



HOUSE COMMITTEE ON AGRICULTURE

MEANS TESTING AND PAYMENT LIMITS

Means Testing

Over the years, farm bills and supplemental disaster legislation have established varying conditions on eligibility to participate in certain farm, disaster, and conservation programs through a limitation on the average adjusted gross income (AGI) for the applicable person or entity. For example, the Farm Security and Rural Investment Act of 2002 (PL 107-71) established a means test disallowing any individual or entity with an AGI more than \$2.5 million from receiving counter-cyclical, loan deficiency, or conservation program payments unless such individual or entity derived 75% or more of such income from farming, ranching, or forestry, in which case they were exempt from the means test and eligible for assistance. The Food, Conservation, and Energy Act of 2008 (PL 110-234, 2008 Farm Bill) attempted to take an alternative and more complex approach by setting separate limitations on 'nonfarm income' of \$500,000 and 'farm income' of \$750,000.

The Agricultural Act of 2014 (PL 113-79, 2014 Farm Bill) returned to a single means test with an AGI limitation of \$900,000 with no exceptions, which was carried forward in the Agriculture Improvement Act of 2018 (PL 115-34, 2018 Farm Bill). This test applies to Agriculture Risk Coverage (ARC), Price Loss Coverage (PLC), and all standing disaster and conservation program payments. This provision has arbitrarily excluded operations growing or raising high value crops or livestock from being eligible for critical aid in the wake of natural disasters and has stymied the effectiveness of conservation programs from being deployed on some of the most environmentally sensitive lands.

Recognizing the negative consequences of a means test in the context of disaster response, ad hoc supplemental disaster programs such as the Wildfire and Hurricane Indemnity Program (WHIP) and Coronavirus Food Assistance Program (CFAP) did not include any means testing for assistance.

The Farm, Food, and National Security Act of 2024 will build off the example of these programs in a fiscally responsible way by providing a waiver for the AGI means test only for operations that derive 75% or more of their income from farming, ranching, or forestry activities. This exemption will only apply to a producer's eligibility for assistance under the Livestock Indemnity Program (LIP), the Livestock Forage Program (LFP), Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish (ELAP), Tree Assistance Program (TAP), Noninsured Crop Disaster Assistance Program (NAP), and all Title II conservation programs. The strict limit of \$900,000 will continue to apply for eligibility under the ARC and PLC programs in Subtitle A of Title I.

MODERNIZING PAYMENT LIMITATIONS

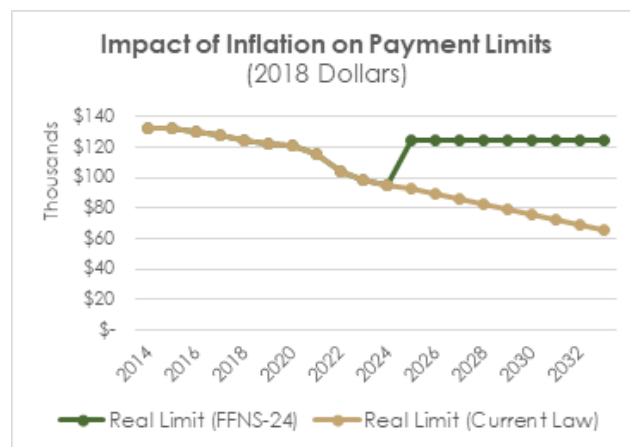
Equitable Treatment of Pass-Through Entities

While payment limitations existed for certain provisions of the Agricultural Adjustment Act of 1938, it wasn't until the Agriculture Act of 1970 (PL91-524) that they became a regular fixture in farm policy. Over the years, the level of the limitation, the programs for which it is applicable, and what entity or to whom it applies have evolved. The application of and the regulations

surrounding the current limitation stem back to the 2008 Farm Bill, in which Congress dictated that the limitation on Subtitle A (commodity program) payments should apply to a “person or legal entity (except a joint venture or general partnership)”. Rather than being subject to a single limitation, these specific pass-through entities are subject to a limitation that is multiplied by the number of members of the entity, and farm program payments flow through the entity to each member who themselves are subject to the limitation.

Unfortunately, over the years, many producers for various reasons (e.g. liability protection, tax implications, ease of generational transfers) have opted to structure their operation in other types of pass-through entities such as a Limited Liability Company (LLC) and Limited Liability Partnership (LLP) without understanding the detrimental implications this entity structure can have in the context of farm policy or disaster assistance. Existing law requires each entity to be subject to a single limitation regardless of the number of members participating in the operation. Over the past several years, the House Committee on Agriculture has heard from numerous producers – particularly new and beginning producers, specialty crop farmers, and others not fortunate enough to have an accountant that understands farm policy – that were not fully eligible to receive critical federal assistance through trade aid, disaster, and coronavirus response programs because they had formed the wrong entity when establishing their operation.

The Farm, Food, and National Security Act of 2024 will end this disparate treatment by ensuring that payment limitation regulations treat all pass-through entities the same and do not give preferential treatment to joint ventures and general partnerships. The Farm, Food, and National Security Act of 2024 does NOT change any of the laws related to the attribution of payments or exempt any individual person from being subject to the limitation. It merely cuts red tape and allows producers to structure their operation in a way that makes the most sense for them, without needing to consider the ramifications relative to farm policy.



Accounting for the Impacts of Inflation

The 2014 Farm Bill established the current payment limitation of \$125,000 per year for combined payments under the Agriculture Risk Coverage and Price Loss Coverage programs. Since enactment, due to inflation, the real value of this limitation has fallen by over \$40,000 – reducing the effectiveness of the farm safety net in supporting producers in times of need. The 2018 Farm

Bill maintained the nominal limitation of \$125,000, which in real terms provides \$30,000 less support today than it did upon enactment.

The Farm, Food, and National Security Act of 2024 takes a very reasonable approach to restore the effectiveness of the farm safety net and return payment limitations back to the levels Congress overwhelmingly approved in 2018.

Operations deriving 75% or more of their income from farming, ranching, and forestry will be eligible for a limitation of \$155,000 for payments relative to crop year 2025, which will be indexed to CPI-U going forward. This will ensure that, in real dollar terms, the effectiveness of farm policy will not continue to erode into the future due to inflation.

The below table provides a comparison of the nominal and inflation adjusted limitation in several farm bills or disaster assistance approved by Congress over the past 85 years. Even with the modifications in the Farm, Food, and National Security Act of 2024, the updated limitation is below (in some cases well below) the examples of previous legislation seen below, of which there are many more painting the same picture.

Relevant Legislation	Nominal Payment Limit	Real Payment Limit (2024 \$s)
Agricultural Adjustment Act of 1938	\$ 10,000	\$ 222,374
Agriculture Act of 1970 (per commodity)	\$ 55,000	\$ 444,462
Agriculture Act of 1970 (combined)	\$ 165,000	\$ 1,333,387
Food and Agricultural Act of 1977	\$ 50,000	\$ 258,703
Agriculture and Food Act of 1981	\$ 50,000	\$ 172,469
Disaster Assistance Act of 1988	\$ 100,000	\$ 265,045
Agricultural Act of 2014	\$ 125,000	\$ 165,558
Wildfire & Hurricane Indemnity Program (WHIP+)	\$ 250,000	\$ 319,790
Agriculture Improvement Act of 2018	\$ 125,000	\$ 156,082
<i>Farm, Food, and National Security Act of 2024</i>	\$ 155,000	\$ 155,000