

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Payment Limitation, Payment Eligibility,
and Average Adjusted Gross Income
6-PL**

Amendment 3

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reason for Amendment

Subparagraphs 2 A and 2 B have been amended to update sources of authority.

Subparagraph 17 C has been amended to update State Office specialist responsibilities.

Subparagraph 35 A has been amended to correct the year.

Subparagraph 353 A has been amended to clarify how determinations must be recorded.

Subparagraph 413 A has been amended to include a requirement for timely completion of reviews and accurate error reporting.

Subparagraph 414 E has been amended to emphasize the requirement for reviews to be completed timely.

Subparagraph 438 D has been amended to clarify how revised determinations must be recorded.

Subparagraphs 451 A and 452 A have been amended to remove the reference to County Office users.

Subparagraph 489 A has been amended to add ELRP and an example of FSA-510.

Subparagraphs 489 B and 489 F have been amended to add a reference to FSA-510.

Amendment Transmittal

A Reason for Amendment (Continued)

Page Control Chart		
TC	Text	Exhibit
	1-1 through 1-4 2-3, 2-4 6-1, 6-2 7-1 through 7-4 7-55, 7-56 7-101 through 7-104 8-67, 8-68 8-68.5, 8-68.6 (add) 8-69, 8-70	1, pages 3, 4

Part 1 Introduction

1 Handbook Purpose and References

A Purpose

This handbook provides instructions and uniform methods to:

- apply direct attribution for payment limitation purposes
- determine payment eligibility for each program participant.

The provisions of this handbook apply to various programs administered by State and County *--Offices for 2021 and subsequent crop years, program years, and FY's--*

B Related Handbooks

This table lists handbooks related to payment eligibility and payment limitation.

IF the questions or concern is about...	THEN see...
acreage and compliance determinations	2-CP.
agriculture risk coverage and price loss coverage	1-ARCPLC.
audits and investigations	9-AO.
common land units	8-CM and 10-CM.
common management and operating provisions	1-CM and 11-CM.
Common Payment System	9-CM.
Conservation Reserve Program	2-CRP, 4-CRP, and 5-CRP.
cotton price support payments	7-CN.
customer data management and Business Partner	11-CM.
debts, receivables, and claims	58-FI.
directives management	1-AS.
Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program	1-ELAP.
Emergency Conservation Program	1-ECP.
Emergency Forest Restoration Program	1-EFRP.
enterprise data warehouse	12-CM.
establishing and reporting receipts and receivables	64-FI.
farm, tract, and crop data	10-CM.
finality rule and equitable relief	7-CP.
grain and oilseeds price support programs	2-LP Grains and Oilseeds.

1 Handbook Purpose and References (Continued)

B Related Handbooks (Continued)

IF the questions or concern is about...	THEN see...
livestock disaster assistance programs for 2011 and subsequent years	1-LDAP (Rev. 1).
Livestock Forage Program	1-LFP.
Livestock Indemnity Program	1-LIP.
Margin Protection Program for Dairy	1-MPP.
marketing assistance, loan, and loan deficiency payments	8-LP.
Noninsured Crop Disaster Assistance Program	1-NAP.
payment eligibility and payment limitation for 2009 through 2013	4-PL.
payment eligibility and payment limitation for 2014 through 2019	5-PL.
payment eligibility and payment limitation for 2019 until otherwise identified	6-PL.
peanut price support programs	2-LP Peanuts.
program appeals, mediation, and litigation	1-APP.
quality control	1-COR.
record operations	32-AS and 32-AS Supplement.
reporting payment and financial data to the IRS	62-FI.
special programs	1-SP.
State and county organization and administration	16-AO.
Tree Assistance Program	1-TAP (Rev. 4).
web-based subsidiary files	3-PL (Rev. 2).

2 Sources of Authority

A Statutory Reference

Authority for administering payment eligibility and payment limitation provisions is provided by Food Security Act of 1985, Sections 1001, 1001A, 1001B, 1001C, and 1001D, as amended.

--Authority for administering payment limitation provisions for certain programs is provided by Disaster Relief Supplement Appropriations Act, 2022 (Extending Government Funding and Delivery Emergency Assistance Act) (Pub. L. 117-43). Programs for which this authority applies are identified throughout the handbook.--

2 Sources of Authority (Continued)

B Regulatory Reference

Authority for administering payment eligibility and payment limitation provisions is provided by 7 CFR Part 1400. References from CFR are provided throughout the handbook.

--Authority for administering payment eligibility and payment limitation provisions for certain programs is provided by Disaster Relief Supplement Appropriations Act, 2022 (Extending Government Funding and Delivery Emergency Assistance Act) (Pub. L. 117-43) are included in regulations and Federal Register Notices of Funding Availability. Programs for which these authorities apply, and specific references are provided throughout the handbook.--

3 Legislative History of Payment Eligibility and Payment Limitation Provisions

A Introduction

Since their establishment in 1970, the payment limitation provisions have been expanded to:

- apply to more programs
- include provisions for payment eligibility based on whether a person or legal entity is actively engaged in farming, a cash-rent tenant, or a foreign person
- include a limitation on average AGI as a condition of eligibility.

Information on the legislative history of the payment eligibility and payment limitation provisions is provided in subparagraphs B through R.

B Agricultural Act of 1970

The Agricultural Act of 1970:

- established the first payment limitation provisions
- provided that the amount of payments that a person could be entitled to receive under each of the annual programs for the 1971, 1972, or 1973 crop could **not** exceed \$55,000
- required the Secretary to reduce the amount of set-aside acreage required on farms when the total amount of payments that would have been earned would be reduced by the payment limitation
- required the Secretary to issue regulations defining the term “person”
- provided that payment limitation would **not** apply to lands owned by States, political subdivision, or agencies thereof so long as these lands were farmed primarily in the direct furtherance of a public function.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)**C 7 CFR Part 795**

7 CFR Part 795 provided:

- the definition of “person”
- provisions for determining whether multiple persons or other entities constitute 1 or separate persons
- provisions for changes in farming operations
- provisions for determining whether an agreement is a share lease or a cash lease
- custom farming rules
- provisions for scheme or device
- computation of reduction in set-aside acreage because of the limitation.

D Agriculture and Consumer Protection Act of 1973

The Agricultural and Consumer Protection Act of 1973 extended and amended the Agricultural Act of 1970, as it relates to payment limitation, to provide that the:

- amount of payments that a person was entitled to receive under each of the annual programs for the 1974 through 1977 crops could **not** exceed \$20,000
- rules for determining whether corporations and their stockholders could be considered separate were to be based on ownership of more than 50 percent of the stock of the corporation.

17 State Office Specialist Responsibilities

A Introduction

The State Office specialist assigned the overall responsibility for the operation of payment limitation determinations within the State must:

- provide training
- provide technical assistance
- accumulate reports.

B Training

State Office specialists must provide payment limitation procedure training to COC's, DD's, and County Offices. State Office specialists must assess training needs within the State and provide training, as necessary.

C Technical Assistance

The State Office specialist must provide technical assistance to all levels within the State by:

- assisting with reviews of any determination questioned by DD
- obtaining assistance of OIG and/or OGC, if appropriate, for scheme or device determination
- following up on DD reports of improper or insufficient COC determinations
- preparing cases, as necessary, for STC determinations
- selecting a sufficient number of County Office employees to serve as members of district teams to conduct EYR's.

Notes: Review team members must **not** participate in the review of producers who operate in the same county that employs the review team member.

The State Office specialist must oversee progress and adequacy of findings by requiring reports, as appropriate.

- *--monitoring progress of EYR's to ensure completion by the deadline established according to subparagraph 16 F.--*

17 State Office Specialist Responsibilities (Continued)

D Accumulating Reports

The State Office specialist must:

- monitor the number of default determinations made by each County Office
- be prepared to provide a cumulative report of the total number of default determinations in the State to DAFP, if requested
- require a report of default determinations EYR's from each County Office.

E Required Determinations

State Office Specialists must:

- make payment eligibility determinations for joint operations receiving payment with 6 or more members
- **not** make determinations for all other farming operations in which the producer is involved as an individual or member of a joint operation or entity.

The recording county must make all other eligibility determinations according to paragraph 351.

F Determination Priority

Determinations must be sorted to prioritize determinations involving newly filed CCC-902's, operations with payments exceeding \$125,000, or any other applicable limitation.

If the volume of determinations prevents timely determinations in all cases, producers must receive a default determination according to paragraph 390.

G Determination Required Action

State Office Specialist must:

- notify applicable producers of determinations made according to this handbook
- notify designated recording county for the producer of determinations
- maintain a record of determinations made by the State Office
- conduct EYR's for determinations required to be made by State Office.

Part 6 Payment Eligibility and Payment Limitation Determinations

Section 1 COC Determinations

351 COC Responsibilities

A Introduction [7 CFR 1400.2]

COC must make the initial actively engaged in farming and eligibility reviews and determinations.

Payment eligibility determinations **must** be made within 60 calendar days after the required CCC-902, related forms, and supporting documentation needed in making payment eligibility determinations, are received in the County Office.

This table provides requirement deadlines for COC to make eligibility and actively engaged in farming determinations and producer notification.

IF CCC-902 is filed for programs...	THEN make eligibility...
not requiring actively engaged in farming determinations	determinations and notify producers within 60 calendar days of the date the complete CCC-902 was filed.
requiring actively engaged in farming determinations	and actively engaged in farming determinations and notify producers within 60 calendar days of the date the complete CCC-902 was filed.

B Insufficient Information

If the file does **not** contain adequate information for COC to make determinations, COC must request additional information. This does **not** extend COC’s 60-calendar-day time limit to make initial determinations.

Note: If the file does **not** contain sufficient information for a favorable determination, COC must make the determination, based on the file as it exists, to avoid a default determination.

C Determination Appeals

COC must hear appeals by applicants of the initial COC determinations of actively engaged in farming and eligibility.

352 COC Requirements to Make Timely Determinations

A Overview

COC must make the initial actively engaged in farming and eligibility determinations within the deadlines established in paragraph 351.

Note: See paragraph 366 for required State Office determinations.

B Definition of Default Determination

Default determination means all persons or legal entities are considered to be actively engaged in farming.

Note: Default determination only applies to actively engaged in farming and cash rent tenant provisions.

C Rule

If COC does **not** make the initial determinations within the 60-calendar-day time limit, the applicant must receive a default determination. COC **must** still make actively engaged in farming and eligibility determinations. If the correct determination is different:

- FSA will honor the default determination for the current year, if the farm operation plan is followed **exactly**
- the proper determination will apply, if the farm operation plan is **not** followed exactly
- the proper determination will apply the following year, if the operation is **exactly** the same.

D Notification to Producer

See paragraphs 390 and 391 for notification requirements of both the default and correct determination letters to the producer.

353 Completing CCC-903's

A Introduction

COC must use CCC-903 to document producer determinations for payment limitation and *--payment eligibility in all situations including, but not limited to, corrected and revised determinations. Programs for which producers make application, require specific--* determinations for either payment limitation and/or payment eligibility (i.e. "actively engaged in farming", "cash-rent tenant" or "foreign person rules") as applicable. See paragraph 34 for program applicability.

Part 7 EYR's for 2014 and Subsequent Years

Section 1 Selections and Notifications

413 Overview

A Introduction

The determinations required by this handbook are made by the reviewing authority based on the producer's certification of the farming operation as represented on CCC-902's and supporting documents.

To maintain the integrity of payment limitation and payment eligibility provisions, EYR's are conducted to determine that farming operations were carried out as represented when initial determinations were made.

--Reviews must be completed timely and errors identified must be accurately reported.--

B Purpose

This section provides instructions for selecting and notifying producers of EYR.

414 Selection Process

A Introduction

Producers selected for EYR may be chosen for the following reasons:

- a judgmental selection by DAFP
- a required spot check
- an additional case selected for review by the reviewing authority.

B Judgmental Selection

A judgmental selection is performed on a nationwide basis to select producers for review using criteria including, but not limited to:

- the restructure of a farming operation in the past year by the addition of a new partner, deletion of a partner, change in stockholders, etc.
- the formation of a new farming operation in the past year
- a comparison of farming operations to determine whether an individual or legal entity is involved in more than 1 operation
- farming operations earning more than a specified dollar amount.

C Required Spot Checks

A default determination made according to paragraph 390 must be selected as EYR if the proper determination made according to paragraph 351 differed from the default determination.

Note: Determinations involving FSA employees are required to be selected for review only if selected according to this paragraph.

414 Selection Process (Continued)

D Additional Cases

In addition to cases that are judgmentally selected, or otherwise required to be selected, the following cases will also be selected for EYR:

- any case which the reviewing authority has reason to believe the farm operating plan was not followed as represented
- any cases considered necessary by a State Office representative to maintain program integrity.

E Timing EYR's

Complete EYR's by the date established by STC, according to paragraph 16.

--State Offices are responsible for monitoring the progress to ensure reviews are completed timely. Scheduling of reviews must allow for sufficient time to complete reviews by the deadline.--

F Waiver Authority for State Offices

State Offices may waive judgmentally selected EYR's under the following circumstances:

- farming operations involving **only** a husband and wife
- farming operation was previously reviewed in the last 3 years, did **not** receive an adverse determination, **and** the reviewing authority has determined that there have been no changes that affect the original determinations
- farming operations with **all** land meeting the landowner exemption
- for 2014 and subsequent years, farming operation conducted by a corporation, LLC, trust, estate or similar legal entity with no embedded legal entities as members.

Notes: State Offices must record the waived judgmentally selected reviews in the EYRT System according to Section 4.

Any waiver request not within State Offices' approval authority may be sent to DAFP, along with adequate justification to support the request.

415 Producer Notification**A Overview**

After being notified, the producer is responsible for providing requested documents in a timely manner. This paragraph contains information to be included in the producer notification letter and explains what the producer must do after receiving the notification letter.

B Producer Notification

Producers who are required to submit documents must be notified about their selection for EYR no later than 90 calendar days before the EYR completion date established by STC according to paragraph 16.

The notification letter must contain the following:

- purpose of EYR
- documents required to be submitted
- the requirement to submit documents to the County Office within 30 calendar days
- actions that will be taken if documents are not submitted
- notification that the producer will receive results of EYR when completed.

C Producer Responsibility

It is the responsibility of the producer to submit requested documents within 30 calendar days from the date requested.

Note: It is recognized that some requested documents, such as crop sales documents, may not be available when the producer submits other documentation. The producer must submit all documents that are available at the time. The reviewing authority must schedule follow-up action to obtain additional information if necessary.

Section 3 Conducting Reviews

438 Responsibilities

A Overview

This section provides the required action and worksheets to be used to conduct EYR's.

This paragraph provides guidelines for required action for conducting EYR's.

B Review Teams

Members of the review team, established according to paragraph 17, must:

- complete the review for all cases according to paragraph 414.
- obtain additional documentation directly from producers whenever it is needed to determine that actual farming operations are or are not in compliance with approved farm operating plans
- document EYR conclusions and make recommendations for action by the initial review authority.

C Determinations by Initial Reviewing Authority

The reviewing authority that made the initial determination for the producer selected for EYR must:

- thoroughly review conclusions and recommendations submitted by the review team
- collect any additional information needed to make an informed determination.

Note: If the State Office made the initial determination for the producer, the State Office must make EYR determination.

438 Responsibilities (Continued)

D Required Action and Responsibility

Follow this table to determine required action and responsibility.

Step	Action	Responsibility
1	Producer selection.	<ul style="list-style-type: none"> Judgmental selection, DAFP. All other cases, initial reviewing authority.
2	Producer notification.	Initial reviewing authority
3	Accumulation of requested information. Note: Documents must be copied and returned to the producer.	Producer’s designated control County Office.
4	*--Assigning, coordinating, and monitoring completion of reviews.	State Office specialist.
5	Reviewing documents and fact findings.	Review team member or members under the supervision of the State Office specialist.
6	Determination and producer notification. Note: Revised determinations must be recorded on CCC-903. See paragraph 353.--*	Initial reviewing authority.
7	End-of-year reports.	<ul style="list-style-type: none"> Designated control County Office. State Office.

E Discrepancies

Follow this table if discrepancies with the farm operating plan are discovered.

IF a discrepancy is discovered that...	THEN notify the producer of the...
does not affect the original determinations	discrepancy and confirm the original determination.
affects the original determinations	<ul style="list-style-type: none"> not “actively engaged in farming” determination or other revised determinations (i.e. cash-rent tenant, substantive change, common attribution, foreign person rule, etc.) amount of payments to refund, if applicable <p>Note: See 58-FI.</p> <ul style="list-style-type: none"> producer’s appeal rights.

Section 4 EYRT System**450 Tracking EYR's****A Overview**

All EYR's will be tracked using the EYRT System.

B Responsibilities

DAFP and STC or COC EYR selections and review results will be tracked in the EYRT System for all reviews conducted in an FY.

The National Program Manager is responsible for entering the DAFP judgmental selections.

State Office Specialists with payment limitation/payment eligibility responsibility must enter COC and STC selections in the EYRT System.

State Office Specialists are responsible for entering all results/findings of EYR's in the EYRT System.

C Submission Date

STC must establish a date or dates for County Offices to submit adequate documentation to evidence the findings of the review and the COC's determination, including any overpayments to the State Office Specialist.

The National Program Manager must annually establish the date by which reviews must be completed and results of the review loaded in the EYRT System. This date will be announced in correspondence to each State Office when the DAFP judgmental selections are announced.

451 Introduction to the EYRT System

A Definition of EYRT System

EYRT System means a web-based system:

- *--in which National and State users can record all findings, recommendations, and--* conclusions from EYR's completed on selected farming operations for 2009 and subsequent years' payment eligibility and payment limitation compliance purposes
- that provides reporting and summarization capabilities for EYR findings, determinations, and related information recorded for the farming operations reviewed.

B EYRT Design

EYRT was designed for the following:

- recording and tracking, by participant/farming operation and program year, all EYR review findings, results, and determinations
- as source data for status reports on the completion and results of EYR's
- providing information to use when evaluating the application and the effectiveness of current payment eligibility and payment limitation provisions.

C Accessing EYRT and Versions Available

EYRT is accessible from the Payment Limitation EYR's Share Point site at https://usdagcc.sharepoint.com/sites/fsa-dafp-disaster/PL_EYR/sitepages/Home.aspx.

451 Introduction to the EYRT System (Continued)

D Content of EYRT Database

The EYRT database has been populated with the following:

- 2009 and subsequent years DAFP EYR selections
- additional selections as determined by State Offices.

E State Office Action

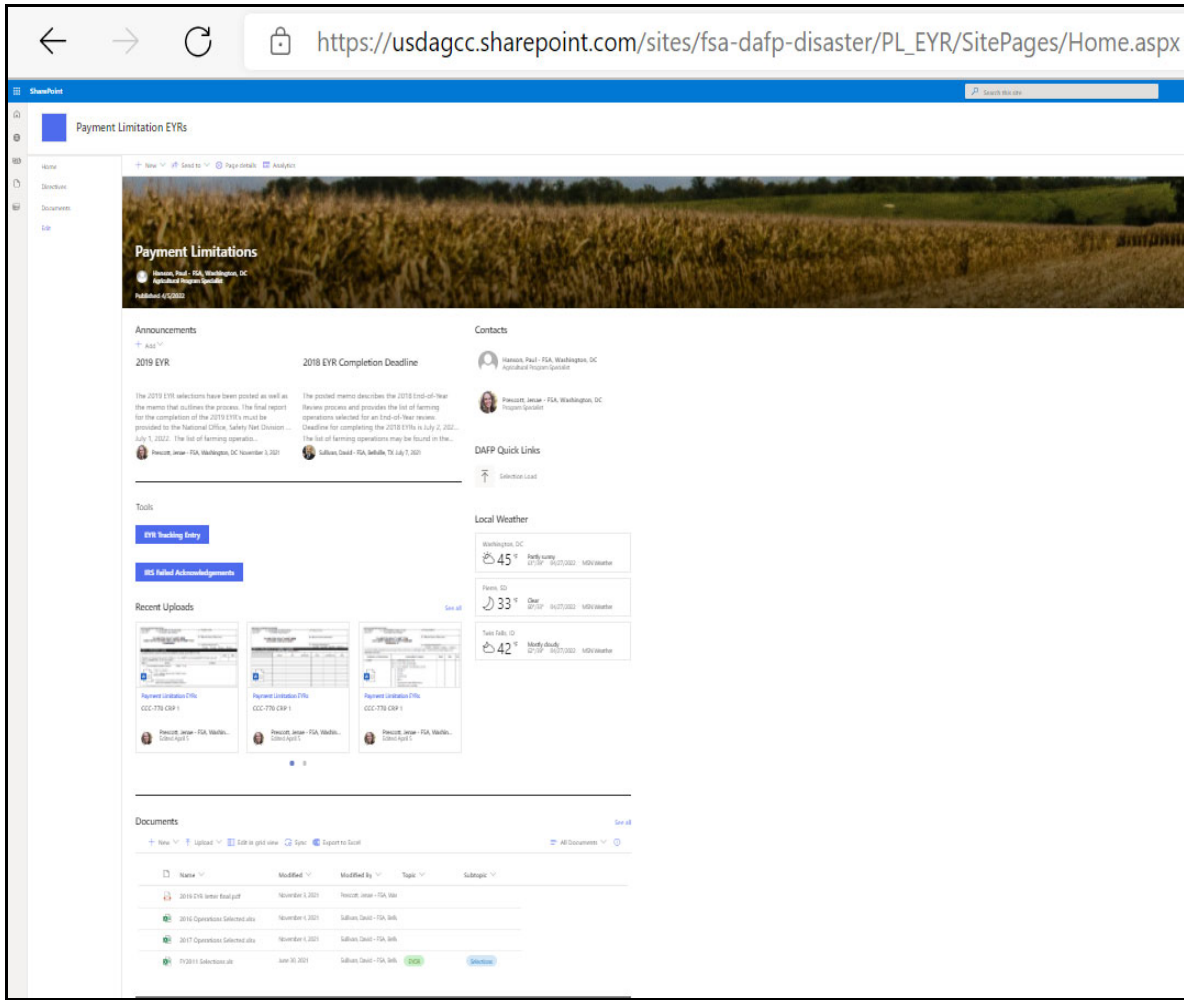
For the 2009 and subsequent EYR records, State Offices are encouraged to do the following:

- review the records for accuracy
- update the preloaded records, if necessary
- enter records for additional EYR selections made
- enter results as EYR's are completed
- periodically run various EYRT reports to check the status of review completion, and to track the results of 2009 and subsequent years EYR's.

452 Payment Limitation EYRs Screen

A Accessing the Payment Limitation EYRs Screen

The Payment Limitation EYRs Screen allows State * * * users to access all options available in EYRT. To access the following Payment Limitation EYRs Screen, go to https://usdagcc.sharepoint.com/sites/fsa-dafp-disaster/PL_EYR/SitePages/Home.aspx



489 Determining 75 Percent Average Farm AGI (Continued)

A Programs Using 75 Percent Farm AGI (Continued)

2020 CFAP allows an exception to the \$900,000 average AGI limitation if at least 75 percent of the average AGI was derived from farming, ranching, or forestry operations. CCC-942 is used to collect the producer and CPA/attorney certification statements.

This form is available electronically. CCC-942 (08-12-20)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation		OMB No. 0560-0293 OMB Expiration Date: 04/30/2022	
CERTIFICATION OF INCOME FROM FARMING, RANCHING AND FORESTRY OPERATIONS				1. PROGRAM YEAR: 2. Return completed form to (Name and address of FSA county office or USDA Service Center):	
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a – as amended). The authority for requesting the information identified on this form is Sec. 5 of the Commodity Credit Corporation Act [15 U.S.C. 714 et seq]. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, tribal agencies, and nongovernment entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated).</p> <p>Public Burden Statement (Paperwork Reduction Act): Public reporting burden for this collection is estimated to average 5 minutes per response, including reviewing instructions, gathering and maintaining the data needed, completing (providing the information), and reviewing the collection of information. You are not required to respond to the collection or FSA may not conduct or sponsor a collection of information unless it displays a valid OMB control number. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>					
3. Name and Address of Individual or Legal Entity (Including Zip Code) (If general partnership or joint venture, complete only for each member)			4. Last (4) Digits - Taxpayer Identification Number (TIN) (Social Security Number for Individual; or Employer Identification Number for Legal Entity)		
PART A – CERTIFICATION OF FARM INCOME					
5. Individuals and Legal Entities exceeding the \$900,000 AGI limitation may otherwise qualify for certain program benefits, when the program authorizes the individual or legal entity to qualify based on following conditions: <ul style="list-style-type: none"> at least 75 percent of the individual's or legal entity's average adjusted gross income (AGI) for the 3 taxable years preceding the most immediately preceding complete taxable year was derived from farming, ranching or forestry operations. For example, if the program year is 2019, then the 3-year period for the calculation will be the taxable years of 2017, 2016 and 2015. a certification from a licensed CPA or an attorney is submitted to the FSA/USDA Service Center identified in Item 2, attesting that at least 75 percent of the individual's or legal entity's average AGI for the 3 taxable years preceding the most immediately preceding complete taxable year was derived from farming, ranching, or forestry operations. The CPA or Attorney may meet this requirement by completing Part C below or providing a similar statement that is acceptable to FSA. 					
PART B – CERTIFICATION BY INDIVIDUAL OR ENTITY					
By signing this form: <ul style="list-style-type: none"> I acknowledge the average AGI for the applicable program year exceeds the \$900,000 statutory AGI limitation for the individual or legal entity identified in Item 3. I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; I certify that all information contained in a certification from a CPA or attorney is true and correct, and is consistent with the tax returns filed with the IRS for myself or the legal entity that is seeking to qualify for program benefits subject to a certification of farm income; I acknowledge that failure to provide the certification referenced in Part A to FSA will result in being ineligible for the applicable program benefit; I certify that I am authorized under applicable state law to sign this certification on behalf of the legal entity identified in Item 3 (for legal entity only). 					
6. Signature (By)		7. Title/Relationship of the Individual if Signing in a Representative Capacity		8. Date (MM-DD-YYYY)	
PART C – CERTIFICATION BY CERTIFIED PUBLIC ACCOUNTANT / ATTORNEY					
By signing this form: <ul style="list-style-type: none"> I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; I certify the producer identified in Items 3 and 4 has met the minimum requirements specified in Part A for the program year identified in Item 1. 					
9. Signature		10. Title (CPA/Attorney)	11. State/License Number	12. Date (MM-DD-YYYY)	
<small>In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.</small>					
<small>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.</small>					
<small>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.</small>					

489 Determining 75 Percent Average Farm AGI (Continued)

A Programs Using 75 Percent Farm AGI (Continued)

*--ELRP allows an exception to the \$125,000 payment limitation if at least 75 percent of the average AGI was derived from farming, ranching, or forestry operations. FSA-510 is used to collect the producer and CPA/Attorney certification statements. Authority for collecting data on FSA-510 is provided in Disaster Relief Supplement Appropriations Act, 2022 and Federal Register Notice of Funding Availability.

OMB No. 0560-0307 OMB Expiration Date: 10/31/2022	
FSA-510 04-04-22)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency
REQUEST FOR AN EXCEPTION TO THE \$125,000 PAYMENT LIMITATION FOR CERTAIN PROGRAMS	
1. Return completed form to: (Name and address of FSA county office or USDA Service Center)	
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a – as amended). The authority for requesting the information identified on this form is the Disaster Relief Supplemental Appropriations Act, 2022 (Extending Government Funding and Delivering Emergency Assistance Act) (Pub. L. 117-43) and regulations and Federal Register Notices of Funding Availability for applicable programs. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, tribal agencies, and nongovernment entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated).	
Public Burden Statement (Paperwork Reduction Act): Public reporting burden for this collection is estimated to average 5 minutes per response, including reviewing instructions, gathering and maintaining the data needed, completing (providing the information), and reviewing the collection of information. You are not required to respond to the collection or FSA may not conduct or sponsor a collection of information unless it displays a valid OMB control number. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.	
2. Name and Address of Individual or Legal Entity (Including Zip Code) (If general partnership or joint venture, complete only for each member)	3. Taxpayer Identification Number (TIN) (Social Security No., for Individual, or Employer Identification No., for Legal Entity)
PART A REQUIREMENTS FOR PAYMENT LIMITATION EXCEPTION FOR CERTAIN PROGRAMS	
4. Disaster relief programs implemented pursuant to Public Law 117-43, Division B, Title I, are subject to a \$125,000 payment limitation per person or legal entity. An exception to the \$125,000 payment limitation is available but only if both of the following conditions are met:	
<ul style="list-style-type: none"> • at least 75% of the individual's or legal entity's average adjusted gross income (AGI) for the 3 applicable taxable years was derived from farming, ranching or forestry operations. • a certification from a licensed CPA or an attorney is submitted to the FSA/USDA Service Center identified in item 1, attesting that at least 75% of the individual's or legal entity's average AGI for the 3 applicable taxable years was derived from farming, ranching, or forestry operations. The CPA and/or Attorney may meet this requirement by completing Part C below or providing a similar statement that is acceptable to FSA. Based on the above statements, complete 4A and select the applicable box 4B or 4C below:	
4A. 20__ Enter the program year for which program benefits are requested. The period for calculation of the average farm AGI will be the three taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. For example, the 3-year period for the calculation of the average farm AGI for 2022 would be the taxable years of 2020, 2019 and 2018.	
4B. <input type="checkbox"/> YES the individual or legal entity in item 2 meets both of the above conditions and is requesting the exception to the Payment Limitation; OR	
4C. <input type="checkbox"/> NO the individual or legal entity in item 2 does not meet one or both of the above conditions (Payment limitation is \$125,000)	
PART B CERTIFICATION BY INDIVIDUAL OR ENTITY	
By signing this form:	
<ul style="list-style-type: none"> - I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; - I certify, if applicable, that all information contained in any certification from a CPA or an attorney submitted to FSA as described in this FSA-510 is true and correct, and is consistent with the tax returns filed with the IRS for myself or the legal entity that is seeking participation in an applicable program; - I acknowledge that failure to provide the certification described in this FSA-510 to FSA will result in the application of a \$125,000 payment limitation; - I certify that I am authorized under applicable state law to sign this certification on behalf of the legal entity identified in Item 2 (for legal entity only). 	
5. Signature (By)	6. Title/Relationship of the Individual if Signing in a Representative Capacity for a Legal Entity
7. Date (MM-DD-YYYY)	
PART C CERTIFICATION BY CERTIFIED PUBLIC ACCOUNTANT / ATTORNEY	
By signing this form:	
<ul style="list-style-type: none"> - I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form; - I certify the producer identified in Item 2 and TIN in Item 3 has met the minimum requirements to be eligible for the exception to the Payment Limitation as specified in Part A above. 	
8. Signature	9. Title (CPA/Attorney)
10. State/License Number	11. Date (MM-DD-YYYY)
DATE STAMPED	

489 Determining 75 Percent Average Farm AGI (Continued)

A Programs Using 75 Percent Farm AGI (Continued)

FSA-510 (04-04-22)

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GENERAL INFORMATION ON PAYMENT LIMITATIONS

For programs authorized by Public Law 117-43, Division B, Title I, individuals or legal entities (other than general partnerships and joint ventures) that receive applicable payments, directly or indirectly, cannot receive payments exceeding the applicable limitation per program per year. Payments made, directly or indirectly, to an individual or a legal entity (other than general partnerships and joint ventures), or its members cannot exceed the applicable payment limitation per program per year, as applicable. If payments received, directly or indirectly, by a member of a legal entity receiving such payments reach the applicable payment limitation(s), payments to the legal entity will be reduced in proportion to that member's direct or indirect ownership share in the legal entity.

All members of legal entities requesting to receive payment(s) from applicable programs, directly or indirectly, in excess of the \$125,000 payment limitation per program per year must also complete this form and provide the required certification from a CPA or attorney.

HOW TO DETERMINE ADJUSTED GROSS INCOME

Adjusted Gross Income (AGI) is the individual's or legal entity's IRS-reported adjusted gross income or equivalent (see below) consisting of both farm and nonfarm income.

Individual – Internal Revenue Service (IRS) Form 1040 filers, specific lines on that form represent the adjusted gross income

Trust or Estate – the adjusted gross income equivalent is the total income and charitable contributions reported to IRS

Corporation – the adjusted gross income equivalent is the total of the final taxable income and any charitable contributions reported to IRS

Limited Partnership (LP), Limited Liability Company (LLC), Limited Liability Partnership (LLP) or Similar Entity – the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS

Tax-exempt Organization – the adjusted gross income is the unrelated business taxable income excluding any income from non-commercial activities as reported to the IRS.

HOW TO DETERMINE INCOME FROM FARMING, RANCHING, AND FORESTRY OPERATIONS

Income received or obtained from the following sources:

<i>Productions of crops, specialty crops, and raw forestry products.</i>	<i>Feeding, rearing, or finishing of livestock.</i>
<i>Production of livestock, aquaculture products used for food; honeybees; and products produced by or derived from livestock.</i>	<i>Payments of benefits, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans.</i>
<i>Production of farm-based renewable energy.</i>	<i>Sale of land that has been used for agricultural purposes.</i>
<i>Sale, including easements and development rights, of farm, ranch, and forestry land, water or hunting rights, or environmental benefits.</i>	<i>Payments and benefits authorized under any program made available and applicable to payment eligibility and payment limitation rules.</i>
<i>Rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights.</i>	<i>Any other activity related to farming, ranching, and forestry, as determined by the Deputy Administrator of Farm Programs.</i>
<i>Processing, packing, storing, and transportation of farm, ranch, forestry commodities including renewable energy.</i>	<i>Any income reported on Schedule F or other schedule used by the person or legal entity to report income from such operations to the IRS.</i>
<i>Beginning in program year 2020, wages or dividends received from a "closely held" corporation, an IC-DISC or a legal entity comprised entirely of family members may be considered farm income when the legal entity is "materially participating" in farming, ranching, or forestry activities. "Materially participating" means more than 50 percent of the legal entity's gross receipts for each tax year are derived from farming, ranching, or forestry sources. A representative must attach a certification to form FSA-510 attesting that the legal entity "materially participates" in a farm, ranch, or forestry activity.</i>	

HOW TO DETERMINE PERCENTAGE OF AVERAGE AGI FROM FARMING, RANCHING, AND FORESTRY OPERATIONS

- Determine the total AGI and the total income from farming, ranching, and forestry for each of the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested.
- Total the AGI (both farm and nonfarm income) from all 3 years.
- Total the income from farming, ranching and forestry from all 3 years.
- Calculate the percentage of average adjusted gross farm income by dividing the result of step 3 by the result of Step 2. The percentage calculated must be equal to: or greater than 75 percent to qualify for program benefits

This form can only be signed by the individual authorized under state law to sign this consent for the legal entity identified in Item 2.

INSTRUCTIONS FOR COMPLETION OF FSA-510

Item No./Field Name	Instruction
1. Return Completed Form To	Enter the name and address of the FSA county office or USDA service center where the completed FSA-510 will be submitted.
2. Person or Legal Entity's Name and Address	Enter the individual's or legal entity's name and address.
3. Taxpayer ID Number	In the format provided, enter the complete taxpayer identification number of the individual or legal entity identified in Item 2. <i>This will be either a Social Security Number or Employer Identification Number.</i>
4. Payment Limitation Exception	Complete 4A by entering the program year for which the FSA-510 is being completed and select the appropriate check box – 4B if the applicant is requesting the exception to the \$125,000 payment limitation and meets the criteria. Or 4C if the applicant does not meet the requirements for the exception and/or does not want the applicable increased payment limitation.
5. Signature	Read the acknowledgments, responsibilities and authorizations, <i>before</i> signing. <i>(INDIVIDUAL OR ENTITY)</i>
6. Title/Relationship	Enter title or relationship to the legal entity identified in Item 2.
7. Date	Enter the signature date in month, day and year.
8. Signature	Read the acknowledgments, responsibilities and authorizations, <i>before</i> signing. <i>(CPA or Attorney Only)</i>
9. Title	Identify as applicable Certified Public Accountant (CPA) or Attorney
10. State/License No.	Enter applicable State you are licensed to practice in, followed by your associated individual license number.
11. Date	Enter the signature date in month, day and year.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.asc.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9892. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

489 Determining 75 Percent Average Farm AGI (Continued)

B Definition of Average Farm AGI

Average farm AGI of a person or legal entity means income or benefits derived from the following sources.

Income Related to Livestock and Crops	Other Types of Income
Production of livestock, including but not limited to: <ul style="list-style-type: none"> • cattle, sheep, goats, swine • elk, reindeer, bison, deer • horses • poultry • fish and other aquaculture products used for food • honeybees. 	The sale of land that has been used for agriculture. The sale of easements and development rights to: <ul style="list-style-type: none"> • farmland, ranchland, or forestry land • water or hunting • environmental benefits.
The feeding, rearing, or finishing of livestock.	The rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights.
Products produced by or derived from livestock.	
Production of crops, specialty crops, and unfinished raw forestry products.	Any payment or benefit, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans.
The processing, packing, storing, shedding, and transporting of farm, ranch, and forestry commodities, including renewable energy.	Payments and benefits authorized under any program made applicable to payment eligibility and payment limitation rules.
	Production of farm-based renewable energy.
Any other activity related to farming, ranching, or forestry as determined by the Deputy Administrator.	
Any income reported on IRS Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to IRS.	
The sale of equipment used to conduct farm, ranch, or forestry operations and the provision of production inputs and services to farmers, ranchers, foresters, and farm operations, if the average farm AGI is at least 66.66 percent of the average AGI.	
Beginning in program year 2020, wages or dividends received from a “closely held” corporation IC-DISC, or legal entity comprised entirely of family members may be considered farm income when the legal entity is “materially participating” in farming, ranching, or forestry activities. “Materially participating” means more than 50 percent of the legal entity’s gross receipts for each tax year are derived from farming, ranching, or forestry sources. A *--representative of the legal entity must attach a certification to CCC-942 and/or FSA-510--* attesting that the legal entity “materially participates” in a farm, ranch, or forestry activity.	

489 Determining 75 Percent Average Farm AGI (Continued)**C Definition of Income From Fishing**

Income from fishing means income derived from catching, taking, harvesting, cultivating, or farming aquatic resources, such as fish, shellfish, crustacea, and other aquatic forms of animal or vegetable life, according to IRS Publication 595 or other applicable IRS instructions.

D Sources of Income Data

Income from farming, ranching, forestry operations, and related activities is:

- recorded on the IRS Schedule F, IRS Form 4835, or comparable form
- any other schedule as allowed by applicable IRS tax code to report farming, ranching, forestry operations, and related activity income
- reflected in and attached to IRS Form 1040 or other appropriate IRS income tax return filed by the person or legal entity with the IRS for tax purposes.

Income from fishing is:

- recorded on IRS Schedule C, or Schedule C-EZ, as allowed by applicable IRS tax code
- reflected in and attached to IRS Form 1040 or other appropriate IRS income tax return filed by the person or legal entity for IRS tax purposes.

E Source of Income

Pass-through income received by a person from an interest held in a legal entity may be considered income from farming, ranching, or forestry if all of the following are met:

- the legal entity is a subchapter-S corporation or similar legal entity in which all the income passes through to the interest holders
- a person who is an interest holder reports income received from the legal entity as income from farming, ranching, or forestry to the IRS
- the legal entity is primarily engaged in farming, ranching, or forestry activities.

489 Determining 75 Percent Average Farm AGI (Continued)

F Wages and Dividends

Beginning in program year 2020, wages or dividends may be considered income from farming, ranching, or forestry only **if** received from any of the following legal entities.

- IC-DISC materially participating in a farming, ranching, or forestry activity. The dividend must be derived from sources identified to be from farming, ranching, or forestry.

Note: IC-DISC is a domestic corporation that has elected to be IC-DISC according to IRS code. The corporation must be organized under the laws of a State and must meet specific IRS requirements to qualify as IC-DISC. The IC-DISC dividend is derived from the sale of exported products. Special provisions in the tax code reclassifies the income from ordinary income to dividends to obtain a preferential capital gains tax rate on the income. This provision in the tax code was enacted to make U.S. exporters competitive with other countries that had much lower corporate tax rates.

- A “closely held” legal entity materially participating in a farming, ranching, or forestry activity.

Note: A “closely held” legal entity is described as owned, directly or indirectly, by 5 or fewer individual persons holding more than 50 percent ownership interest in the legal entity structure.

Example: ABC corporation is comprised of 100 stockholders. Five or fewer stockholders must own more than 50 percent of ABC Corporation (directly or indirectly) to be considered a “closely held” legal entity.

- A legal entity comprised entirely of family members as described in 5-PL, paragraph 213, when the legal entity is materially participating in a farming, ranching, or forestry activity.

Materially participating means more than 50 percent of the legal entity’s gross receipts for each tax year in the 3-year period used to compute the average farm AGI are derived from farming, ranching, or forestry sources described in 5-PL, paragraph 312.

The producer **must** provide the legal entity’s name and TIN from which the wage or dividend is received. An authorized representative of the legal entity **must** provide a signed statement attesting that the legal entity materially participated in a farming, ranching, or forestry activity in each of the 3 years used to compute the average farm AGI.

Example: “I, [First Name Last Name], am an authorized representative of [Name of Legal Entity] and certify that more than 50% of the corporate’s annual gross receipts are derived from farming, ranching, or forestry activities for each year in the 3-year base period used to calculate the farm AGI. [signature, date]”

*--**Note:** The certification must be attached to CCC-942 and/or FSA-510, as applicable.--*

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
CCC-933	Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information (For the 2013 crop, program, and fiscal years only.)		470, 478, Ex. 16, 19
CCC-941	Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information	478	Text, Ex. 16, 19, 20, 22
CCC-942	Certification of Income From Farming, Ranching and Forestry Operations	489	
CRP-1	Conservation Reserve Program Contract		35, 468, 469, 470, Ex. 16
CRP-1F Addendum	CRP-1 Modification to Extend the Contract Expiration Date for ____ Years		Ex. 16
FSA-211	Power of Attorney		478
FSA-510	Request for an Exception to the \$125,000 Payment Limitation for Certain Programs		489
FSA-892	Request for an Exception to the 2017 WHIP Payment Limitation of \$125,000	489	
FSA-896	Request for an Exception to the WHIP+ Payment Limitation of \$125,000	489	
I-551	Permanent Resident Card/Resident Alien Card	335	113, 205, 207, 225, 311, 336, 337, Ex. 2
IRS Form 990	Return of Organization Exempt From Income Tax		112
IRS Form 990-T	Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))	Ex. 17	472
IRS Form 1040	U.S. Individual Income Tax Return	Ex. 17, 18	467, 468, 472, 486, 488, 489
IRS Form 1041	U.S. Income Tax Return for Estates and Trusts	Ex. 17	472
IRS Form 1065	U.S. Return of Partnership Income	Ex. 18	472, Ex. 17
IRS Form 1120	U.S. Income Tax Return for an S Corporation	Ex. 17, 18	472
IRS Form 1120S	U.S. Income Tax Return for an S Corporation	Ex. 17, 18	472
IRS Notice 1398	UD Department of Agriculture Form CCC-941 Consent to Disclosure of Tax Information - Individual and Legal Entity	Ex. 21	477
IRS Form 2848	Power of Attorney and Declaration of Representative		478

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
IRS-3210	Document Transmittal	Ex. 20	477
IRS Form 4562	Depreciation and Authorization	Ex. 18	
IRS Form 4835	Farm Rental Income and Expenses		489

Abbreviations Not Listed in 1-CM

The following abbreviations are **not** listed in 1-CM.

Approved Abbreviation	Term	Reference
AMA	Agricultural Management Assistance	36, 465, 466
ARC	Agricultural Risk Coverage	Text
AWEP	Agricultural Water Enhancement Program	466
CPA	Certified Public Accountant	Part 8, Ex. 24
CSP	Conservation Stewardship Program	36, 465, 466, 488
EIN	employer identification number	177, 220, 271, 284, 477, Ex. 2
EYR	end-of-year review	Text, Ex. 2
EYRT	end-of-year review tracking	414, 450-454, Ex. 2
IC-DISC	Interest Charge International Sales Corporation	489
IRA	individual retirement account	284, 285
LLP	limited liability partnership	3, 63, 92, 258-260, 468, 472, Ex. 17
LP	limited partnership	3, 63, 257-260, 311, 472, Ex. 2, 17
MLG	marketing loan gain	3, 465, 488
MFP	Market Facilitation Program	465, 489
PLC	Price Loss Coverage	Text

Delegations of Authority

This table lists delegations of authority in this handbook.

Delegation	Reference
Making Determination Decisions	*--23
Monitoring Determinations	23--*