April 6, 2009

Mr. Dan McGlynn, Acting Director
Production, Emergencies and Compliance Division
FSA, U.S. Department of Agriculture (USDA)
Stop 0517, Room 4754
1400 Independence Ave., SW.
Washington, DC 20250-0517

Submitted via rulemaking website at http://www.regulations.gov

Re: Comment on Farm Program Payment Limitation Rule, Federal Register, Vol. 74, No. 23, February 5, 2009

Dear Mr. McGlynn,

The Izaak Walton League of America is a private, non-profit conservation organization that for more than 85 years has supported strong federal conservation policies on private lands, especially agricultural lands. Our nationwide membership lives, works and recreates in rural communities. We have a decades-long record of support for farm families and collaborative efforts to achieve conservation that sustains agriculture, habitat, and all natural resources.

As stated in our comprehensive report produced for the most recent Farm Bill process, "*The 2007 Farm Bill: Stewardship, Prosperity, and Fairness*," the League recognizes that fairness in the federal farm program is at the crux of our efforts to support stewardship and prosperity in rural America:

> *We know that farm policy, both as it is assembled in Congress and as it is delivered on the ground, is incredibly diverse but entirely interdependent. We cannot expect significant success if we deal with only one part of farm policy, such as conservation, while ignoring others, such as rural economic development and production payments. To develop effective farm policy, it is vital that we recognize the impacts of the policy on the nation as a whole.*[1]

[1] Redlin, Gupta, and Wiegand. 2007. *The 2007 Farm Bill: Stewardship, Prosperity, and Fairness*. Izaak Walton League of America. http://www.iwla.org/publications/agriculture/Farm_Bill_2007_WEB.pdf

Introduction:

The Izaak Walton League of America has a decades long history of engaging congress, constituents, and USDA in the arena of federal policy regarding agricultural production. Reform of the Commodity Title payment rules was integral to our advocacy on last year's Farm Bill, and closing loopholes exploited for excessive payments was our top priority. Before a bill had even been drafted, our report identified the necessity for reforming the definition of actively engaged in agriculture, "Exploiting the definition of 'actively engaged' with the intent to defraud is hard to establish when someone, asserting simple investor status, can claim to be providing management merely by joining a conference call to discuss what crop should be planted next spring."

Comments:

A strong and effective definition for "actively engaged in agriculture" remains a necessity for the League's goals, the integrity of the federal farm program, and the well-being of rural America. The Government Accountability Office (GAO) detailed this necessity, as again cited in our Farm Bill report:

> **USDA Needs to Strengthen Regulations and Oversight to Better Ensure Recipients Do Not Circumvent Payment Limitations**
>
> *Government Accountability Office GAO-04-407*
>
> USDA's regulations to ensure recipients are actively engaged in farming do not specify a measurable standard for what constitutes a significant contribution of active personal management. By not specifying such a measurable standard, USDA allows individuals who may have limited involvement with the farming operation to qualify for payments. According to GAO's survey of USDA's compliance reviews, about 99 percent of payment recipients asserted they met eligibility requirements through active personal management. USDA's regulations lack clarity as to whether certain transactions and farming operation structures that GAO found could be considered schemes or devices to evade, or that have the effect of evading, payment limitations. (http://www.gao.gov/new.items/d04407.pdf)

The problem is clear and we urge you to correct it by requiring that those who qualify solely by providing active personal management, and no personal labor, must then:

- Provide at least half of the total management required to run the farm; or
- At least half of the total management that would be necessary to conduct a farming operation commensurate in size with his/her requisite share of the operation.

These simple and appropriate requirements for establishing active engagement in a farm operation will close the especially egregious loophole that presently stands as the easiest way to exploit USDA payments.

Conclusion:

Loopholes that allow for manipulating and avoiding limits on production payments must be closed. Effective actively-engaged rules will combat the misplaced incentive for multiplying payments to single farming operations. Lack of an effective rule provides no public benefit to rural America and only enables cheating the American taxpayer. In addition, closing commodity payment loopholes is supported by a large majority of farmers themselves.[2]

The Izaak Walton League of America supports the changes and clarifications to the actively engaged in agriculture rule we have detailed above. We thank you for your consideration of these comments. Please direct any inquiries regarding this submission to Brad Redlin, IWLA Agricultural Program Director, bredlin@iwla.org, (651) 649-1446 ext. 13.

Sincerely,

Brad Redlin
Izaak Walton League of America
Agricultural Program Director
1619 Dayton AVE, STE 202
St. Paul, MN 55104

[2] Lubeen. 2006. *Agriculture, Food and Public Policy Preference Survey*. Oak Brook, IL: Farm Foundation. http://www.farmfoundation.org/projects/06-02ProducerSurvey.htm