and Appendix V tables, p. 51-52.

[53] GAO cited a notable example whereby a farming operation located in a Midwestern state received about $400,000 in program payments in 2012 while farming about 25,000 acres. The operation was organized as a partnership that included six corporations and 11 individuals (all from the same family ranging in age from 18 to 88) as members. Two of the family members, including the 88-year-old, had addresses in south Florida. GAO-13-781, p. 18.

[54] CCC, "Payment Eligibility and Payment Limitation; Miscellaneous Technical Correction," 75 *Federal Register* 889, January 7, 2010. The citation is in response to public comments regarding a 2008 regulation.

[55] GAO added, "In August 2013, a senior-level FSA headquarters official said that the agency does not plan to change the regulatory definition of active personal management without direction from Congress." GAO-13-781, p. 19.

Notes: Data is for general partnerships and joint ventures combined. The farm payments in this table include only payments subject to the AEF criteria—that is, under the 2008 farm bill (P.L. 113-79) this included direct payments, counter-cyclical payments, and MALP benefits. For more information, see CRS Report RL34594, *Farm Commodity Programs in the 2008 Farm Bill* by James Monke.

a. The percentage of total payments to entities with the enumerated number of members.

Both the House- and Senate-passed farm bills in 2013 included specific provisions designed to tighten payment eligibility criteria (described below), in particular by limiting the number of farm managers per operation.[56] However, these provisions were removed from the final 2014 farm bill during the House and Senate conference. In their stead, Congress explicitly directed USDA (§1604) to design new regulations for the AEF criteria but limit them to nonfamily members of farming operations. Furthermore, Congress directed that the new AEF criteria avoid any new regulatory obligations that would add to any paperwork or management burden of family farm operations. USDA released the rule in 2015.

Limit on Number of Allowable Farm Managers

Under the 2014 farm bill and 2015 USDA rule,[57] a farm operation—operated primarily by nonfamily members—that meets both the size and complexity criteria discussed above could qualify three farm managers (and potentially their spouses) in addition to those persons qualifying under the personal labor criteria. Thus, a large nonfamily farming operation could have a payment limit that is over $1 million per year. Family-managed farm operations have no limit on the number of potential qualifying members and, thus, on the overall payment limit.

Members of Congress may be interested in reviewing the number of farm managers allowed, possibly by establishing an explicit limit on the number a farming operation could claim. For example, everyone on a farm operation who qualifies as a working farmer (i.e., provides land, capital, or equipment and meets the personal labor requirement) could remain eligible to participate in farm programs and receive program payments. However, a restriction could be developed whereby only a single farm manager would be eligible to qualify without providing any farm labor. The spouses of the qualifying persons—both workers and manager—could continue to qualify for payments.

Potential Long-Term Viability Exclusion

The 2014 farm bill (§1604(b)(3)) instructed USDA to consider the extent to which new regulations would "adversely impact" the long-term viability of the farming operation. The basis for determining whether a "significant contribution" of managerial activity has occurred is a subjective assessment. Some wonder whether it might negate any farm manager limit—even on nonfamily farm operations—since one could argue that all farm managers are critical for a farm's long-term viability.[58]

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[56] The provisions were Section 1603A of the House-passed version of the farm bill (H.R. 2642) and Section 1603 of the Senate-passed bill (S. 954), both of the 113th Congress. NSAC expressed concern over the elimination of House- and Senate-passed provisions. See NSAC, "2014 Farm Bill Drilldown: Subsidy Reform and Fair Competition," under "C. Payment Limit Reform," February 14, 2014, http://sustainableagriculture.net/blog/farm-bill-subsidy-reform/.

[57] CCC, "Payment Limitation and Payment Eligibility.

[58] NSAC, "2014 Farm Bill Drilldown."

Qualifying Family Members

The farm manager restrictions related to the new USDA regulation are relevant only for nonfamily members of a farming operation. The 2014 farm bill (§1604(c)) explicitly directs USDA to not apply any new restrictions to farm operations comprised solely of family members. An adult family member is considered actively engaged in farming if he or she receives income based on the farm's operating results. It is assumed that such a family member meets any input or labor requirements, and no recordkeeping is required to verify that sufficient labor hours have been worked on the farm operation or that sufficient managerial time has been made. Some have argued that large farm businesses with passive investors and general partners can re-arrange the partners to include people in the extended family of the principal operator and thus avoid the nonfamily farm manager limitation.[59]

Congressional Monitoring

Various Members of Congress will likely be interested in monitoring the success of USDA's efforts to impose new payment disciplines on nonfamily participants while preventing new management burdens on family farms. Furthermore, they will likely be interested in the extent, if any, to which large farm operations are able to avoid eligibility and payment requirements.

[59] Refer to footnote 53 for an example.

Appendix. U.S. Farm Commodity Program "Actively Engaged in Farming" (AEF) Requirements and Payment Limitations Under the 2014 Farm Bill, FY2014-FY2018

Program Payment Type	AEF[a]	Payment Limit
Commodity Programs		
Price Loss Coverage (PLC), Agricultural Risk Coverage (ARC), Loan Deficiency Program (LDP), and Marketing Loan Gain (MLG) payments[b]—except peanuts	Y	$125,000 per year
PLC, ARC, LDP, and MLG payments—peanuts	Y	$125,000 per year
MLGs with commodity certificates or forfeiture benefits[c]	Y	Unlimited
Cotton Transition Assistance Program[d]	N	$40,000 per year
Sugar program implicit price support benefits[e]	N	Unlimited
Dairy Margin Protection Program (MPP)[f]	N	Unlimited
Disaster Assistance Programs		
Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP), Livestock Forage Disaster Program (LFP), and Livestock Indemnity Program (LIP)[g]	N	$125,000 combined per crop year
Tree Assistance Program (TAP)	N	$125,000 per crop year
Noninsured Crop Disaster Assistance Program (NAP)	N	$125,000 per crop year
Landscape Assistance Programs		
Emergency Conservation Program	N	$200,000 per disaster event
Emergency Forest Restoration Program	N	$500,000 per disaster event
Emergency Watershed Protection Program	N	Unlimited
Conservation Programs		
Conservation Reserve Program (CRP)[h]	N	$50,000 total rental payments per fiscal year
Conservation Stewardship Program	N	$200,000 on all contracts for FY2014-FY2018
Environmental Quality Incentives Program	N	$450,000 on all contracts for FY2014-FY2018[i]
Agricultural Management Assistance	N	$50,000 per year
Agricultural Conservation Easement Program	N	Based on easement value
Regional Conservation Partnership Program	N	Subject to limitations of covered programs
Crop Insurance Programs		
Premium subsidies on individual insurance policies	N	Unlimited
Indemnity payments	N	Unlimited
Miscellaneous		

Program Payment Type	AEF[a]	Payment Limit
Trade Adjustment Assistance for Farmers	Y	$10,000 per year

Source: Compiled by CRS from various public sources cited in footnotes throughout the text of this report.

Notes:

a. AEF criteria must be met by each payment recipient as described in this report.

b. PLC, ARC, LDP, and MLG payments for all covered commodities except for peanuts which have their own separate limit.

c. Two types of benefits obtainable under the marketing assistance loan program are not subject to the annual payment limit: (1) benefits derived from forfeiting to the Commodity Credit Corporation the quantity of a commodity pledged as collateral for a nonrecourse loan; and (2) MLG benefits that result from use of commodity certificates.

d. This program was available only in the 2014 and 2015 program years.

e. The U.S. sugar program provides indirect price supports to the producers of sugar beets and sugarcane through direct price guarantees to the processors of both crops (provided the crops are of U.S. origin). USDA administers the U.S. sugar program at no budgetary cost to the federal government by limiting the amount of sugar supplied for food use in the U.S. market. Thus, the subsidy provides implicit price support and is not subject to payment limitations.

f. The fixed premium structure of the MPP likely has a significant federal subsidy component embedded in it, although the actual extent of implicit subsidy has yet to be assessed and likely varies with market conditions.

g. Disaster assistance programs: ELAP, LFP, and LIP. The total payment under ELAP, LFP, and LIP may not exceed $125,000. Separate payment limits apply individually to TAP and NAP.

h. The limit applies to combined annual rental and incentive payments. CRP contracts approved prior to October 1, 2008, may exceed the limitation, subject to payment limitation rules in effect on the date of contract approval.

i. Organic production practice payments are limited to a total of $20,000 per year or $80,000 total for any six-year period.

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