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7 CFR Ch. XIV (1–1–10 Edition)

(FRPP), Grasslands Reserve Program (GRP), Wetlands Reserve Program (WRP), and Wildlife Habitat Incentive Program (WHIP).

(b) This part will apply to the programs specified in:

(1) Paragraphs (a)(1), (3), (4), and (6) of this section on a crop year basis;

(2) To the program in paragraph (a)(2) of this section on a fiscal year basis;

(3) To the programs in paragraph (a)(5) of this section on a calendar year basis; and

(4) To the programs in paragraph (a)(7) of this section based on available funding.

(c) This part will be used to determine the manner in which payments will be attributed to persons and legal entities for the payment limitations provided in this section and to other programs as provided in individual program regulations in this chapter.

(d) Where more than one provision of this part may apply, the provision

which is most restrictive on the program participant will be applied.

(e) The payment limitations of this part are not applicable to:

(1) Payments made under State conservation reserve enhancement program agreements approved by the Secretary and

(2) Payments made subject to this part if ownership interest in land or a commodity is transferred as the result of the death of a program participant and the new owner of the land or commodity has succeeded to the contract of the prior owner. If the successor is otherwise eligible, payments cannot exceed the amount the previous owner was entitled to receive at the time of death.

(f) The following amounts are the limitations on payments per person or legal entity for the applicable period for each payment or benefit.

Payment or benefit	Limitation per person or legal entity, per crop, program, or fiscal year
(1) Direct Payments for covered commodities ¹	\$40,000
(2) Direct Payments for peanuts ¹	40,000
(3) CRP annual rental payments ²	50,000
(4) GRP	50,000
(5) WHIP	50,000
(6) WRP	50,000
(7) Counter-Cyclical Payments for covered commodities ³	65,000
(8) Counter-Cyclical Payments for peanuts ³	65,000
(9) NAP payments	100,000
(10) Supplemental Agricultural Disaster Assistance ⁴	100,000
(11) TAP	100,000
(12) CSTP ⁵	200,000
(13) EQIP	300,000

¹ If the person or legal entity has a direct or indirect interest in payments earned on a farm that is in ACRE, this limitation will reflect a 20 percent reduction in direct payments on each farm that is participating in ACRE.

² Limitation applicable only to CRP contracts approved prior to October 1, 2008.

³ Under ACRE, this amount will be a combined limitation for counter-cyclical and ACRE payments. If a person or legal entity has a direct or indirect interest in payments earned on a farm that is participating in ACRE, this limitation will reflect an increase for the amount that the direct payments were reduced.

⁴ Total payments received under Supplemental Agricultural Disaster Assistance through SURE, LIP, LFP, and ELAP may not exceed \$100,000.

⁵ The \$200,000 limit is the total limit for 2009 through 2012. Note: AMA, AWEP, CBWP, CCPI, and FRPP are all limited by available funding rather than an amount by participant.

(g) With respect to contracts for conservation programs approved prior to October 1, 2008, the payment limitation rules in 7 CFR part 1400 in effect on September 30, 2008 will be applicable (see 7 CFR part 1400, revised as of January 1, 2008).

[73 FR 79273, Dec. 29, 2008, as amended at 74 FR 31577, Jul. 2, 2009]

§ 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 (referred to as

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“State committee” and “county committee,” 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 that 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 in this part to a State or county committee precludes 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 payment eligibility determinations will be made within 60 days after the required forms and any other supporting documentation needed in making such determinations are received in the county FSA office. 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 will not be made by a county FSA office with respect to any farm operating plan that is for a joint operation with six or more members.

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

and regulations. The completion of such reviews is not subject to the time constraints specified in paragraph (f) of this section.

§ 1400.3 Definitions.

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

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

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 physical activities required to establish and maintain conserving cover crops on CRP acreages and those physical activities necessary in livestock operations.

Active personal management means personally providing and participating 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, 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 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;