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(iii) This part is not applicable to rental payments made in accordance with a CRP contract if such payments are made to a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by such State, political subdivision, or agency thereof that has been approved by the Secretary, or a designee of the Secretary.

(iv) With respect to inherited land, this part is not applicable to rental payments made in accordance with a CRP contract if such payments are made to an individual heir who has succeeded to such contract. Such land must have been subject to the CRP contract at the time it is inherited by the individual.

(b) Only the provisions of subparts A and B are applicable to the Agricultural Conservation Program (ACP) authorized under part 701 of this title.

(c) This part shall be applied to the programs specified in paragraph (a)(2) of this section on a crop year basis; and with respect to the programs specified in paragraphs (a)(1) and (3) and (b) of this section on a fiscal year basis.

(d) This part shall be used to determine whether individuals and entities are to be treated as one person or as separate persons for the purpose of applying the respective payment limitation provisions applicable to the programs specified in this section and to such other programs as may be provided in individual program regulations.

(e) In cases in which more than one provision of this part are applicable, the provision which is most restrictive shall apply.

(f) Payments shall not be subject to the payment limitation provisions if they are made to:

(1) Public schools with respect to land owned by a public school district; or

(2) A State with respect to land owned by a State that is used to maintain a public school.

(g) The following amounts are the limitations on payments per person per applicable period for each payment.

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Payment type	Limitation per program year or fiscal year
Production Flexibility Contract	¹ \$40,000
Production Flexibility Contract	² 50,000
Marketing Loan Gain	³ 75,000
Loan deficiency
CRP	50,000
ACP cost-share	3,500
Non-Insured Crop Disaster Assistance Program (NAP)	100,000
Environmental Quality Incentives Program (EQIP)	10,000

¹ Annual payment amount.

² Amounts made in accordance with section 113(c) of the Federal Agriculture Improvement and Reform Act of 1996.

³ The total of marketing loan gains and loan deficiency payments cannot exceed \$75,000 per crop year, except for the 1999 crop year for which the limit shall be \$150,000 of which all or part may consist of marketing loan gains.

[61 FR 37566, July 18, 1996, as amended at 65 FR 7953, Feb. 16, 2000; 65 FR 36561, June 8, 2000]

§ 1400.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Administrator, Farm Service Agency (FSA). In the field, the regulations in this part will be administered by the FSA State and county committees (herein referred to as "State and county committees," respectively).

(b) State executive directors, county executive directors and State and county committees do not have authority to modify or waive any of the provisions of this part.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee which has not been taken by such committee. The State committee may also:

(1) Correct or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, and the Administrator, FSA, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

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(e) Benefits from programs subject to this part may not be issued until all required forms and necessary payment eligibility and payment limitation determinations are made.

(f) The initial “actively engaged in farming” and “person” determinations shall be made within 60 days after the producer files the required forms and any other supporting documentation needed in making such determinations. If the determination is not made within 60 days, the producer will receive a determination for that program year that reflects the determination sought by the producer unless the Deputy Administrator determines that the producer did not follow the farm operating plan that was presented to the county or State committee for such year.

(g) Initial determinations concerning the provisions of this part shall not be made by a county FSA office with respect to any farm operating plan that is for a joint operation with more than five members.

(h) Reviews of farming operations and corresponding documentation submitted by program participants may be conducted to determine compliance with applicable statutes and regulations.

[61 FR 37566, July 18, 1996, as amended at 65 FR 36561, June 8, 2000]

§ 1400.3 Definitions.

(a) The terms defined in part 718 of this chapter shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions shall also be applicable to this part:

Active personal labor. Active personal labor is 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 physical activities required to establish and maintain conserving cover crops on conserving use and CRP acreages and those physical activities necessary in livestock operations.

Active personal management. Active personal management is personally providing:

(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, including:

(i) Supervision of activities necessary in the farming operation, including activities involved in land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities, as well as activities required to establish and maintain conserving cover crops on conserving use and CRP acreage and activities required in livestock operations;

(ii) Business-related actions, which include discretionary decision making;

(iii) Evaluation of the financial condition and needs of the farming operation;

(iv) Assistance in the structuring or preparation of financial reports or analyses for the farming operation;

(v) Consultations in or structuring of business-related financing arrangements for the farming operation;

(vi) Marketing and promotion of agricultural commodities produced by the farming operation;

(vii) Acquiring technical information used in the farming operation; and

(viii) Any other management function reasonably necessary to conduct the farming operation and for which service the farming operation would ordinarily be charged a fee.

Alien. Any person not a citizen or national of the United States.

Lawful Alien. Any person who is not a citizen or national of the United States but who is admitted into the United States for permanent residence under the Immigration and Nationality Act and possesses a valid Alien Registration Receipt Card (Form I-551 or I-151).

(2) [Reserved]

Capital. Capital consists of the funding provided by an individual or entity to the farming operation in order for such operation to conduct farming activities. In determining whether an individual or entity has contributed capital, in the form of funding, to the farming operation, such capital must have been derived from a fund or account separate and distinct from that