



April 3, 2019

2018 Farm Bill Primer: Program Eligibility and Payment Limits

Since 1970, Congress has used various policies to address the issue of who should be eligible for farm program payments and how much an individual recipient should be permitted to receive in a single year. In recent years, congressional debate has focused on (1) ensuring that payments go to persons or entities currently engaged in farming, (2) attributing payments directly to individual recipients, (3) capping the amount of payments that a qualifying recipient may receive in any one year, and (4) excluding from payment eligibility those farmers or farming entities with incomes above a certain level as measured by their adjusted gross income (AGI).

Most recently, the 2018 farm bill (Agricultural Improvement Act of 2018, P.L. 115-334) amended eligibility requirements for benefits under current farm programs and annual payment limits that vary across different combinations of farm programs. Major federal farm programs, along with their current eligibility requirements and payment limits, are listed in **Table 1**.

Program Eligibility

Some requirements are common across most programs, while others are specific to individual programs. Current eligibility requirements that are specific to each program participant but affect multiple programs include:

- identification of every participating person or legal entity—both U.S. and non-U.S.;
- the nature and extent of an individual’s participation (i.e., actively engaged in farming criteria), including ownership interests in multi-person entities and personal time commitments (whether as labor or management);
- conservation compliance provisions; and
- means testing based on an AGI threshold.

Is U.S. Citizenship Required?

In general, if foreign persons or legal entities meet a program’s eligibility requirements, then they are eligible to participate. One exception is the permanent disaster assistance programs—Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP), Livestock Forage Disaster Program, Livestock Indemnity Program (LIP), Tree Assistance Program (TAP), and the Noninsured Crop Disaster Assistance Program (NAP)—under which non-resident aliens are excluded.

Actively Engaged in Farming (AEF)

Three categories of legal entities are subject to AEF requirements for certain farm support program payment eligibility: an individual, a partnership, and a corporation.

Individual. To be considered AEF, an individual must (1) make a significant contribution to the farm of capital, equipment, or land and be active through personal labor and/or personal management; (2) share in the risk of loss

from the farming operation; and (3) have a share of profits or losses commensurate with his or her contribution to the operation.

A spouse of any person meeting the AEF requirements is considered to have met the requirements, thus doubling the individual payment limit. Also, every member of a family farm engaged in farming (including cousins, nephews, and nieces) age 18 years or older may be deemed AEF and eligible for a separate payment limit. Another exception to AEF requirements is made for landowners, provided they receive income based on the farm’s operating results.

Partnership. Under a partnership, each member must individually meet all program requirements, including AEF and AGI requirements. Each qualifying member is potentially eligible for payments up to the individual limit.

Corporation. A corporation is treated as a single person for purposes of determining eligibility and payment limits, provided that it meets the AEF and other eligibility criteria. Thus, a corporation is subject to a single payment limit.

Conservation Compliance

To be eligible for most farm program benefits, a producer agrees to maintain a minimum level of conservation on highly erodible land and not to convert or make production possible on wetlands. Collectively, these two provisions are referred to as conservation compliance.

AGI Threshold

Persons with combined farm and nonfarm AGI in excess of \$900,000 are ineligible for most program benefits. Average AGI is measured from the three tax years prior to the most recent taxable year. The AGI limit may be waived on a case-by-case basis to protect environmentally sensitive land of special significance.

Direct Attribution and Payment Limits

Tracking payments to an individual through ownership levels in single or multi-person legal entities—referred to as direct attribution—is critical for assessing an individual’s cumulative payments against his or her annual payment limit. Current law requires direct attribution through four levels of ownership in multi-person legal entities.

Issues for Congress

Eligibility requirements and payment limits strongly influence what size and type of farms are supported. Congress has debated what annual payment limit amount is optimal and whether the limit should be specific to each program or cumulative across all programs. Program eligibility requirements and payment limits generate congressional interest because their effects differ across regions and by type of commodities produced and because a substantial amount of annual U.S. farm program payments are at stake.

Table I. Farm Program Eligibility Requirements and Payment Limitations Under the 2018 Farm Bill

Farm Program Type	AEF	Citizen ^a	AGI	CC	Payment Limit
Commodity Programs					
PLC and ARC payments (all except peanuts)	✓	—	✓	✓	\$125,000 per CY ^b
PLC and ARC payments for peanuts	✓	—	✓	✓	\$125,000 per CY ^b
Benefits under the MAL program ^c	✓	—	✓	✓	Unlimited
Cotton Ginning Cost Share program	✓	—	✓	✓	\$40,000 per person
Sugar Program (implicit price support benefits)	—	—	—	—	Unlimited
Dairy Risk Coverage (DRC) program	—	—	—	✓	Unlimited
Market Facilitation Program (MFP)	✓	—	✓	✓	\$125,000 by person ^d
Disaster Assistance Programs					
Livestock Forage Disaster Program	—	✓	✓	✓	\$125,000 per CY
ELAP, LIP, and TAP programs	—	✓	✓	✓	Unlimited
NAP: catastrophic coverage	—	✓	✓	✓	\$125,000 per CY
NAP: additional coverage	—	✓	✓	✓	\$300,000 per CY
Crop Insurance Programs					
Premium subsidies and indemnity payments	—	—	—	✓	Unlimited
Conservation and Landscape Assistance Programs					
Conservation Reserve Program (total rental payments)	—	—	✓ ^e	✓	\$50,000 per FY
Conservation Stewardship Program	—	—	✓	✓	\$200,000 ^f
Environmental Quality Incentives Program	—	—	✓ ^e	✓	\$450,000 ^f
Agricultural Management Assistance	—	—	✓	✓	\$50,000 per FY
Agricultural Conservation Easement Program	—	—	✓	✓	Based on easement value
Regional Conservation Partnership Program	—	—	✓ ^e	✓	Unlimited
Emergency Conservation Program	—	—	✓	✓	\$500,000 per disaster
Emergency Forest Restoration Program	—	—	✓	✓	\$500,000 per disaster
Emergency Watershed Protection Program	—	—	—	✓	Based on project amount
Miscellaneous					
Trade Adjustment Assistance for Farmers	✓	✓	✓	—	\$12,000 over 36 months

Source: Compiled by CRS from various sources. For details, see CRS Report R44739, *U.S. Farm Program Eligibility and Payment Limits*; CRS Report R45310, *Farm Policy: USDA's Trade Aid Package*; and CRS Report R42459, *Conservation Compliance and U.S. Farm Policy*.

Notes: “✓” implies that this is a necessary requirement for payment eligibility, “—” implies that it is not a necessary requirement. AEF = actively engaged in farming criteria, AGI = adjusted gross income limit, ARC = Agricultural Risk Coverage, CC = conservation compliance, CY = crop year, FY = fiscal year, MAL = marketing assistance loan program, NAP = Noninsured Disaster Assistance Program, and PLC = Price Loss Coverage.

- U.S. citizenship or resident alien status required, assuming that any AEF requirements are met.
- Payment limits apply to combined ARC and PLC payments after any sequestration reductions have been made.
- MAL benefits include loan deficiency payments, market loan gains, and gains under commodity certificates or forfeiture
- A separate payment limit is available for each of these three commodity groupings: crops, livestock, and specialty crops.
- An AGI waiver for select eligible entities is available.
- All contracts combined for the entire period of FY2019-FY2023.

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