

§ 1400.2

7 CFR Ch. XIV (1–1–08 Edition)

(2) CRP rental payments made to an individual heir who succeeded to a contract on inherited land, if the land was subject to the CRP contract at the time it was inherited.

(c) This part applies to the programs specified in paragraph (a)(1) and (2) of this section on a crop year basis, and those in paragraph (a)(3) of this section based on each fiscal year.

(d) This part is used to determine whether individuals and entities are to be treated as one person or as separate persons regarding the application of statutory provisions that limit the amount of payments a specific person may receive.

(e) Where more than one provision of this part may apply, the provision most restrictive on the program participant shall apply.

(f) Payments made to the following are not subject to payment limitations under this part:

(1) Public schools for land a public school district owns; and

(2) A State for land a State owns that is used to maintain a public school.

(g) Unless otherwise noted, the following amounts are the payment limitations per person per applicable period for each payment or benefit:

Payment or benefit	Limitation per person, per crop, program year or fiscal year
1. Direct Payments for covered commodities ...	\$40,000
2. Direct Payment for peanuts	40,000
3. Counter-Cyclical Payments for covered commodities	65,000
4. Counter-Cyclical Payment for peanuts	65,000
5. Loan Deficiency Payments and Marketing Loan Gains for loan commodities	75,000
6. Total Loan Deficiency Payments and Marketing Loan Gains for peanuts, wool, mohair and honey	75,000
7. Conservation Reserve Program	50,000
8. Non-Insured Crop Disaster Assistance Program (NAP) payments	100,000
9. Environmental Quality Incentives Program (EQIP) payments	¹ 450,000
10. Agricultural Management Assistance Program	50,000
11. Conservation Security Program (CSP):	
Tier 1	² 20,000
Tier 2	² 35,000
Tier 3	² 45,000

¹ This statutory limit is applied on a "direct attribution" method with respect to the individual or entity.

² This limitation is attributed to an individual or entity covered by a Conservation Security Program contract.

(h) As provided in Subpart G of this part, additional requirements are ap-

plicable to certain of the payments specified in paragraph (g) of this section.

[67 FR 61469, Oct. 1, 2002, as amended at 68 FR 33346, June 4, 2003]

§ 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.

(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 of any other individual or entity involved in such operation. Capital does not include the value of any labor or management that is contributed to the farming operation or any outlays for land or equipment. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the individual or entity.

(1) With respect to a farming operation conducted by an individual, a joint operation in which the capital is contributed by a member of the joint operation or an entity, such capital contributed to meet the requirements of: