FSA
HANDBOOK

Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income

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For State and County Offices

SHORT REFERENCE

4-PL

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

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Farm Service Agency
Washington, DC 20250

Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income 4-PL	**Amendment 1**

Approved by: Acting Deputy Administrator, Farm Programs

Amendment Transmittal

A Reason for Issuance

This handbook has been issued to provide payment eligibility, payment limitation, and average AGI policy and procedure based on provisions of the Food Security Act of 1985, as amended by the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246), and other discretionary changes made by regulation.

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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 the 2009 and subsequent crop years, program years, and FY's.

B Related Handbooks

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

IF the questions or concern is about….	THEN see…
acreage compliance determinations	2-CP.
appeals	1-APP.
audits and investigations	9-AO.
claims and withholdings	58-FI.
common land units	8-CM.
common management and operating procedures	1-CM.
cotton price support payments	7-CN.
crop disaster assistance	5-DAP.
CRP	1-CRP and 2-CRP.
DIPP	3-LD.
direct and counter-cyclical payments	1-DCP and 2-DCP.
directives management	1-AS.
ECP	1-ECP.
farm, tract, and crop data	3-CM.
finality rule and equitable relief	7-CP.
grain and oil seeds 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…
honey price support programs	2-LP Honey.
lamb meat adjustment assistance program	10-LD.
livestock assistance programs	4-DAP.
marketing assistance price support programs	8-LP.
milk income loss contract programs	11-LD.
noninsured crop disaster assistance	1-NAP.
peanut price support programs	2-LP Peanuts.
person determination for 2008 prior years payment limitation	1-PL.
quality control	1-COR.
record operations	25-AS.
rice price support programs	2-LP Rice.
special programs and trade adjustment assistance	1-SP and 1-TAP.
State and County organization and administration	16-AO.
subsidiary files	2-PL.
web-based subsidiary files	3-PL.

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 1001 D, as amended.

B Regulatory Reference

Authority for administering payment eligibility and payment limitation provisions is provided by 7 CFR Part 1400. References from CFR applicable to each paragraph will be provided and updated through amendments.

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 N.

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 such lands were farmed primarily in the direct furtherance of a public function.

C 7 CFR Part 795

7 CFR Part 795 provided:

- the definition of person
- the provisions for determining whether multiple persons or other entities constitute 1 or separate persons
- the provisions for changes in farming operations
- the provisions for determining whether an agreement is a share lease or a cash lease
- the 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.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

E Food and Agriculture Act of 1977

The Food and Agricultural Act of 1977 extended and amended the payment limitation provisions to require that the amount of payments that a person could be entitled to receive under the:

- 1978 wheat, feed grains, and upland cotton programs could **not** exceed $40,000
- 1978 rice programs could **not** exceed $52,250
- 1979 wheat, feed grains, and upland cotton programs could **not** exceed $45,000
- 1979 rice program could **not** exceed $50,000
- 1980 and 1981 wheat, feed grains, upland cotton, and rice programs could **not** exceed $50,000.

F Agriculture and Food Act of 1981

The Agricultural and Food Act of 1981 extended and amended the payment limitation provisions to require that the:

- amount of payments that a person was entitled to receive under the 1982 through 1985 wheat, feed grains, upland cotton, and rice programs could **not** exceed $50,000
- total amount of disaster payments that a person was entitled to receive for wheat, feed grains, upland cotton, and rice could **not** exceed $100,000 for each of the 1982 through 1985 crops.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

G Food Security Act of 1985

The Food Security Act of 1985:

- extended and amended the payment limitation provisions
- required that the term payments **not** include the following:
    - MAL's
    - LDP's
    - NL ("Findley") payments.

H Omnibus Budget Reconciliation Act of 1987

The Omnibus Budget Reconciliation Act of 1987 amended the Food Security Act of 1985 to:

- define person
- provide that a State, political subdivision, and agencies thereof were to be considered 1 person
- provide that a husband and wife could be separate persons if the husband and wife could show that each spouse brought separate farming operations into the marriage and had maintained separate farming operations throughout the marriage
- include cash-rent tenant provisions that combined the cash-rent tenant with the landowner in certain situations
- require that producers be "actively engaged in farming" to be eligible for specific payments
- limit payment to foreign persons
- limit the creation of entities to qualify as separate persons for payments.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

I Disaster Assistance Act of 1988

The Disaster Assistance Act of 1988 established payment limitation provisions for LFP.

J Pub. L. 99-198

Pub. L. 99-198, dated November 13, 1989, amended the cash-rent tenant provisions of the Food Security Act of 1985 for:

- 1989, to provide relief in cases where the cash-rent tenant provisions had been violated and the landowner did **not** consent to or knowingly participate in the cash-rent tenants failure to meet the cash-rent tenant provisions

- 1990, to **no** longer require that the landowner and cash-rent tenant be combined.

  Note: Instead, the cash-rent tenant is determined ineligible for payment if the cash-rent tenant provisions are **not** met.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

K The Food, Agriculture, Conservation, and Trade Act of 1990

The Food, Agricultural, Conservation, and Trade Act of 1990 extended and amended the provisions of the Omnibus Budget Reconciliation Act of 1987 to provide:

- a total $75,000 limitation on “Findley” payments, MLG’s, and LDP’s, excluding honey
- a $200,000 limitation on honey MLG’s and LDP’s
- a $200,000 limitation on honey loan forfeiture
- separate limitations for wool and mohair payments of:
  - $200,000 for the 1991 marketing year
  - $175,000 for the 1992 marketing year
  - $150,000 for the 1993 marketing year
  - $125,000 for the 1994 and subsequent marketing years
- the Secretary discretionary authority to implement a rule allowing husbands and wives to be considered separate persons if certain requirements were met
- greater scrutiny of irrevocable trusts
- initial determinations be made by State Offices for farm operations consisting of 6 or more persons.

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

L The Federal Agriculture Improvement and Reform Act of 1996

The Federal Agriculture Improvement and Reform Act of 1996 amended the provisions of the Food Security Act of 1985 to:

- provide a $40,000 limitation per FY on the total of SL payments made to a person under 1 or more PFC's
- provide a $50,000 limitation on the total of NL payments made to a person under 1 or more PFC's (this limitation applied to the 7-year life of PFC)
- provide a $75,000 limitation on the amount of LDP's and MLG's a person may receive
- apply the payment eligibility and payment limitation requirements and restrictions of the 1985 Act to payments made under LDP's, MLG's, and PFC's.

M The Farm Security and Rural Investment Act of 2002

The Farm Security and Rural Investment Act of 2002 amended the provisions of the Food Security Act of 1985 to provide a:

- $40,000 limitation per crop year on the total direct payments made to a person under 1 or more CCC-509's on covered commodities other than peanuts
- separate $40,000 limitation per crop year on the total direct payments for peanuts made to a person under 1 or more CCC-509's
- $65,000 limitation per crop year on the total counter-cyclical payments made to a person under 1 or more CCC-509's on covered commodities
- separate $65,000 limitation per crop year on the total counter-cyclical payments for peanuts made to a person under 1 or more CCC-509's

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

M The Farm Security and Rural Investment Act of 2002 (Continued)

- $75,000 limitation per crop year on the amount of LDP's and MLG's for loan commodities other than peanuts, wool, mohair, and honey

- separate $75,000 limitation per crop year on the amount of LDP's and MLG's for peanuts, wool, mohair, and honey

- $2.5 million average AGI limitation as an eligibility requirement for a person and entity to receive any benefits listed above and benefits from all conservation programs administered by USDA.

N The Food, Conservation, and Energy Act of 2008

The Food, Conservation, and Energy Act of 2008 amended the provisions of the Food Security Act of 1985 and resulted in the following:

- person now means a natural person (individual) and does **not** include a legal entity

- legal entity now means an entity created under Federal or State law that owns land or an agricultural commodity, product, or livestock

- if ownership interest in land or commodity is transferred because of the death of a program participant and the new owner succeeds to the contract of the prior owner, the new owner, if otherwise eligible, may receive payments the previous owner would have been entitled to receive under the contract, even if receiving the payments results in total payments in excess of the applicable limitation

- payments are limited by direct attribution (Exhibit 4) to persons and legal entities

- the permitted entity rule was **repealed**; payments can be received through any number of legal entities with **no** designation required

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

N The Food, Conservation, and Energy Act of 2008 (Continued)

- spouses have separate payment limitations

- program payments issued to a minor child are attributed to the parents

- States, local government, political subdivisions, and agencies thereof, are **no** longer eligible for payments, **except** for direct, counter-cyclical, and ACRE payments earned on State-owned land that is used to support public schools; under this exception, total program payments are limited to $500,000 annually

  Note: If the State has a population of less than 1.5 million, total program payments are **not** limited.

- a program participant may be ineligible for all program payments for up to 5 years if fraud is determined

- for commodity programs (including DCP, price support, NAP, and disaster assistance programs), AGI limitation for eligibility was changed to an average nonfarm AGI of $500,000

  Note: If average farm AGI exceeds $750,000, the participant is **not** eligible for direct payments.

- for conservation programs, an average nonfarm AGI of $1 million or less applies

  Note: If the average nonfarm AGI exceeds $1 million, the participant may be eligible if at least 66.66 percent of the average AGI is derived from farming, ranching, and forestry operations, as defined; however, the AGI limitation may be waived on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

- the definition of income from farming, ranching, or forestry operations was expanded to include the following:

  - producing fish and aquaculture for food
  - packing, processing, shedding, storing, and transporting agricultural commodities
  - producing livestock products
  - farm-based production of renewable bio-energy
  - providing operational inputs to farmers, ranchers, and foresters

3 Legislative History of Payment Eligibility and Payment Limitation Provisions (Continued)

N The Food, Conservation, and Energy Act of 2008 (Continued)

- the 3-year period for calculating an average AGI is the 3 taxable years preceding the most immediately preceding complete taxable year for which program benefits are requested

- a $40,000 limitation per crop year applies to direct payments made, directly or indirectly, to a person or legal entity under 1 or more CCC-509's on covered commodities

- a separate $40,000 limitation per crop year applies to direct payments for peanuts made, directly or indirectly, to a person or legal entity under 1 or more CCC-509's

- a $65,000 limitation per crop year applies to counter-cyclical payments made, directly or indirectly, to a person or legal entity under 1 or more CCC-509's on covered commodities

- a separate $65,000 limitation per crop year applies to counter-cyclical payments made, directly or indirectly, to a person or legal entity under 1 or more CCC-509's on peanuts

- no limitations apply to LDP's or MAL's on loan commodities, including honey, mohair, peanuts, and wool

- a $100,000 limitation per crop year applies to the total payments made, directly or indirectly, to a person or legal entity under NAP.

4-10 (Reserved)

Part 2 General Provisions

Section 1 Program Availability

11 Applicable Programs

A General Applicability

[7 CFR 1400.1 (a) and (b)] This table provides the rules in this handbook that apply to USDA-administered programs.

Program or Payment	Applicable Rules				
	Actively Engaged in Farming	Cash-Rent Tenant	Direct Attribution	Foreign Person	AGI
Conservation Programs					
AWEP			X		X
CBWP			X		X
CCPI			X		X
CRP	X	X	X	X	X
CSTP			X		X
EQIP			X		X
FRPP			X		X
GRP			X		X
WHIP			X		X
WRP			X		X
DCP/ACRE Payment	X	X	X	X	X
Disaster Assistance Programs					
ELAP			X		X
LFP			X		X
LIP			X		X
NAP (2009-12)			X		X
SURE			X		X
TAP			X		X
Price Support Programs					
LDP's				X	X
Loans				X	
MILC			X	X	X
MLG's				X	X
Other					
AMA			X		X

Note: Foreign persons are ineligible for payment under certain programs. The procedure for these programs reference the definition of foreign person provided in 4-PL, Part 3. However, the foreign person rule, as provided in Part 3, **only** applies to the programs or payments listed in this table.

11 Applicable Programs (Continued)

B Programs Not Requiring Actively Engaged in Farming Determinations

[7 CFR 1400.1 (b) and 1400.6] If a program requires payments to be limited by direct attribution (Exhibit 4), but **not** actively engaged in farming determinations, the following are **required** to be eligible for payments or benefits:

- claimed share of the profits or losses of the farming operation **must** be commensurate with the contributions to the farming operation

- contributions **must** be at risk.

12 Specific Rules for MAL's and MLG's

A Foreign Person Requirements

[7 CFR 1400.1 (a) (2)] Regular MAL's are denied if the producer does **not** meet the foreign person requirements in Part 3.

B AGI Provisions

LDP's and MLG's are subject to the AGI provisions of this handbook.

13 Specific Rules for CRP

A Applicability of this Handbook

The provisions in this handbook apply to participants with CRP-1's approved on or after October 1, 2008.

B Applicability of 1-PL

Persons and entities with CRP-1's that are **not** subject to the provisions of this handbook are subject to the provisions of 1-PL.

14 Payment Limits

A Person or Legal Entity Payment Limitations

[7 CFR 1400.1] This table contains the applicable limitations for a person or legal entity for programs that are subject to provisions of this handbook.

Program Payment Type	Limitation (in Dollars)			
	2009	2010	2011	2012
Commodity Programs				
Counter-cyclical and ACRE payments on covered commodities **except** peanuts.	65,000 **1/**			
Counter-cyclical and ACRE payments on peanuts.	65,000 **1/**			
Direct payments on covered commodities **except** peanuts.	40,000 **2/**			
Direct payments on peanuts.	40,000 **2/**			
Conservation Programs				
CRP annual rental payment.	50,000			
CSTP (all contracts for FY 2009-2012).	200,000			
EQIP (all contracts for FY 2009-2012).	300,000			
GRP	50,000			
WHIP	50,000			
WRP	50,000			
Disaster Assistance Programs				
ELAP, LFP, LIP, and SURE	100,000			
NAP	100,000			
TAP	100,000			
LDP, MAL, and MLG	No limits			

1/ 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 participating in ACRE, this limitation will reflect an increase for the amount that the direct payments were reduced.

2/ 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.

15-20 (Reserved)

21 Annual Notice to Producers

A When to Provide Information

Annually advise all producers of the payment eligibility and payment limitation requirements in this paragraph. Use a newsletter and all other practical means available.

Note: It may be appropriate to provide the information in subparagraph B more than once during a calendar year, if there is more than 1 program operating in the county for which the rules in subparagraph B apply (Exhibit 4).

B Information to Provide

Notify producers, at **least** annually, of the following:

- payments and benefits under certain programs are subject to some or all of the following:
  - payment limitation by direct attribution
  - payment limitation amounts for the applicable programs
  - actively engaged in farming requirements
  - cash-rent tenant rule
  - foreign person rule
  - average AGI limitations
- no program benefits subject to limitation will be provided until:
  - **all** required forms for the specific situation are provided
  - necessary payment eligibility and payment limitation determinations are made

21 Annual Notice to Producers (Continued)

B Information to Provide (Continued)

- payment eligibility and payment limitation determinations may be initiated by COC or requested by the producer

- after 2009, a farm operating plan is **not** required to be filed annually, if the farming operation continues to be conducted as reflected on the farm operating plan and supporting documents are on file in the County Office

- if any changes occur that could affect an actively engaged in farming, cash-rent tenant, foreign person, or average AGI determination, producers **must** timely **not**ify the County Office by filing revised farm operating plans and/or supporting documentation, as applicable

  Note: Failure to timely notify the County Office may adversely affect payment eligibility.

- there are statutory provisions that require entities, earning program benefits that are subject to limitation, to provide the names, addresses, and TIN's of the entities' members to COC

- all applicable payment eligibility and payment limitation forms submitted by producers are subject to spot check through the end-of-year review process

  Note: Explain what information the producer **must** provide to COC.

- a determination of **not** actively engaged in farming results in the producer being ineligible for any payment or benefit requiring a determination of actively engaged in farming

- noncompliance with AGI provisions, either by exceeding the applicable limitations or by failure to submit a certification statement, will result in the determination of ineligibility for **all** program benefits subject to AGI provisions; program benefits shall be reduced in an amount that is commensurate with the direct and indirect interest held by an ineligible person or legal entity in any legal entity, general partnership, or joint operation that receives benefits subject to the average AGI limitations.

22 Public Information and Casual Advice

A Providing Information to the Public

Provide applicable pages from this handbook to any producer who requests information on any program provisions about payment eligibility, payment limitation, and average AGI compliance determinations.

B Casual Advice Rule

Casual advice shall **not** be given on:

- possible determinations
- how to set up a farming operation to obtain additional payments.

23-30 (Reserved)

Section 3 Producer Filing Requirements

31 Filing Requirements

A If 1 or More Producers Fail to File

[7 CFR 1400.2 (e)] If 1 or more producers on a contract or application for benefits fail to file the applicable CCC-902, CCC-926, and related forms, the producers **not** filing the applicable forms will be ineligible to receive program benefits subject to eligibility and limitation from that contract or application.

This failure to file will **not** affect the eligibility of other producers who meet all filing requirements.

Note: Shares **cannot** be adjusted to circumvent the ineligibility of the producer who failed to file the applicable forms and related documentation.

31 Filing Requirements (Continued)

B Forms and Updates

For 2009, **all** participants in programs subject to the provisions of this handbook are required to submit a completed CCC-902, CCC-926, and CCC-901, if applicable, for payment eligibility and payment limitation purposes.

A valid CCC-902 and, if applicable, CCC-901 filed by the producer are considered to be continuous certifications used for all payment eligibility and payment limitation determinations applicable for the program benefits requested.

Producers are **not** required to annually submit new CCC-902's or CCC-901's for payment eligibility and payment limitation purposes unless a change in the farming operation occurs that may affect the determination of record.

Producers have the responsibility to:

- ensure that all CCC-902's, CCC-926's, and related forms on file in the County Office are correct at all times
- timely notify the County Office of any changes in the farming operation that may affect the determinations of record by filing a new or updated CCC-902 or CCC-901, as applicable.

Changes that may affect the determinations include, but are **not** limited to, a change of:

- shares of a contract, which **may** reflect:
  - a land lease from cash-rent to share-rent
  - a land lease from share-rent to cash-rent

    Note: The producer would be subject to the cash-rent tenant rule.
  - a modification of a variable/fixed bushel-rent arrangement
- the size of the producer's farming operation by the addition or reduction of cropland that may affect the application of a cropland factor
- the structure of the farming operation, including any change in the member's shares

31 Filing Requirements (Continued)

B Required Updates (Continued)

- the contributions of farm inputs of capital, equipment, active personal labor, or active personal management

- the acquisition of farming interests **not** previously disclosed on CCC-902, including the farming interests of a spouse or minor child

- financial status that may affect the 3-year average for the determination of average AGI or other change that affects eligibility under the average adjusted income limitation.

C Documenting Changes

Changes to a farming operation may be documented on 1 of the following, depending upon the nature and extent of the changes:

- a photocopy of the previously filed CCC-902

  Note: The producer should initial and date **each** change.

- CCC-902 Continuation

  Note: CCC-902 Continuation may be used to document changes affecting owned or leased land in the producer's farming operation.

- a new CCC-902

- a new CCC-901, if membership in an embedded entity changes.

If changes are documented using CCC-902 photocopy or CCC-902 Continuation, the CCC-902 photocopy or CCC-902 Continuation shall **also** be signed and dated by the producer.

Note: If a new CCC-902 is submitted:

- applicable determinations **must** be made and the producer notified according to Part 7

- flag the producer as "awaiting determination" according to 3-PL, subparagraph 25 C until all determinations are finalized.

32 Documentation

A Introduction

This paragraph provides guidelines on documentation needed to support COC determination.

B Adequate Documentation

COC shall require adequate documentation to support the applicable CCC-902 and CCC-926.

Definition: Adequate documentation means whatever documentation is required by the reviewing authority to make proper actively engaged in farming, attribution, and average AGI compliance determinations.

C Documentation Not Required

The reviewing authority should avoid requiring documents that are extremely personal if the determination can reasonably be made without the documents. COC may:

- accept documents with redacted information that is **not** relevant to the actively engaged in farming and average AGI determinations
- accept income tax returns to make the determination if **voluntarily** provided by the producer
- request income tax returns to verify compliance with all average AGI limitations.

D Lease Information

It is **not** anticipated that amounts paid for land leases or equipment leases will be needed unless the equipment or land is leased from another member with an interest in the farming operation.

32 Documentation (Continued)

E Documentation That May Be Used

Supporting documents may include legal documentation about:

- corporations

  Note: Copies of the Articles of Incorporation are **required**. Copies of stock certificates are optional, but may be requested for verifying shares and shareholders.

- financial agreements, including letters of credit
- land and equipment leases
- land ownership
- operating agreements
- partnerships
- trusts

  Note: A copy of the trust agreement **must** be provided by the trust unless the trust is revocable.

- any other information, including income tax returns, needed to apply the payment eligibility and payment limitation rules.

32 Documentation (Continued)

F Scrutiny of Trusts

All trusts that receive payments shall be carefully scrutinized to ensure that the trusts are legitimate legal entities and have **not** been created solely for evading payment limitation provisions.

County Offices shall:

- require trusts to provide a copy of the trust agreement unless the trust is a revocable trust

  Note: A copy of the trust agreement for a revocable trust may be necessary to establish signature authority.

- determine whether provisions are included in the trust agreement that would require the trust to be considered a revocable trust according to paragraph 166.

G Determination Deadline

Additional information may be requested at COC's option. However, this will **not** extend the 60-calendar day period for making a determination. If the file, as submitted by the producer, does **not** support a favorable finding, COC shall make a determination based on the file as it exists.

H Returning Documentation

Any legal documentation obtained should be returned to the producer as soon as possible. Keep photocopies for the payment limitation file if needed to support COC's determination.

33 FLP Participants

A Information Exchange

The farm loan manager or appropriate farm loan staff shall be provided copies of the following information on any program participant that is also an FLP borrower:

- submitted CCC-901
- new or updated CCC-902 and supporting documentation submitted
- the resultant CCC-903
- written notice of determination for payment eligibility and payment limitation purposes
- written notice of selection for end of year review for payment eligibility and payment limitation compliance purposes
- written notice of **any** determination that may adversely affect payment eligibility and payment limitation.

Note: This includes all farming interests of the FLP borrower, whether as a person, member, or interest holder in a legal entity or joint operation.

B Discrepancies

If representations made for program payment eligibility/limitation purposes and representations made for FLP purposes are found to be different, **and** have the appearance of adversely affecting payment eligibility or the application of any determination previously made, the discrepancies shall be resolved:

- by the program participant/FLP borrower to the satisfaction of COC and FLP reviewing authority
- **before** any further disbursement of **any** program benefits subject to the regulations at 7 CFR Part 1400 and provisions of this handbook.

34 General Form Requirements

A Availability

All forms required to be filed by a producer are available:

- at the local County Office or Service Center
- online at **http://intra3.fsa.usda.gov/dam/ffasforms/forms.html** or **http://www.sc.egov.usda.gov**
- through the authorized use of FSA's approved spreadsheet package available at **http://intranet.fsa.usda.gov/dafp**.

B CCC-901 and CCC-902 Requirements

This table provides an overview of CCC-901 and CCC-902 requirements.

IF the participating producer is...	THEN require...	Paragraph Reference
a person	CCC-902I	130
a general partnership or joint venture	• CCC-901 • CCC-902E.	99
a corporation, LLC, LLP, LP, association, or any other similar legal entity		149
an estate		158
a trust		167

C CCC-902 Continuation

CCC-902 Continuation may be used:

- as a continuation sheet for leased or owned land
- to update a previously filed CCC-902 according to paragraph 31
- with CCC-902E and CCC-902I.

Note: A copy of AD-1026A, printed for the producer, may be used to record the land in the farming operation **only** with the addition of information on lease terms, rental rate, and whether the land interest was the same as previous year. Producer **must** sign and date AD-1026A **after** the information is added.

35-40 (Reserved)

41 Custom Farming

A Definition of Custom Farming

Custom farming means performing any field work, crop production handling, or related activity; such as crop harvesting, land preparation, or chemical application, for a producer on a fee for service basis; such as by the hour or per acre basis.

B Applicability

If a person, joint operation, or legal entity receives custom farming services:

- make actively engaged in farming determinations according to Part 4
- the ability to meet the cash-rent tenant provisions may be adversely affected on land that is cash-rented in the farming operation.

Note: The equipment used to perform the custom farming service **cannot** be considered a significant contribution of equipment toward meeting the actively engaged in farming requirements because the person, joint operation, or legal entity does **not** exercise complete control over this equipment.

42 Denial of Program Benefits

A Introduction

Detecting schemes, fraudulent representations, and other equally serious actions of persons and legal entities to circumvent payment eligibility and payment limitation provisions is **essential** for producer compliance.

This paragraph provides rules and guidelines for detecting and determining schemes or devices, fraudulent representations, and other actions to circumvent payment eligibility and payment limitation provisions. Determining actions to circumvent payment eligibility and payment limitation provisions by a person or legal entity may result in the person or legal entity being ineligible for program benefits for 2 to 5 years.

B Consequences of Scheme, Device, or Fraud Determination

When the reviewing authority determines that a person or legal entity:

- adopts a scheme or device designed to evade, or has the affect of evading, the payment eligibility and payment limitation provisions, the person or legal entity shall be **ineligible** for the crop year determined and the succeeding crop year for **all** program benefits subject to limitation

- perpetuates or commits fraud, or other equally serious actions, for the benefit of the person or legal entity, or for the benefit of any other person or legal entity, to circumvent any payment eligibility and payment limitation provision, the person or legal entity shall be **ineligible** for **5 years** for **all** program benefits subject to limitation.

42 Denial of Program Benefits (Continued)

C Detecting Schemes, Devices, and Fraudulent Activities

State and County Office personnel shall be aware of their responsibilities in detecting and reviewing suspected schemes or devices or other questionable activities. To assist in detecting, State and County Offices, as appropriate, shall:

- compare automated multi-County producer files with information reported on CCC-902's to identify unreported farming interests
- use other system-generated reports and queries to identify possible schemes or devices
- closely scrutinize joint operations having individual members who are also stockholders, members, etc., of a member entity
- request OIG's assistance through the State Office, as appropriate.

D Schemes or Devices

[7 CFR 1400.5] Acts, such as the following, may be considered a scheme or device:

- concealing information that affects the application of the payment limitation provisions
- submitting false or erroneous information
- creating fictitious entities to conceal interest of a person or legal entity in a farming operation.

Note: Fraudulent intent is **not** required for determining scheme or device.

42 Denial of Program Benefits (Continued)

E COC or STC Scheme or Device Determinations

This table provides required action **after** COC or STC determination.

IF COC or State Office determines...	THEN the...
a scheme or device was adopted to evade, or that had the purpose of evading, the provisions of this handbook	State or County Office, as appropriate, shall: • obtain DD concurrence of COC's determination **Note:** DD shall initial the determination in COC minutes. • notify **all** County Offices in which the scheme or device participants have an interest of the determination • notify the scheme or device participants of the determination • obtain a refund of **all** payments received by the scheme or device participants for the year in which the scheme or device was adopted • **not** make payments to the scheme or device participants in the succeeding year.
a scheme or device was **not** adopted to evade, or that had the purpose of evading, the provisions of this handbook	program participants may be eligible to receive program benefits if **all** other applicable requirements are met.

42 Denial of Program Benefits (Continued)

F Fraud or Equally Serious Activities

[7 CFR 1400.5] Acts, such as the following, may be considered fraud or the equivalent:

- knowingly engaged in, or aiding in, creating a fraudulent document
- failure to disclose information relevant to administering the payment eligibility and payment limitation provisions
- other actions of the person or legal entity determined by the Deputy Administrator to circumvent the payment eligibility and payment limitation provisions.

42 Denial of Program Benefits (Continued)

G COC or STC Fraud or Equally Serious Activity Determinations

This table provides the required actions after COC or STC determination.

IF COC or STC determines…	THEN the…
a program participant committed fraud, perpetuated a fraud, or initiated or participated in other equally serious actions to circumvent the payment limitation provisions	State or County Office, as appropriate, shall: • obtain DD concurrence of the COC's determination (DD **must** initial the COC minutes) • notify **all** County Offices in which the participants affected by this determination have an interest • issue written notification to **all** participants affected by the determination and the results of the determination • obtain a refund of **all** payments received by the participants affected by this determination for the year or years in which such activities were determined to have been perpetrated, including the pro rata share of program payments issued to the participants through interests held in any other legal entities and joint operations • deny **any** program payments, both directly and indirectly to the participants, under **any** program subject to the payment limitation provisions for a period of time **not** to exceed 5 years • deny **any** program payments, subject to the payment limitation provisions, to any person or legal entity that is a cash-rent tenant on land owned or controlled by the participants to which this determination applies for a period of time **not** to exceed 5 years.
fraud or other equally serious actions were **not** committed to circumvent the payment limitation provisions	program participants may: • **not** have their payment eligibility adversely affected for a period of time in excess of 2 years • be eligible for program payments and benefits under programs subject to limitation **only** if **all** other payment eligibility and payment limitation requirements have been met.

43 Joint and Several Liability

A Rule

Any legal entity, including joint ventures and general partnerships, and any member of a legal entity determined to have knowingly participated in a scheme or device, or any such other equally serious actions, to evade, or that has the purpose of evading, the payment limitation provisions shall be jointly and severally liable for amounts as follows:

- determined payable as the result of such actions
- necessary to recover the payments.

B Release

Any person or legal entity that cooperates with the Secretary to enforce the payment eligibility and payment limitation provisions may be partially or fully released from liability, as determined by the Executive Vice President, CCC.

C Other Applicable Statutes

FSA determined liability is in **addition** to any liability that may arise under a criminal or civil statute.

44 Two or More Rules Apply

A Rule

If 2 or more rules seem to be applicable, apply the rule that is **most** restrictive.

45-50 (Reserved)

Section 5 Farming Operations

51 Determining Farming Operations

A Definition of Farming Operation

A farming operation means a business enterprise engaged in producing agricultural products.

B Description of Farming Operation

A person's, legal entity's, or joint operation's farming operation consists of the acreage on all farms in all counties in which the person, legal entity, or joint operation has an interest in the agricultural products or proceeds from the agricultural products produced. This includes all acreage in which the person, entity, or joint operation is a producer, regardless of whether the acreage is:

- rented on a crop-share basis
- rented on a cash-lease basis
- owned by the producer.

Note: Exclude owned acreage that has been cash-rented to a cash-rent tenant, if the landowner has no interest in any crop or crop proceeds from the acreage for the year.

Exception: The farming operation of a landowner includes only the acreage owned by the landowner, if **both** of the following apply:

- land owned by different landowners is combined into 1 farm with other tracts so the claimed share of the crops or crop proceeds is proportionate to size and value of the land and CAB's contributed

- the landowner is **not** also a tenant on the farm.

C Multiple Farming Operations

A person or legal entity may have more than 1 farming operation if the person or legal entity has an interest in 1 or more joint operations. Each interest in a joint operation will be an additional farming operation for the person or legal entity.

51 Determining Farming Operations (Continued)

D Example 1, Farms Operated

This table shows the **farms operated** by Sam Brown.

Farm 1 Owner-Sam Brown Rental-None	**Farm 2** Owner-Pete Smith Rental-Crop share
Farm 3 Owner-Henry Black Rental-Crop share	**Farm 4** Owner-Two Buddies Partnership Partners: • Pete Smith • Henry Black Rental-Crop share

This table **defines** the farming operation of each person involved in this example.

IF the determination is for...	THEN the farming operation consists of...
Sam Brown	all farms.
Pete Smith	Farm 2.
Henry Black	Farm 3.
Two Buddies Partnership	Farm 4. **Note:** This is a second farming operation for Pete Smith and Henry Black.

Note: None of the persons or legal entities has any other farming interests.

51 Determining Farming Operations (Continued)

E Example 2, Tracts Operated

This table shows the **tracts operated** by Sam Brown.

Farm 9 **Tract 1** Owner-Sam Brown Rental-None	**Farm 9** **Tract 2** Owner-Pete Smith Rental-Cash lease
Farm 9 **Tract 3** Owner-Henry Black Rental-Cash lease	**Farm 9** **Tract 4** Owner-Two Buddies Partnership Partners: • Pete Smith • Henry Black Rental-Cash lease

This table **defines** the farming operation of each person involved in this example.

IF the determination is for...	THEN the farming operation consists of...
Sam Brown	all of the land in Farm 9.
Pete Smith	none of the land in Farm 9. **Note:** Pete Smith has no farming operation.
Henry Black	none of the land in Farm 9. **Note:** Henry Black has no farming operation.
Two Buddies Partnership	none of the land in Farm 9. **Note:** Two Buddies Partnership has no farming operation.

Note: None of the persons or legal entities has any other farming interests. All ownership tracts are combined as 1 farm, Farm 9.

51 Determining Farming Operations (Continued)

F Example 3, Tracts Operated

This table shows the **tracts operated** by Brown and Black Partnership. Both tracts have 100 acres of corn base acres. Sam Brown receives a pro rata crop share regardless of where the crop is planted.

Farm 10 **Tract 1** Owner-Sam Brown Rental-Crop Share Operator-Brown and Black Partnership	**Farm 10** **Tract 2** Owner-Brown and Black Partnership Rental-N/A

This table **defines** the farming operation of each person involved in this example.

IF the determination is for...	**THEN the farming operation consists of...**
Sam Brown	the acreage in tract 1 of Farm 10.
Brown and Black Partnership	Farm 10.

Note: None of the persons or legal entities has any other farming interests. Both ownership tracts are combined as 1 farm, Farm 10.

51 Determining Farming Operations (Continued)

F Example 4, Tracts and Farms Operated or Subleased

This table shows the **tracts and farms operated or subleased** by Sam Brown.

Farm 18 **Tract 5** Operator-Sam Brown Owner-Sam Brown Rental-N/A	**Farm 18** **Tract 6** Subleased to Bill Jones for cash Owner-Pete Smith Rental-Cash lease to Sam Brown
Farm 18 **Tract 7** Subleased to Richard Alexander for cash Owner-Henry Black Rental-Cash lease to Sam Brown	**Farm 19** Operator-Sam Brown Owner-Two Buddies Partnership Partners: • Pete Smith • Henry Black Rental-Crop share

This table **defines** the farming operation of each person involved in this example.

IF the determination is for...	THEN the farming operation consists of...
Sam Brown	the acreage in tract 5 of Farm 18 and all of Farm 19.
Bill Jones	the acreage in tract 6 of Farm 18.
Richard Alexander	the acreage in tract 7 of Farm 18.
Two Buddies Partnership	Farm 19.

Note: None of the persons or legal entities has any other farming interests. Pete Smith and Henry Black have no individual farming operation.

52 Interest in Farming Operations

A Examples of Interest in a Farming Operation

The following are considered interests in a farming operation:

- general partners of LP's when LP is a producer in the farming operation
- grantors of revocable trusts when the trust is a producer in the farming operation.
- landlords, including landowners, have an interest in the farming operation containing the acreage owned or leased, whether or **not** the landlord has an interest in the production or proceeds from the production
- landowners have an interest in the farming operation containing the land owned, whether or **not** the landowner has an interest in the production or proceeds from the production
- members of a joint operation when the joint operation is a producer in the farming operation
- producers who share in the production or proceeds of the production from the farming operation

52 Interest in Farming Operations (Continued)

B Examples of No Interest in a Farming Operation

The following are **not** considered interests in a farming operation:

- beneficiaries of trusts when the trust is a producer in the farming operation
- grantors of irrevocable trusts when the trust is a producer in the farming operation
- heirs to estates when the estate is a producer in the farming operation
- limited partners of LLP when LLP is a producer in the farming operation
- members of associations when the association is a producer in the farming operation
- stockholders in a corporation when the corporation is a producer in the farming operation
- trustees and personal representatives of trusts or estates when the trust or estate, respectively, is a producer in the farming operation.

C Most Restrictive Rule

Applying a more restrictive rule may apply if a person or legal entity has an interest in another person's or legal entity's farming operation.

53 Total Value of a Farming Operation

A Introduction

The total value of a farming operation **must** be computed when determining whether:

- the contributions made by the person or legal entity are significant
- contributions are commensurate with the claimed share of profits or losses from the farming operation.

B Definition

Total value of a farming operation means the total of the costs, excluding the value of active personal labor and active personal management that is contributed by a member of the farming operation, needed to carry out the farming operation for the year for which the determination is made.

53 Total Value of a Farming Operation (Continued)

C Example 1

The following is the **scenario** for this example.

Partnership ABC has 3 equal partners, A, B, and C. Partnership ABC farms 2,000 acres of cropland growing corn and various vegetables. All of the land that Partnership ABC farms has a rental value equal to $42 per acre.

Partner A contributes land with a total rental value of $24,000 to the partnership. Partner A cash-rents this land from a landowner with no interest in Partnership ABC's farming operation. Partner A's contributions to Partnership ABC also include equipment with a rental value of $12,000 and $12,000 of capital. None of Partner A's contributions are acquired as the result of a loan.

Partner B contributes land with a total rental value of $12,000 to the partnership. Partner B cash-rents this land from a landowner with no interest in Partnership ABC's farming operation. Partner B's contributions to Partnership ABC also include equipment with a rental value of $12,000 and $24,000 of capital. None of Partner B's contribution are acquired as the result of a loan.

Partner C contributes land with a total rental value of $12,000 to the partnership. Partner C owns this land. Partner C's contributions to Partnership ABC also include equipment with a rental value of $12,000 and $24,000 of capital. None of Partner C's contributions are acquired as the result of a loan.

Partnership ABC rents land from other landowners for a 1/3 share of the crop with a value of $36,000. Partnership ABC contributes owned equipment with a rental value of $21,000 and $99,000 of capital to the farming operation.

Each of the partners share equally in the labor and management of this farming operation and no additional labor or management is hired.

53 Total Value of a Farming Operation (Continued)

C Example 1 (Continued)

This table shows the **contributions** made by the partners and Partnership ABC and the total value of the farming operation.

	Land	Capital	Equipment	Labor	Management	Total
Partner A	24,000	12,000	12,000	Active	Active	48,000
Partner B	12,000	24,000	12,000	Active	Active	48,000
Partner C	12,000	24,000	12,000	Active	Active	48,000
Partnership ABC		99,000	21,000			120,000
Total	84,000 **1**/	159,000	57,000	0	0	300,000

1/ Includes the rental value of the land contributed by the share-rent landlord. Crop-share rent for the land is valued at $36,000.

The total value of the farming operation was **determined** as follows.

The rental value of all the land involved in this farming operation is $84,000. This rental value is derived by the following inputs:

- Partner A's contribution of cash-rented land with a value of $24,000
- Partner B's contribution of cash-rented land with a value of $12,000
- Partner C's contribution of owned land with a rental value of $12,000
- share-rented land with a value of $36,000 that is **not** attributed to any 1 partner or to the partnership.

Note: If land is owned, a rental value that is normal for the area **must** be used when determining its value.

53 Total Value of a Farming Operation (Continued)

C Example 1 (Continued)

The total amount of capital needed by this farming operation is equal to $159,000. This figure is arrived at by taking the total expenditures necessary to conduct this farming operation and subtracting any equipment and land costs that will be expended by the partnership. The capital is derived by the following inputs:

- Partner A's contribution of $12,000 of capital
- Partner B's contribution of $24,000 of capital
- Partner C's contribution of $24,000 of capital
- Partnership ABC's contribution of $99,000 of capital.

The rental value of all of the equipment used on this farming operation is $57,000. This rental value is derived by the following inputs:

- Partner A's contribution of owned equipment with a rental value of $12,000
- Partner B's contribution of leased equipment with a rental value of $12,000
- Partner C's contribution of owned equipment with a rental value of $12,000
- Partnership ABC's contribution of owned equipment with a rental value of $21,000.

Note: If equipment is owned, a rental value that is normal for the area **must** be used when determining its value.

Each partner is equally providing active personal labor and active personal management; therefore, no value is affixed to these contributions in determining the total value of the farming operation.

The total value of this farming operation is equal to $300,000.

53 Total Value of a Farming Operation (Continued)

D Example 2

The following is the **scenario** for this example.

Partnership ABC has 3 equal partners, A, B, and C. Partnership ABC farms 1,500 acres of cropland growing cotton and soybeans.

Partner A contributes land with a total rental value of $5,000 to the partnership. Partner A cash-rents this land from a landowner with no interest in Partnership ABC's farming operation.

Partner B contributes land with a total rental value of $5,000 to the partnership. Partner B cash-rents this land from a landowner with no interest is Partnership ABC's farming operation.

Partner C contributes land with a total rental value of $5,000 to the partnership. Partner C owns this land.

Partnership ABC contributes land with a total rental value of $69,000 to the farming operation. Partnership ABC owns this land. Partnership ABC contributes owned equipment with a rental value of $57,000 and $159,000 of capital to the farming operation. The capital is borrowed from a local bank and is **not** secured by any of the partners individually.

Partnership ABC will hire all of the labor needed to conduct this farming operation. The labor cost for this operation will be $30,000.

Each of the partners share equally in the management of this operation and no additional management is hired.

53 Total Value of a Farming Operation (Continued)

D Example 2 (Continued)

This table shows the **contributions** made by the partners and Partnership ABC.

	Land	Capital	Equipment	Labor	Management	Total
Partner A	5,000	0	0		Active	5,000
Partner B	5,000	0	0		Active	5,000
Partner C	5,000	0	0		Active	5,000
Partnership ABC	69,000	159,000	57,000	30,000		315,000
Total	84,000	159,000	57,000	30,000		330,000

The total value of the farming operation was **determined** as follows.

The rental value of all of the land involved in this farming operation is $84,000. This rental value is derived by the following inputs:

- Partner A's contribution of cash-rented land with a value of $5,000
- Partner B's contribution of cash-rented land with a value of $5,000
- Partner C's contribution of owned land with a rental value of $5,000
- Partnership ABC's contribution of owned land with a rental value of $69,000.

Note: If land is owned, a rental value that is normal for the area **must** be used when determining its value.

53 Total Value of a Farming Operation (Continued)

D Example 2 (Continued)

The total amount of capital needed by this farming operation is equal to $159,000. This figure is arrived at by taking the total expenditures necessary to conduct this operation and subtracting any equipment, land, and labor costs that will be expended by the partnership. The capital for this operation is being provided by Partnership ABC.

The rental value of all of the equipment used on this farming operation is $57,000. Partnership ABC is contributing owned equipment with a rental value of $57,000.

Note: If equipment is owned, a rental value that is normal for the area **must** be used when determining its value.

All of the labor for this farming operation is hired by Partnership ABC and will cost $30,000.

Each partner will equally provide active personal management; therefore, no value is affixed to this contribution in determining the total value of the farming operation.

The total value of this farming operation is equal to $330,000.

54 Changes in Farming Operations

A Background

The Food Security Act of 1985, as amended by the Food, Conservation, and Energy Act of 2008, requires that the Secretary **not** approve, for purposes of applying payment limitations, any change in a farming operation that will increase the number of persons or legal entities for payment, unless the Secretary determines that the change is bona fide and substantive.

B Rule [7 CFR 1400.104]

COC may **not** approve any change in a farming operation, including, but not limited to, establishing a new farming operation containing any person or legal entity that was a member of the previous year's farming operation, that will otherwise increase the number of persons or legal entities to which payment limitation is applied for the current year, unless a substantive change in the farming operation occurs for the current year.

Note: The comparison for substantive change purposes is between the current year's operation and the previous year's operation.

C Substantive Change Requirements

If bona fide, the following are considered substantive changes.

Change	Requirement
Family Member	The addition of a family member to a joint operation according to the adult family member provision as specified in paragraph 138. **Note:** An addition will **not** affect the status of any other person or legal entity that is added to the joint operation.
Land Rental	For a landowner **only**, a change from cash-rent to share-rent.

54 Changes in Farming Operations (Continued)

C Substantive Change Requirements (Continued)

Change	Requirement
Base Acres	An increase through acquiring base acres **not** previously involved in the farming operation. The increase in base acres: • **must** be at least 20 percent or more of the total base acres involved in the farming operation • will be applicable for the increase of **only** 1 person or legal entity to the farming operation. A State Office specialist may approve additional persons or legal entities based on the magnitude and complexity of the change in the farming operation represented and if the increase in base acres supports additional persons or legal entities to the farming operation. See subparagraph D.
Ownership	A change in ownership by sale or gift of equipment or land from a person or legal entity previously engaged in the farming operation to a person or legal entity who has **not** been engaged in this operation is considered substantive, **only** if: • the transferred amount is commensurate with the new person's or legal entity's share of the farming operation • the sale or gift of land or equipment was based on fair market value of the land or equipment • the former owner has no control over the sold or gifted land or equipment • the transaction was **not** financed by the former owner • preference was **not** given to the former owner to re-purchase the land or equipment at a later date.
Equipment	The addition of equipment **not** previously involved in the farming operation may be considered substantive, if the rental value of the additional equipment contributed is commensurate with the new person's or legal entity's share of the rental value of all equipment used in the farming operation.

Note: Substantive changes **must** be "arms length" business transactions. Documents **must** be provided to support any of the changes in this subparagraph.

54 Changes in Farming Operations (Continued)

D Increase in Base Acres

If base acres are increased more than 20 percent and the producer requests to add more than 1 additional person or legal entity for payment limitation the:

- producer **must**:
  - submit written request for additional persons or legal entities
  - include the reasons why additional persons or legal entities for payment limitation purposes are to be recognized
  - provide any other relevant documentation to support the request
- COC **must**:
  - document the request in the COC minutes
  - forward the request with comments or recommendations to the State Office
  - include all documentation provided by the producer
- State Office specialist designated to act on these requests **must**:
  - timely review requests and all supporting documentation
  - obtain STC comments, if determined necessary, on the request
  - approve or disapprove the requests
  - record all requests and determinations in the STC minutes
  - notify COC/County Office, in writing, of the determination
  - instruct COC/County Office to provide written notification of the determination to the producer, and include appeal rights if considered adverse.

54 Changes in Farming Operations (Continued)

E Considerations for Approving or Disapproving an Increase of Additional Persons or Legal Entities for Payment Limitation Purposes

State Office specialists are to consider at least all of the following:

- the amount of the increase in base acres
- the crops grown by the farming operation
- the diversity of the farming operation
- relationship of the existing members to the new members
- the programs for which the operation will be a participants
- other relevant information specific or unique to the request.

F Nonsubstantive Changes

The following are considered nonsubstantive changes:

- a decrease in the amount of land

- the dissolution of a legal entity

- any change **not** considered substantive for which the rules would require a more restrictive application of the payment limitation.

G Example 1 of Nonsubstantive Change

Situation: Three persons each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 limits for payment limitation purposes. The 3 persons propose a farming operation by forming a corporation in which each are equal stockholders in the entity. The entity would lease, for cash, a portion of the cropland previously operated by each of the persons. A total of 4 limits would result for payment limitation purposes.

Determination: Forming this legal entity and leasing the land formerly operated by the persons would **not** constitute a bona fide and substantive change. Continue to recognize the 3 persons as determined previously for payment limitation purposes. The new legal entity would **not** be considered eligible for payment.

Explanation: The same land is farmed by the same equipment and the same persons as the previous year. The stockholders hold total ownership of the legal entity and each stockholder produced agricultural products or participated in programs subject to limitation in the previous year.

54 Changes in Farming Operations (Continued)

H Example 2 of Nonsubstantive Change

Situation: A corporation operates land that it owns. A general partnership, consisting of the stockholders of the corporation, leases land owned by unrelated parties that was previously operated by the corporation. The corporation farm manager and other employees complete the farming activities for both operations with equipment owned by the corporation. Records are kept of time spent by the employees and equipment use for each of the farming operations. The corporation's bookkeeper prepares separate payrolls for the employees that reflect the time for each employee on each farming operation. Invoices prepared on behalf of the corporation are issued to the general partnership for the equipment use and cropping expenses to represent its share of the operating expenses. Separate limitation was requested for the corporation and each of the members of the general partnership.

Determination: Changes in bookkeeping for the manner records are kept does **not** constitute or demonstrate a substantive change. Continue to recognize **only** the corporation for payment limitation purposes.

Explanation: The members of the general partnership, who hold total ownership of the corporation, are farming the same land with the same equipment previously operated by the corporation. Only a single farming operation of the corporation exists even though separate books are kept in an effort to represent a separate farming operation of the general partnership.

55 Substantive Change Rule for Persons

A Persons Beginning to Farm

If a person begins to farm and is **not** a member of a legal entity or joint operation, **no** substantive change is required to be considered a person for payment limitation purposes.

B Members of Legal Entities

This table provides guidance to determine when a substantive change is required for a person beginning to farm.

IF the person owns, directly or indirectly, 50 percent or more interest in a legal entity that...	**AND the person will...**	**THEN a substantive change...**
produced program crops, or products, or participated in a program subject to limitations the previous year	operate any land that was in the farming operation of the legal entity as a person or a member of a joint operation	**is** required.
	not operate any land that was in the farming operation of the legal entity as a person or a member of a joint operation	is **not** required.
did **not** produce program crops or products, or participate in a program subject to limitation in the previous year	operate land as a person or a member of a joint operation	is **not** required. **Note:** The land may be land that was or was **not** in the farming operation of the legal entity.

55 Substantive Change Rule for Persons (Continued)

C Example

Situation: Person A owns 50 percent of Corporation AB that produced crops on a 600-acre farming operation last year. This year Corporation AB and Person A will each operate part of the land that was in the Corporation AB farming operation.

Determination: A substantive change would be **required** because Person A owns 50 percent of Corporation AB.

D If Substantive Change Is Not Met

If there is an increase in the number of persons or legal entities subject to limitation in a farming operation that results in applying the substantive change provisions and a substantive change is **not** met:

- continue to recognize the persons or legal entities for payment limitation purposes that were recognized in the previous year

- consider the new persons or legal entities who did **not** meet the substantive change ineligible for payment.

Note: The eligible person's or legal entities' shares **cannot** be adjusted to circumvent the ineligibility of the new person or legal entity.

56 Substantive Change Rule for Joint Operations

A Introduction

This paragraph provides guidelines for determining when substantive change is required for joint operations.

B New Joint Operation Formed

Use this table to determine when substantive change is required for a new joint operation.

IF...	THEN substantive change would...
none of the members produced program crops, or products, or participated in a program subject to limitation in the previous year	**not** be required.
some of the members produced program crops, or products, or participated in a program subject to limitation in the previous year	be required.
all of the members produced program crops, or products, or participated in a program subject to limitation in the previous year	**not** be required.

Note: Substantive change would be **required** if a new joint operation will be farming any of the land that was farmed by a legal entity in which members of the new joint operation held a 50 percent or greater interest.

56 Substantive Change Rule for Joint Operations (Continued)

C Joint Operation Existed in the Previous Year

Use this table to determine when substantive change is required for a joint operation that existed in the previous year.

IF there is an addition of 1 or more members to a joint operation that existed in the previous year and there is...	AND the person or legal entity...	THEN substantive change would...
an increase in the total number of persons or legal entities in the joint operation subject to limitation	causing the increase produced program crops, or products, or participated in a program subject to limitation in the previous year	**not** be required.
	causing the increase did **not** produce program crops, or products, or participation in a program subject to limitation in the previous year	be required.
no overall increase in the number of persons or legal entities in the joint operation subject to limitation because of 1 or more of the members in the previous year leaving the joint operation	leaving the farming operation continues to farm any land that was part of the previous year's joint operation	be required unless offset by a decrease in persons or legal entities in the joint operation.
	leaving the farming operation does **not** farm any land that was part of the previous year's joint operation	**not** be required.

Notes: If the increase in base acres provision is used for a substantive change, the 20 percent increase in base acres would be calculated from the amount of base acres that was in the joint operation in the previous year.

The 20 percent increase in base acres could be obtained in either of the following ways:

- joint operation increases the land in the farming operation with base acres
- person or legal entity that left the joint operation, if applicable, increases the amount of land farmed with base acres.

56 Substantive Change Rule for Joint Operations (Continued)

D Other Provisions

Other than according to subparagraphs B and C, a substantive change is required when **both** of the following apply:

- at least 1 of the members of the joint operation did **not** produce program crops or participate in CRP in the previous year

- the joint operation will operate any of the land that was in the farming operation of members who did produce program crops or participate in CRP in the previous year.

E Example 1, Joint Operation Existed - Increase in persons or Legal Entities for Payment

Situation: Partnership ABC produced program crops last year. This year Person D buys an equal share of Partnership ABC. Person D produced program crops last year.

Determination: A substantive change is **not** required because Person D is a current producer; therefore, there has been no increase in persons or legal entities subject to limitation.

F Example 2, Joint Operation Existed - Increase in persons or Legal Entities for Payment

Situation: Partnership ABC produced program crops last year. This year Person D buys an equal share of Partnership ABC. Person D did **not** produce program crops last year. Partnership ABC's farming operation last year consisted of 1,000 acres.

Determination: A substantive change is required. If the increase in base acres provision is used, the 20 percent increase in base acres on the 1,000 acres Partnership ABC operated last year.

56 Substantive Change Rule for Joint Operations (Continued)

G Example 1, Joint Operation Existed - No Overall Increase in persons or Legal Entities for Payment

Situation: Partnership ABC produced program crops last year.

- This year Person C sells his share of Partnership ABC to Person D. Person D did **not** produce program crops last year.
- Partnership ABC's farming operation last year consisted of 1,000 acres.
- Person C will farm 300 acres of the land that was in Partnership ABC's farming operation last year.

Determination: A substantive change would be required before recognizing Person D as a person eligible for payment.

- One way of doing that would be if Partnership ABC added 200 base acres (20 percent of 1,000) to its farming operation that was **not** in Partnership ABC's farming operation last year.
- Person C could also meet the requirement if Person C farmed land with 200 base acres that was **not** in Partnership ABC's farming operation last year.

H Example 2, Joint Operation Existed - No Overall Increase in persons or Legal Entities for Payment

Situation: Partnership ABC produced program crops last year.

- This year Person C sells his share of Partnership ABC to Person D. Person D did **not** produce program crops last year.
- Partnership ABC's farming operation last year consisted of 1,000 acres.
- Person C will **not** farm any of the land that was in Partnership ABC's farming operation last year.

Determination: A substantive change would **not** be required because there was no increase in the number of persons or legal entities for payment in the farming operation.

56 Substantive Change Rule for Joint Operations (Continued)

I Example 1, Other Provisions

Situation: Person A produced program crops on a 600-acre farming operation last year. Person B produced program crops on a 400-acre farming operation last year. This year Persons A, B, and C form an equal partnership and will produce program crops on a farming operation that includes some of the land that was in Person A's farming operation last year.

Determination: A substantive change would be required before recognizing Person C as a person eligible for payment. One way of doing that would be if Partnership ABC added 200 base acres (20 percent of 1,000) to its farming operation that was **not** part of the farming of either Person A or B in the previous year.

J Example 2, Other Provisions

Situation: Partnership AB produced program crops on a 600-acre farming operation last year and continues to farm part of the 600 acres this year.

- Person C did **not** produce program crops last year.

- This year Persons B and C form an equal partnership and will produce program crops on a farming operation that includes some of the land that was in Partnership AB's farming operation last year.

Determination: A substantive change would be required before recognizing Person C as a person eligible for payment.

- One way of doing that would be if Partnership BC added 120 base acres (20 percent of 600) to its farming operation that was **not** part of the farming operation of Partnership AB.

- Another way of meeting the substantive change would be if Partnership AB added 120 base acres (20 percent of 600) to its farming operation that was **not** part of the farming operation last year.

56 Substantive Change Rule for Joint Operations (Continued)

K Example 1

Situation: Joint Operation Alpha, Bravo, Charlie, and Delta, was determined to have 4 separate limitations for program payment limitation purposes in the previous year. This year, Alpha and Bravo, LLC and Charlie and Delta, LLC were added and a total of 6 limitations were requested, all with equal shares. Neither of the new members had farmed or participated in the farm programs before. Interest in equipment held by the original 4 partners was gifted to each of the new members.

Determination: Substantive change would be required because of the increase in the number of persons or legal entities for payment in the farming operation. The gifting of equipment interest to each of the new members would meet the requirement if the amount was at least equal to the commensurate share of each new member, and supporting documentation was provided.

L Example 2

Situation: Joint Operation Dollar Farms, comprised of persons Echo, Foxtrot, Golf, and Hotel, was determined to have 4 separate limitations for program payment limitation purposes in the previous year. This year, this joint operation was dissolved and a new joint operation Dollar Farms, comprised of persons Golf, Hotel, India, and Juliet, was formed with a new TIN. The same land is farmed and the same equipment, all previously leased by the "old" Dollar Farms, is now leased by the "new" Dollar Farms.

Determination: Substantive change would **not** be required since there is **not** an increase in the number of persons or legal entities for payment limitation purposes.

M Substantive Change Not Met

If there is an increase in the number of persons or legal entities in a farming operation that results in applying the substantive change provisions and a substantive change is **not** met:

- continue to recognize the persons or legal entities for payment limitation purposes that were recognized in the previous year

- consider the new person or legal entity who did **not** meet the substantive change ineligible for payment.

57 Substantive Change Rule for Entities

A Produced Program Crops Previous Year

If a legal entity produced program crops, or products, or participated in a program subject to limitation in the previous year, a substantive change is **not** required.

B Did Not Produce Program Crops Previous Year

If a legal entity did **not** produce program crops, or products, or participate in a program subject to limitation in the previous year and stockholders, heirs, or beneficiaries who produced program crops, or products, or participated in a program subject to limitation in the previous year own, directly or indirectly, 50 percent or more of the interest in the entity and the entity will:

- operate land that was in the farming operation of members who produced program crops, or products, or participated in a program subject to limitation in the previous year, a substantive change **would** be required

  Note: If the increase in base acres provision is used, the 20 percent increase in base acres shall be calculated from the amount of base acres that was in the farming operation of members who produced program crops, or products, or participated in a program subject to limitation in the previous year.

- **not** operate any land that was in the farming operation of members who produced program crops, or products, or participated in a program subject to limitation in the previous year, a substantive change would **not** be required.

C Ownership Change

Any legal and bona fide change in the ownership of a legal entity **must** be recognized, regardless of the amount of stock involved.

D Addition of Interest Holders

Adding interest holders to a legal entity, **except** for joint operations, does **not** require applying substantive change rules.

57 Substantive Change Rule for Entities (Continued)

E Example 1

Situation: Person A produced program crops on a 600-acre farming operation last year. Person B produced program crops on a 400-acre farming operation last year. Person C did **not** produce program crops last year.

- This year Persons A, B, and C form a corporation with equal shares and will produce program crops on a farming operation that includes some of the land that was in Person A's farming operation last year.

- Persons A and B will also farm this year.

Determination: A substantive change would be **required** before Corporation ABC would be recognized as a legal entity eligible for payment according to subparagraph B. One way of substantively changing Corporation ABC would be for Corporation ABC to add 200 base acres (20 percent of 1,000) to its farming operation that was **not** part of the farming operation of either Person A or B in the previous year.

F Example 2

Situation: Person A produced program crops on a 600-acre farming operation last year. Person B produced program crops on a 400-acre farming operation last year. Person C did **not** produce program crops last year. This year Persons A, B, and C form a corporation with equal shares and will produce program crops on a farming operation that is composed of land that was operated in the previous year by Person Z. Person Z no longer farms.

Determination: A substantive change would **not** be required because none of the land operated by the corporation was operated by Person A or B in the previous year.

G Substantive Change Not Met

If there is an increase in the number of persons or legal entities for payment in a farming operation and substantive change provisions are **not** met:

- continue to recognize the persons or legal entities eligible for payment limitation purposes that were recognized in the previous year

- consider the new person or legal entity who did **not** meet the substantive change ineligible for payment.

58-60 (Reserved)

Section 6 Actively Engaged Determinations

Subsection 1 Actively Engaged Considerations

61 General Considerations

A Introduction

For a person or legal entity to be considered actively engaged in farming, the participant **must** make a significant contribution of certain farming inputs. This paragraph lists and defines significant contributions.

B General Provisions

In general, for a person or legal entity to be considered actively engaged in farming, **all** the requirements of this table **must** be met.

Item	Requirement
1	Significant "left-hand" contributions to the farming operation of 1 or a combination of the following: • capital • equipment • land. **Note:** See paragraph 127 for exception.
2	Significant "right-hand" contributions to the farming operation of 1 or a combination of the following: • active personal labor • active personal management. **Note:** See paragraph 62 for exception.
3	A claimed share of the profits or losses from the farming operation that is commensurate with contributions to the farming operation.
4	Contributions that are at risk.

C Definition of Capital

For payment limitation purposes, capital means the funding provided by a person or legal entity to the farming operation for the operation to conduct farming activities.

61 General Considerations (Continued)

D Definition of Land

For payment limitation purposes, land means farmland consisting of cropland, pastureland, wetland, or rangeland that meets the specific requirements of the applicable program.

E Definition of Equipment

For payment limitation purposes, equipment means the machinery and implements used by the farming operation to conduct activities of the farming operation. This includes:

- machinery and implements for:
  - land preparation, planting, cultivating, or harvesting of the crops involved
  - establishing and maintaining conservation cover crops or conservation use acreages
  - conducting livestock operations
- irrigation equipment that is:
  - **not** of a permanent nature
  - commonly used in the area.

F Definition of Active Personal Labor

Active personal labor means personally providing physical activities necessary in a farming operation. These activities include physical activities:

- involved in land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities
- required to establish and maintain conserving cover crops or conserving use acreages
- required in livestock operations.

61 General Considerations (Continued)

G Active Personal Management

Active personal management is personally providing:

- the general supervision and direction of activities and labor involved in the farming operation
- services, whether performed on-site or off-site, reasonably related and necessary to the farming operation, including any of the following:
  - supervision of activities necessary in the farming operation
  - business-related actions that include discretionary decision making
  - evaluation of the financial condition and needs of the farming operation
  - assistance in structuring or preparing financial reports or analyses for the farming operation
  - consultations in or structuring of business-related financing arrangements for the farming operation
  - marketing and promoting agricultural commodities produced by the farming operation
  - acquiring technical information used in the farming operation
  - any other management function necessary to conduct the farming operation and for which the operation would ordinarily be charged a fee.

H Hybrid Seed Producers

The existence of a hybrid seed contract for a producer shall **not** be taken into account when making an actively engaged in farming determination with respect to the producer. However, all other actively engaged in farming provisions shall apply.

62 Landowner Exemption

A Actively Engaged Rule

A landowner shall be considered actively engaged in farming with respect to the owned land if **all** of the following requirements are met.

Item	Requirement
1	The landowner contributes owned land to the farming operation for which the landowner receives rent or income for the use of the land, based on the land's production or the operation's operating results.
2	The landowner's share of the profits or losses from the farming operation is commensurate with the landowner's contribution to the operation.
3	The landowner's contributions are at risk.

B Applicability of Rule

This rule applies to landowners who:

- are persons
- are persons with a life estate in the land
- are legal entities, such as corporations, trust, or estates
- have an undivided interest in the land

  Note: For revocable or living trusts, the landowner exemption for actively engaged in farming **cannot** be extended to the grantor since **only** the trust has equitable interest in the land.

- are members of a joint operation if the joint operation holds title to the land.

  Note: This rule applies to joint operations only if 1 of the following applies:

  - the members submit documentation to show the title to the land owned by the joint operation will revert to the individual members after dissolution of the joint operation according to each member's share in the joint operation

    Note: This requirement is considered met if the documentation provides that upon dissolution of the joint operation, the land will be sold and the proceeds divided according to each member's share in the joint operation.

  - if there is no documentation otherwise and the Regional Attorney advises that State law provides that upon dissolution of the joint operation the land will be sold and the proceeds divided according to each member's share in the joint operation.

63 Landlord

A Actively Engaged Rule

A landlord who is **not** a landowner shall be considered to be actively engaged in farming under the same rules as any other person or legal entity that is **not** a landowner.

Notes: If the landlord provides leased or rented land to an operation in return for a share of the crop, the land will be considered a contribution. Other contributions, as applicable, are required.

See paragraph 91 for cash-rent tenant requirements.

B Example 1

Situation: Landowner A cash leases land to Person B. Person B subleases the land to Operator C. Person B contributes land and does **not** contribute a significant amount of active personal labor or active personal management to the farming operation.

Determination: Person B is **not** actively engaged in farming. Person B **cannot** be considered to be actively engaged in farming because of the landowner provision, since Person B is a landlord and **not** a landowner. Landowner A is **not** actively engaged on this farming operation since cash-rent is received for using the land. A separate determination will be made for Operator C.

63 Landlord (Continued)

C Example 2

Situation: Person D cash leases land from Landowner E. Person D subleases the land to Producer C on a share-rent basis. Person D contributes the land and active personal management to the farming operation.

Determination: Because Person D cash-rents the land from Landowner E, Person D:

- is a cash-rent tenant

  Notes: A cash-rent tenant is eligible to receive program payments on the cash-rented land, if the cash-rent tenant provides a significant contribution of either of the following:

  - active personal labor and capital, equipment, or land
  - active personal management and equipment.

  See paragraph 91 for cash-rent tenant requirements.

- is **not** the landowner and **cannot** be considered actively engaged in farming because of the landowner provision.

Because Person D has provided a significant contribution of land and management, Person D can be considered actively engaged in farming. However, Person D is **ineligible** to receive program payments on the cash-rented land, because the necessary contributions for a cash-rent tenant were **not** made.

A separate determination will be made for Producer C.

Landowner E is **not** considered actively engaged in farming for this farming operation.

64 Percent of Cropland Factor

A Introduction

In some cases, producers may only be eligible for payment for a portion of the cropland in the farming operation. Therefore, FSA shall determine the percentage of the farming operation that is eligible for payment. This is determined based on the percent of cropland.

B When to Use the Percent of Cropland Factor

Use percent of cropland factor when a producer:

- does **not** provide a significant contribution of active personal labor or active personal management to the entire farming operation
- is actively engaged in farming and eligible for payment on a portion of the land in the farming operation because of the landowner provision
- is a cash-rent tenant and is **ineligible** for payment for the cash-rented land.

Note: The automated system does **not** handle cases where the producer is actively engaged on some, but **not** all farming operations.

C Applying the Percent of Cropland Factor

The percent of cropland factor shall be applied to **all** program payments earned by the producer on each farm within the farming operation.

64 Percent of Cropland Factor (Continued)

D Determining the Percent of Cropland Factor

Determine a percent of cropland factor according to this table.

Step	Action
1	List the total cropland acres for each farm in the producer's farming operation and total the acres.
2	List the cropland acres owned by the producer on each of the farming operation's farms and total the acres. **Note:** Include cropland acres that are **not** cash-rented for which the producer meets the requirements to be eligible for payment.
3	Divide the result of step 2 by the result of step 1.
4	Multiply the factor from step 3 times the producer's payments earned on **each** farm.
5	Pay the producer the adjusted payment allowed for each farm as determined by step 4.

64 Percent of Cropland Factor (Continued)

E Example 1

In this example, Sam Brown hires all labor and management necessary to conduct the farming operation.

Farm 20 **Tract 1 - 100 acres** Operator - Sam Brown Owner - Sam Brown Rental - N/A
Farm 20 **Tract 2 - 100 acres** Operator - Sam Brown Owner - Pete Smith Rental - Cash lease

Result: The farming operation for Sam Brown is the entire acreage on Farm 20. There is no farming operation for Pete Smith because he does **not** have an interest in any crop or crop proceeds.

Because Sam Brown does **not** provide a significant "right hand" contribution to the farming operation, he may only be considered actively engaged in farming under the landowner exemption for that portion of the farming operation represented by land he owns.

Sam Brown owns 50 percent of the cropland in his farming operation. Therefore, payments to Sam Brown would be subject to a 50 percent of cropland factor.

64 Percent of Cropland Factor (Continued)

F Example 2

This example is the same as example 1, **except** the tracts are **not** combined as 1 farm. In this example, Sam Brown hires all labor and management necessary to conduct the farming operation.

Farm 21 **100 acres** Operator - Sam Brown Owner - Sam Brown Rental - N/A

Farm 22 **100 acres** Operator - Sam Brown Owner - Pete Smith Rental - Cash lease

Result: The farming operation for Sam Brown is the entire acreage on Farm 21 and Farm 22. There is **no** farming operation for Pete Smith because he does **not** have an interest in any crop or crop proceeds.

Because Sam Brown does **not** provide a significant "right hand" contribution to the farming operation, he may only be considered actively engaged in farming under the landowner exemption for that portion of the farming operation represented by land he owns.

Sam Brown owns 50 percent of the cropland in his farming operation. Therefore, payments to Sam Brown would be subject to a 50 percent of cropland factor.

64 Percent of Cropland Factor (Continued)

G Example 3

In this example, Sam Brown hires all labor and management necessary to conduct the farming operation.

Farm 23 **100 acres** Operator - Sam Brown Owners - Sam Brown and Pete Smith (undivided joint interest) Rental - Cash lease

Result: Because Sam Brown does **not** provide a significant "right hand" contribution to the farming operation, he may only be considered actively engaged in farming under the landowner exemption for that portion of the farming operation represented by land he owns.

Because Sam Brown has an undivided ownership interest in the entire acreage in his farming operation, the percent of cropland owned is 100 percent. Accordingly, Sam Brown is actively engaged in farming on 100 percent of his farming operation and is eligible to receive 100 percent of the payment earned.

64 Percent of Cropland Factor (Continued)

H Example 4

In this example, Sam Brown and Pete Smith each have a 50 percent share in the partnership. The partnership and the members do **not** have any other farming interests. Sam Brown shares in the pro rata share of all crops, regardless of where the crops are planted. The partnership agreement stipulates that upon dissolution, the land ownership will revert to the members according to their current shares of the partnership. The partnership hires all labor and management necessary to conduct the farming operation.

Farm 24 **Tract 1 - 100 acres** Operator - Brown and Smith, a general partnership Owner - Sam Brown Rental - .3333 crop share
Farm 24 **Tract 2 - 100 acres** Owner - Brown and Smith, a general partnership Rental - N/A

Result: The partnership's farming operation is the entire acreage in Farm 24.

Sam Brown's farming operation is the acreage in tract 1.

Because the members of the partnership do **not** provide a significant "right-hand" contribution to the farming operation, the members of the partnership are only considered to be actively engaged in farming under the landowner exemption for that portion of their farming operation represented by owned land. Therefore, a 50 percent of cropland factor of would apply to payments made to the partnership.

A percent of cropland factor of 1.000 would apply to Sam Brown since he is considered to be actively engaged in farming on his entire farming operation.

64 Percent of Cropland Factor (Continued)

I Example 5

This example is similar to example 4, **except** the tracts are **not** combined as 1 farm. In this example, Sam Brown and Pete Smith are members of Brown and Smith Partnership. Neither the partnership nor the members have any other farming interests. The partnership agreement stipulates that upon dissolution, the land ownership will revert to the members according to their current shares of the partnership. The partnership hires all labor and management necessary to conduct the farming operation.

Farm 25 **100 acres** Operator - Brown and Smith, a general partnership Owner - Sam Brown Rental - .3333 crop share

Farm 26 **100 acres** Operator - Brown and Smith, a general partnership Owner - Brown and Smith, a general partnership Rental - N/A

Result: The partnership's farming operation consists of Farm 25 and Farm 26. Sam Brown's farming operation consists of the acreage in Farm 25, **only**. Because neither member of the partnership provides a significant "right hand" contribution to the farming operation, the members of the partnership may **not** be considered actively engaged in farming on the entire farming operation under the person or joint operation provisions. The members of the partnership, as landowners of Farm 26, are considered actively engaged in farming under the landowner exception.

Sam Brown, as individual landowner of Farm 25, is considered actively engaged in farming under the landowner exception. This is 100 percent of Sam Brown's individual farming operation. Sam Brown's interest in the partnership is a separate farming operation.

The partnership owns 50 percent of the cropland in its farming operation. Therefore, the members of the partnership are actively engaged in farming on 50 percent of the partnership's farming operation and are entitled to receive 50 percent of the partnership's earned payment on each farm in the farming operation.

64 Percent of Cropland Factor (Continued)

J Example 6

In this example, Brown, Smith, Black, and Jones Partnership is made up of the 4 individual landowners. The partnership and the members of the partnership do **not** have any other farming interests. Each farm is of equal size and value. The contributions of each partner are commensurate and at risk. Each landowner contributes their land to the partnership, so no rent will be paid. All payments go to the partnership.

The partnership hires all labor and management necessary to conduct the farming operation.

Farm 27 **100 acres** Operator - Brown, Smith, Black, and Jones, a general partnership Owner - Sam Brown Rental - N/A

Farm 28 **100 acres** Operator - Brown, Smith, Black, and Jones, a general partnership Owner - Pete Smith Rental - N/A

Farm 29 **100 acres** Operator - Brown, Smith, Black, and Jones, a general partnership Owner - Henry Black Rental - N/A

Farm 30 **100 acres** Operator - Brown, Smith, Black, and Jones, a general partnership Owner - Bill Jones Rental - N/A

Result: The farming operation for the partnership consists of all the acreage in Farms 27, 28, 29, and 30. Because the members do **not** provide “right hand” contributions, the members of the partnership are **not** actively engaged in farming under the person or joint operation provisions. However, each person is actively engaged in farming with respect to the actual land owned under the landowner exception.

Because the members of the partnership are **not** actively engaged in farming on the entire farming operation, only that portion earned with respect to the owned land may be paid. The percent of cropland owned by each owner is 25 percent. Accordingly, a 25 percent of cropland factor would be applied to the partnership’s payment on each farm.

65-70 (Reserved)

Subsection 2 Specific Rules for Contributions

71 Significant Contribution of Capital, Equipment, and Land

A Introduction

When a significant contribution of capital, equipment, or land is required, use the rule in this paragraph to determine what is considered significant.

B Rules for Significant Contributions

This table shows the general rules for determining when a significant contribution is provided to a farming operation by a person or legal entity.

Item	Rule
Capital	The capital **must** have a value equal to at least 50 percent of the person's or legal entity's commensurate share of the total capital necessary to conduct the farming operation, **excluding** outlays of capital for land or equipment.
Equipment	The equipment **must** have a rental value equal to at least 50 percent of the person's or legal entity's commensurate share of the total rental value of the equipment necessary to conduct the farming operation.
Land	The land **must** have a rental value equal to at least 50 percent of the person's or legal entity's commensurate share of the total rental value of the land necessary to conduct the farming operation. **Note:** Share-rented land is a contribution of the landlord, **not** the share-renter.
Any combination of capital, equipment, and land.	The combined contribution of capital, equipment, and land **must** have a value equal to 30 percent of the person's or legal entity's commensurate share of the total value of the farming operation.

72 Specific Rules for Capital

A Introduction

For capital to be a significant contribution to the farming operation, the capital contributed **must** meet the requirements of this paragraph.

B General Rule

The capital **must** be contributed directly to the farming operation from a fund and account separate and distinct from that of any other person or legal entity with an interest in the farming operation.

Capital contributions to a farming operation **do not** include:

- the value of labor or management
- outlays for land or equipment.

C Source of Capital

The capital may be a direct out-of-pocket input of either of the following:

- a specified sum by the person, legal entity, joint operation, members of a joint operation, or combined State producer

- an amount borrowed by the person or legal entity.

Note: Current year advance program payments, such as advance direct payments, are **not** considered a capital contribution for purposes of meeting the requirements of actively engaged in farming. The applicant is **not** eligible to receive advance program payments until **after** the determination of actively engaged in farming is made by COC or reviewing authority.

72 Specific Rules for Capital (Continued)

D Borrowed Capital

Capital used as a significant contribution may be borrowed. The rules in this table apply to borrowed capital.

IF the farming operation is conducted by...	THEN borrowed capital must...

any of the following:
• a person
• a joint operation, but the capital is contributed by a member of the joint operation rather than by the joint operation itself
• a legal entity
	• be contributed directly to the farming operation by the applicable person, legal entity, or member
	• **not** have been acquired as a result of a loan made to, guaranteed by, or secured by:
	  • any other person, joint operation, or legal entity that has an interest in the farming operation
	  • the person, joint operation, or legal entity by any other person, joint operation, or legal entity that has an interest in the farming operation
	  • any other person, joint operation, or legal entity in whose farming operation this person, joint operation, or legal entity has an interest.

a joint operation in which the capital is contributed by the joint operation rather than by any members	• be contributed directly to the farming operation by the joint operation
	• **not** have been acquired as a result of a loan made to, guaranteed by, or secured by:
	  • any person, legal entity, or joint operation that has an interest in the farming operation, **except** members of the joint operation to which the loan is made
	  Note: See example in subparagraph 139 C.
	  • the joint operation by any person, legal entity, or other joint operation that has an interest in the farming operation
	  • any person, legal entity, or other joint operation in whose farming operation this joint operation has an interest.

73 Specific Rules for Equipment

A Introduction

To be credited as a significant contribution to the farming operation, owned or leased equipment **must** meet the requirements of this paragraph.

B Leased Equipment

The equipment may be leased from any person, legal entity, or joint operation; however, use the following table to determine if restrictions apply.

IF the equipment is leased from...	THEN the...
another person, legal entity, or joint operation that has an interest in the farming operation	producer **must**: • be able to prove to COC that the equipment was leased at a fair market value • make the payment within the time determined by COC to be reasonable and customary for the area, taking into consideration whether the equipment is leased by the hour, day, or acre, or on an annual basis.
a joint operation that has 1 or more members in common with the producer to whom the equipment is leased	
a person, legal entity, or joint operation **not** otherwise indicated in this table	restrictions provided in this table do **not** apply.

73 Specific Rules for Equipment (Continued)

C Financing Rules for Equipment

The restrictions on financing for equipment in this table apply to both owned and leased equipment contributed for credit as a significant contribution.

IF the farming operation is conducted by...	THEN the equipment must...

any of the following:
• a person
• a joint operation, but the equipment is contributed by a member
• a legal entity
	• be contributed directly to the farming operation by the applicable person, legal entity, or member
	• **not** have been acquired as a result of a loan made to, guaranteed by, or secured by:
	  • any other person, joint operation, or legal entity that has an interest in the farming operation
	  • the person, joint operation, or legal entity by any other person, joint operation, or legal entity that has an interest in the farming operation
	  • any other person, joint operation, or legal entity in whose farming operation this person, joint operation, or legal entity has an interest.

a joint operation in which the equipment is contributed by the joint operation	• be contributed directly to the farming operation by the joint operation
	• **not** have been acquired as a result of a loan made to, guaranteed by, or secured by:
	  • any person, legal entity, or joint operation that has an interest in the farming operation, **except** members of the joint operation to which the loan is made
	  Note: See example in subparagraph 139 C.
	  • the joint operation by any person, legal entity, or other joint operation that has an interest in the farming operation
	  • any person, legal entity, or other joint operation in whose farming operation this joint operation has an interest.

73 Specific Rules for Equipment (Continued)

D Effects of Borrowed Capital on Equipment Contribution

If any capital was borrowed by the person, legal entity, or joint operation from any other person, legal entity, or joint operation with an interest in the farming operation, the cash-leased equipment will **not** be considered as a significant contribution unless the person, legal entity, or joint operation can prove to COC that sufficient capital was available from another source to pay the cash lease.

E Occasional Exchange of Equipment

The occasional exchange of equipment, including labor, with a neighbor will **not** affect the contribution determination if each person or legal entity has adequate equipment, through ownership or lease, to conduct their farming operation in a manner normally acceptable for the area.

74 Specific Rules for Land

A Introduction

To be considered a significant contribution to the farming operation, owned or cash leased land **must** meet the requirements of this paragraph.

B Leased Land

The land may be leased from any person, legal entity, or joint operation.

If the land is leased from another person, legal entity, or joint operation that has an interest in any crop or crop proceeds in the farming operation, the producer **must**:

- be able to prove to COC that the land was leased at a fair market value
- make the payment within the time determined by COC to be reasonable and customary for the area.

Note: Share-rented land is a contribution of the landlord, **not** the share-renter.

74 Specific Rules for Land (Continued)

C Financing Rules for Land

The restrictions in this table apply to both owned and leased land contributed for credit as a significant contribution.

IF the operation is conducted by...	THEN the land must...

any of the following:
 	
• a person
 	
• a joint operation, but the land is contributed by a member
 	
• a legal entity
	• be contributed directly to the farming operation by the applicable person, legal entity, or member
	
	• **not** have been acquired as a result of a loan (including land acquired by Contract of Deed, Deed of Trust, Land Contract, or other similar arrangement) made to, guaranteed by, or secured by:
	
	  • any other person, joint operation, or legal entity that has an interest in the farming operation
	
	  • the person, joint operation, or legal entity by any other person, joint operation, or legal entity that has an interest in the farming operation
	
	  • any other person, joint operation, or legal entity in whose farming operation this person, joint operation, or legal entity has an interest.

a joint operation in which the land is contributed by the joint operation	• be contributed directly to the farming operation by the joint operation
	
	• **not** have been acquired as a result of a loan (including land acquired by Contract of Deed, Deed of Trust, Land Contract, or other similar arrangement) made to, guaranteed by, or secured by:
	
	  • any person, legal entity, or other joint operation that has an interest in the operation, **except** members of the joint operation to which the loan is made
	
	  Note: See example in subparagraph 139 C.
	
	  • the joint operation by any person, legal entity, or other joint operation that has an interest in the farming operation
	
	  • any person, legal entity, or other joint operation in whose farming operation this joint operation has an interest.

74 Specific Rules for Land (Continued)

D Effects of Borrowed Capital on Land Contribution

If any capital was borrowed by a person, legal entity, or joint operation from any other person, legal entity, or joint operation with an interest in the farming operation, cash leased land will **not** be considered a significant contribution **unless** the person, legal entity, or joint operation can prove to COC that sufficient capital was available from another source to pay the cash lease.

E Recording Land Contributions

All land involved in a farming operation is to be recorded in the following:

- CCC-902 Continuation, Part A
- CCC-902E, Part E
- CCC-902I, Part C.

75 Significant Contribution of Active Personal Labor or Management

A Introduction

[7 CFR 1400.3] When a significant contribution of active personal labor or active personal management is required, use the rules in this paragraph to determine what is considered significant.

B Rules on Significant Contribution

This table shows the general rules for determining when a significant contribution is provided to a farming operation by a person or legal entity.

Item	Rule
Active personal labor.	The active personal labor **must** be an amount that is the smaller of: • 1,000 hours per either FY or crop year • 50 percent of the total hours that would be required to conduct a farming operation comparable in size to this person's or legal entity's commensurate share in the farming operation.
Active personal management.	The contribution of active personal management **must** be critical to the profitability of the farming operation, taking into consideration the person's or legal entity's commensurate share in the farming operation.
Any combination of labor and management.	Combined contributions of active personal labor and active personal management **must** have a critical impact on the profitability of the farming operation in an amount at least equal to the significant contribution of either consideration when taken alone.

Note: If a member of a joint operation receives a guaranteed payment for any part of a contribution of labor or management, **exclude** all of the specific type of contribution for which payment is received.

76 Specific Rules for Active Personal Labor or Management

A Introduction

It is difficult to measure a significant management contribution. The required hours of labor will be different in 1 type of farming operation than another. In some cases, it is difficult to distinguish between labor and management.

B Basis for Decisions

Decisions **must** be based on COC's best judgment considering the:

- requirements in this Section
- intent of significant contribution provisions is to provide program benefits to bona fide farmers, personally providing meaningful inputs on the farm.

Note: COC's are given discretion to make the subjective decisions required.

C Requiring Proof

If necessary, COC may require proof of who provides:

- labor equal to 50 percent or more of the person's or legal entity's commensurate share of the labor required

  Note: Proof of labor exceeding 1,000 hours is **not** required.

- management input critical to the overall profitability of the farming operation
- a satisfactory contribution of a combination of labor and management.

77 Inputs for Commensurate Contributions

A Introduction

For a farming input to be considered toward satisfying the requirements of commensurate contributions, the requirements of this paragraph **must** be met.

B Rules for Commensurate Contributions

After the requirements for significant contributions have been met, apply the rules in this table when determining commensurate contributions.

Farming Input	General Rule	Requirements	
• Capital • Equipment • Land	Include if contributed directly to the farming operation by the person or legal entity.	**IF the contribution was acquired as a result of a loan to the...**	**THEN the loan must...**

		• farming operation in which the person or legal entity has an interest
		• person, legal entity, or farming operation:
		  • by the farming operation or any of its members, beneficiaries, or related entities
		  • that was guaranteed or secured by the farming operation or any of its members, beneficiaries, or related entities
			• bear the prevailing interest rate
			• have a repayment schedule normal for the area.

• Labor • Management	Include all contributions of labor and management, including hired labor and hired management.	If a member of a joint operation receives a guaranteed payment for any part of a labor or management contribution, **exclude** all of the specific type of contribution for which payment is received. **Note:** "Draws" or advances for a member that have an effect on the member's share of the partnership or proceeds of the partnership are **not** considered a guaranteed payment.	

78 Determining Commensurate Contributions

A Introduction

Use the guidelines in this paragraph to determine whether contributions are commensurate with shares.

B General Rule

Total contributions that are "within reason" of being equal to the claimed share of profits and losses shall be considered commensurate.

Note: COC's shall **not** establish a specific tolerance for "within reason."

C Determining Contributions

Use the steps in this table to determine each person's or legal entity's contributions to a farming operation.

Step	Action
1	Determine the total amount of each farming input needed to conduct the farming operation.
2	Determine the type and amount of farming inputs provided by the person or legal entity that meet the requirements in paragraph 77.
3	Determine the percentage of each input required to conduct the farming operation provided by the person or legal entity.
4	Does the person or legal entity provide the same percentage of all inputs required to conduct the farming operation? • If yes, consider the person or legal entity as providing that percentage of the farming inputs required to conduct the farming operation. • If no, determine the value of the inputs provided by the person or legal entity relative to the total amount of farming inputs required to conduct the farming operation.
5	Determine whether the person's or legal entity's contributions to the farming operation are commensurate with the person's or legal entity's claimed share of the farming operation. See subparagraph D.

78 Determining Commensurate Contributions (Continued)

D Determining Commensurate Shares

Use the steps in this table to determine whether contributions to a farming operation are commensurate with the claimed share of the profits or losses.

Step	Determination
1	Is the producer's farming operation participating in more than 1 program? • If yes, go to step 2. • If no, go to step 4.
2	Are the producer's total contributions to the entire farming operation commensurate with the claimed shares of all programs for the entire farming operation? • If yes, go to step 5. • If no, go to step 3.
3	Are the producer's contributions to **each** of the programs commensurate with the claimed shares of each program separately? • If yes, go to step 5. • If no, do **not** continue. **Note:** Determine the producer to be **not** actively engaged for the farming operation.
4	Are contributions by the producer that COC considers pertinent to the farming operation commensurate with the claimed share of profits or losses from the farming operation? • If yes, go to step 5. • If no, do **not** continue. **Note:** Determine the producer to be **not** actively engaged for the farming operation.
5	Determine the producer to be actively engaged in farming if all other provisions are satisfied.

78 Determining Commensurate Contributions (Continued)

E DD Responsibility

DD is responsible for:

- verifying that no "tolerance" for commensurate contributions is established in any county
- maintaining reasonable uniformity between counties
- ensuring that the integrity of the program is maintained.

79 Determining Contributions at Risk

A Introduction

In addition to other requirements for a person or legal entity to be considered actively engaged in farming, the contributions made by the person or legal entity **must** be at risk.

B General Rule

For a producer's contribution to be considered at risk, there **must** be a possibility that the producer could suffer loss.

C Specific Rules for At Risk

Apply the rules in this table when determining whether contributions are at risk.

IF producer is a...	THEN the...
person	person's contributions to the farming operation **must** be at risk.
joint operation	members' contributions to the farming operation **must** be at risk.
legal entity	legal entity's contributions to the farming operation **must** be at risk.

80-90 (Reserved)

Section 7 Cash-Rent Tenant

91 Cash-Rent Tenant Rule

A Introduction

A cash-rent tenant **must** meet the requirements of this paragraph to be eligible to receive payment for the programs listed in paragraph 11 that require applying the cash-rent tenant rule.

B Definition

Cash-rent tenant means a producer that rents land from another producer for cash, or a guaranteed crop share, as the amount of the commodity to be paid in rent.

Note: The provisions apply to tenants who rent land for 0 dollars or farm the land in exchange for compensation other than cash, such as:

- controlling weeds on land **not** owned
- barter arrangements.

C Rule

[7 CFR 1400.301 (a)] Any cash-rent tenant shall be **ineligible** to receive payments **unless** the cash-rent tenant makes either of the following:

- a significant contribution of active personal labor to the farming operation
- a significant contribution of **both** of the following to the farming operation:
  - active personal management
  - equipment.

Notes: A cash-rent tenant **must** meet **all** applicable requirements to be considered actively engaged in farming.

See paragraph 64 if the producer is eligible to receive payments for a portion of the farming operation represented by the amount of cropland that is **not** cash-rented from another producer.

91 Cash-Rent Tenant Rule (Continued)

D Specific Rules for Equipment

Use the rules in this table if a significant contribution of equipment is necessary to meet the requirements of the cash-rent tenant rule.

IF the cash-rent tenant...	THEN...
provides the harvesting equipment	the rental value of harvesting equipment is included when determining if a significant contribution of equipment is met.
meets **both** of the following requirements: • custom harvesting is used in the cash-rent tenant's farming operation • the custom harvester has no interest in the farming operation	the rental value of harvesting equipment is **not** included when determining if a significant contribution of equipment is met. **Note:** The rental value of harvesting equipment would still be considered in making actively engaged in farming determinations. **Example:** Person A, a cash-rent tenant, owns or leases all equipment for the farming operation **except** equipment needed for harvesting. Harvesting is custom hired. The custom harvester has **no** interest in the farming operation. The rental value of harvesting equipment shall **not** be included in determining the total rental value of equipment needed to conduct the farming operation for cash-rent tenant rule purposes.
leases the equipment from the landowner	the lease and payment **must** meet the requirements of subparagraph 73 B.
leases the equipment from the same person or legal entity that is providing hired labor to the farming operation	**both** of the following conditions **must** be met: • contracts for leasing the equipment and the hired labor **must** be 2 separate contracts that reflect the fair market value of the leased equipment and the hired labor • cash-rent tenant **must** exercise complete control over using a significant amount of the equipment during the current crop year. **Note:** Complete control means exclusive access and use by the tenant.

92 Cash-Rent Tenant Example

A Example 1

Situation: Person A cash leases land from Landowner B. Person A subleases the land to Producer C on a share-rent basis. Person A contributes the land and active personal management to the farming operation.

Determination: Because Person A cash-rents the land from Landowner B, Person A is:

- a cash-rent tenant
- **not** the landowner and **cannot** be considered actively engaged in farming because of the landowner provision.

Because Person A has provided a significant contribution of land and management, Person A can be considered actively engaged in farming. However, Person A is **ineligible** to receive program payments on the cash-rented land, because the necessary contributions for a cash-rent tenant were **not** made.

A separate determination will be made for Producer C.

Explanation: Landowner B is **not** considered to be actively engaged in farming for this farming operation, but may be considered actively engaged in farming for another farming operation.

B Example 2

Situation: A joint operation consists of Persons A, B, C, and D; all with equal shares. All land is cash-rented by the joint operation. Members A and B provide all of the equipment, Members C and D provide all the capital, all necessary labor is hired by the joint operation, and active personal management is provided equally by the members.

Determination: Only Members A and B meet the cash-rent tenant rule requirements because they provide management and equipment. Therefore, payment to the joint operation is limited to the amount represented by the shares held by Members A and B.

Explanation: Since all labor is hired by the joint operation, significant contributions of both equipment and active personal management are **required**. Members C and D do **not** provide any contributions of equipment and; therefore, do **not** meet the requirements of the cash-rent tenant rule required for payment eligibility.

92 Cash-Rent Tenant Example (Continued)

C Example 3

Situation: Same as subparagraph B, **except** the joint operation provides all capital, equipment, and hired labor. Active personal management is equally provided by the members.

Determination: All members meet the cash-rent tenant rule requirement.

Explanation: Since all labor is hired by the joint operation, significant contributions of **both** equipment and active personal management of the members are required. A significant equipment contribution was provided by the joint operation and active personal management was provided by the members.

D Example 4

Situation: Same as subparagraph C, **except** the joint operation has all of the land custom farmed by unrelated persons and legal entities.

Determination: All members are ineligible for payment on the land cash-rented by the joint operation.

Explanation: Significant active personal labor contributions by the members, or a significant equipment and active personal management contribution, were **not** provided to the operation as required for payment eligibility.

92 Cash-Rent Tenant Example (Continued)

E Example 5

Situation: A local Future Farmers of America chapter requests program payments on land that is cash-rented from an unrelated party. The chapter members are providing active personal labor and active personal management to the farming operation.

Determination: The National Future Farmers of America is a Federally chartered corporation with its purpose to create, foster, and assist subsidiary chapters composed of students enrolled in vocational agriculture in public schools. The corporation may **not** issue stock, or declare or pay any dividend.

All the partners, stockholders, or members with an ownership interest are providing active personal labor, active personal management, or a combination of active personal labor and active personal management (7 CFR 1400.204).

Even though the chapter members may be providing active personal labor and/or active personal management, they do **not** have the **required** ownership interest in the corporation. Consequently, Future Farmers of America chapters **cannot** be considered to have met the cash-rent tenant rule requirements on the rented land.

93-95 (Reserved)

Section 8 Notification of Interests

96 Entity Responsibilities

A Introduction

The Food Security Act of 1985, as amended by the Food, Conservation, and Energy Act of 2008, requires the entity to provide the information in subparagraph B. These requirements (Exhibit 4) ensure that USDA can adequately control payment limitation by direct attribution.

B Responsibility for Providing Information

The legal entity receiving payment is responsible for obtaining the name, address, and TIN of each member, person, and legal entity, including persons and legal entities in each lower level of embedded legal entities.

97 Notification Exceptions

A Introduction

All legal entities receiving payment, including embedded legal entities must submit the documentation required in subparagraph 98 A, **unless** an exception in subparagraph B applies.

B Exception

Notification requirements do **not** apply if the legal entity is tax exempt under Internal Revenue Code, Section 501(C)(3).

Notes: Approval by IRS shall be indicated by providing COC with a copy of either of the following:

- IRS determination letter notifying the organization or legal entity of approval as a tax exempt entity for the year
- copy of the organization's or legal entity's most recently filed IRS-990.

Documentation **not** effective for the current year may be accepted if COC is satisfied the status for the current year is the same as supported by the documentation.

98 Required Information

A Rule [7 CFR 1400.402]

Each legal entity that submits a contract for a program or an application for payment that is subject to payment limitation control (Exhibit 4) **must** provide COC the name, address, and TIN of each person and embedded legal entity that holds or acquires any interest, directly or indirectly, in the entity earning payment. This information will be recorded on CCC-901 or CCC-902E. See paragraph 99.

B Information Deadline

Provide the information to COC when CCC-902E is filed.

If the required information is **not** filed in the County Office according to paragraph 31, the entity will be **ineligible** to receive program payments.

99 Completing CCC-901's

A Who Must Complete CCC-901's

Each legal entity that submits a contract for payment that is subject to payment limitation or direct attribution **must** provide the member's information required on CCC-901.

Exception: CCC-901 is **not** required if **all** the first level members are persons.

Note: New CCC-901's are **not** required to be filed in subsequent years unless there are changes in the operation.

B Filling Responsibility

The legal entity that is earning payment is responsible for obtaining and providing the required information to COC.

C Deadline for Submitting CCC-901's

The legal entity earning payment shall provide the completed CCC-901 to COC when CCC-902E is filed.

D Filing and Distribution

File the original CCC-901 in the legal entity's payment limitation folder and give a copy to the payment entity.

99 Completing CCC-901's (Continued)

E Completing CCC-901

Complete CCC-901 according to this table.

Item Number	Instruction
1	Enter the name of the county where the farming operation is located. If in more than 1 county, enter the name of the county that has been designated as the administrative county.
2	Enter the name of the State where the farming operation is located.
3	Enter the current program year, or the year for which this information is applicable.
Part A	Enter the name of the legal entity earning the payment.
3-6	Enter name, TIN, address, and percent share of ownership for each person or legal entity who is a member of the entity. Use supplemental CCC-901's, if needed.
Parts B-E	Enter name of any legal entity that is a member (embedded legal entity) of the previously listed legal entity or embedded legal entity. If there is more than 1 legal entity that is a member of the previously listed legal entity, use supplemental CCC-901 to properly list the embedded legal entity at the appropriate level.
Part F	Certification
23-24	If a "producer/applicant signing is **not** signing in the representative capacity, this field should be left blank. If "self" is written to indicate the producer or applicant is signing on behalf of themselves, it is acceptable;however, **not** necessary."
25	Enter date form was signed.

99 Completing CCC-901's (Continued)

F Example CCC-901

The following is an example of a completed CCC-901.

This form is available electronically.

CCC-901 (12-22-08) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation	1. County: Erath
MEMBER'S INFORMATION **2009 and Subsequent Years**	2. State: Texas
	3. Program Year: 2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is for 7 CFR Part 1410. The information is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation and Energy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as it is required for the administration of the Food, Conservation, and Energy Act of 2006 (Pub. L. 110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A - For each individual or entity who is a member of this entity, list the member's name, social security/employer identification number, address and percentage share of ownership. If a member has both types of identification numbers, list both.

Name of Legal Entity Ludlow Ltd.

3. Member's Name	4. Social Security No./Tax ID No. *(If the social security number or Taxpayer ID number is on file, only the last 4 digits are required)*	5. Address	6. Percent Share
Curtis Ludlow	3875	85 Ludlow Ln Glen Rose, TX 74444	45 %
Christi Ludlow	3877	12716 Main, Apt. 47 Dallas, TX 71111	45 %
Charles Ludlow	1532	2342 Burke Rd Glen Rose, TX 74444	9 %
Ludlow Enterprise Co.	4433	2342 Burke Rd Glen Rose, TX 74444	1 %
			%

PART B - **Embedded Entities:** For any member listed in Part A, who is an entity, list such embedded entity's name and list the requested, information for each member of such entity. If a member has both types of identification numbers, list both. If more than one member, listed in Part A is an entity, provide the requested information for each entity on supplemental sheets.

Name of Embedded Legal Entity Ludlow Enterprise Co.

7. Member's Name	8. Social Security No./Tax ID No. *(If the social security number or Taxpayer ID number is on file, only the last 4 digits are required)*	9. Address	10. Percent Share
Curtis Ludlow	3875	85 Ludlow Ln Glen Rose, TX 74444	20 %
Christi Ludlow	3877	12716 Main, Apt. 47 Dallas, TX 71111	20 %
Charles Ludlow	1532	2343 Burke Rd Glen Rose, TX 74444	50 %
CH Ludlow LLC	4434	2343 Burke Rd Glen Rose, TX 74444	10 %
			%

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99 Completing CCC-901's (Continued)

F Example CCC-901 (Continued)

CCC-901 (12-22-08) **Name of Entity (as identified in Part A)**: Ludlow Ltd. Page 2 of 2

PART C - Embedded Entities: For any member listed in Part B, who is an entity, list such embedded entity's name and list the requested, information for each member of such entity. If a member has both types of identification numbers, list both. If more than one member, listed in Part B is an entity, provide the requested information for each entity on supplemental sheets.

Name of Embedded Legal Entity CH Ludlow LLC

11. Member's Name	12. Social Security No./Tax ID No. *(If the social security number or Taxpayer ID number is on file, only the last 4 digits are required)*	13. Address	14. Percent Share
Charles Ludlow	1532	2342 Burke Rd Glen Rose, TX 74444	100 %
			%
			%
			%
			%

PART D - Embedded Entities: For any member listed in Part C, who is an entity, list such embedded entity's name and list the information for each member of such entity. If a member has both types of identification numbers, list both. If more than one member, listed in Part C is an entity, provide the requested information for each entity on supplemental sheets.

Name of Embedded Legal Entity _____

15. Member's Name	16. Social Security No./Tax ID No. *(If the social security number or Taxpayer ID number is on file, only the last 4 digits are required)*	17. Address	18. Percent Share
			%
			%
			%
			%
			%

PART E - Embedded Entities: For any member listed in Part D, who is an entity, list such embedded entity's name and list the requested, information for each member of such entity. If a member has both types of identification numbers, list both. If more than one member, listed in Part D is an entity, provide the requested information for each entity on supplemental sheets.

Name of Embedded Legal Entity _____

19. Member's Name	20. Social Security No./Tax ID No. *(If the social security number or Taxpayer ID number is on file, only the last 4 digits are required)*	21. Address	22. Percent Share
			%
			%
			%
			%
			%

PART F- CERTIFICATION - *I certify that all information entered on this document is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and benefits. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in the information provided.*

23. Representative's Signature (By)	24. Title/Relationship of Individual Signing in the Representative	25. Date (MM-DD-YYYY)
Charles Ludlow	President, Ludlow Ltd.	03/05/2009

100 Nondisclosure Results

A COC Responsibilities

If the legal entity fails to provide COC with the name, TIN, and **a**ddress of each applicable person and legal entity, COC shall:

- deny any payment earned by the legal entity
- notify the legal entity of the denied payment and reason for denial
- **not** be responsible for notifying the members
- permit the legal entity to cancel the applicable contract or application according to applicable program procedures.

101-105 (Reserved)

Part 3 Foreign Person Provisions

106 Foreign Person Rule Applicability

A Introduction

Before making **any** actively engaged in farming or other eligibility determinations, it **must** be established whether persons or legal entities, projected to share in applicable program benefits, are foreign persons.

B Program Applicability

Apply the provisions in this part to any type of payment, loan, and benefit made for 1989 and subsequent crop years for the programs listed in paragraph 11.

Note: Unless otherwise specified, **all** other provisions of this handbook are applicable in determining payment eligibility for foreign persons.

C Person Applicability

The provisions in this part are applicable to foreign persons as defined in paragraphs 107 and 108.

Note: The provisions in this part are **not** applicable to a citizen of the U.S., lawful alien, or legal entity that is **not** subject to this part that is:

- in lawful possession, through a lease or otherwise, of a farm owned by a person or legal entity who is subject to this part
- successor-in-interest to a program contract or agreement for a farm owned by a person or legal entity who is subject to this part.

D COC Determination

COC shall make the initial determination of foreign or nonforeign status for persons, legal entities, or other similar entities based on documentation provided.

107 Foreign Person Identification

A Definition

Foreign person means someone who is **not** a:

- citizen of the U.S.
- lawful alien possessing a valid Permanent Resident or Resident Alien Card (I-551).

B Proof of Citizenship

If COC questions the citizenship of a person, acceptable proof of citizenship **must** be provided. Proof of citizenship includes the following:

- birth certificate
- nationalization and citizenship papers
- certificate of citizenship
- verification through the nearest Immigration and Naturalization Service office.

107 Foreign Person Identification (Continued)

C Forms of Identification

The following are the front and back views of the Permanent Resident and Resident Alien Cards (I-551) currently in use.

- Special attention **must** be taken to ensure that proper identification of lawful aliens is made.
- Note visual inspection of I-551 on CCC-902.
- Request to photocopy I-551 if there is any question of its validity.

The **Permanent Resident Card** (1-551):

- began being issued in November 2004
- displays the seal of the Department of Homeland Security
- contains a detailed hologram on the front of the card
- is personalized with an etching displaying the following:
  - bearer's photo
  - name
  - signature
  - date of birth
  - alien registration number
  - card expiration date
  - card number.

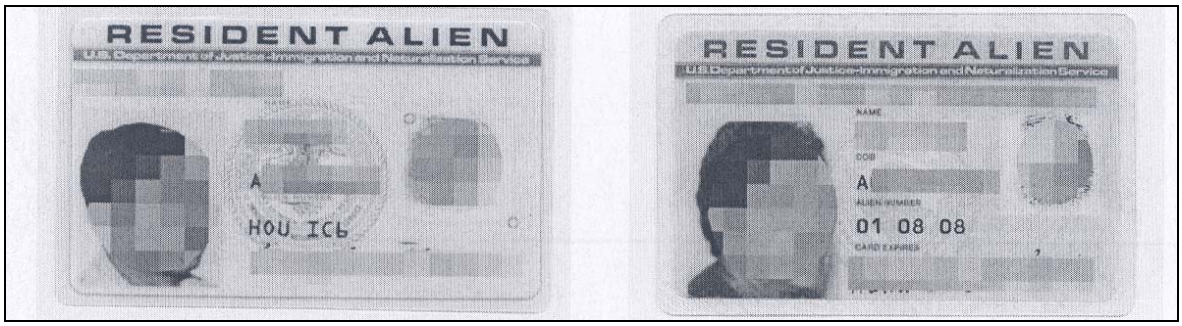
107 Foreign Person Identification (Continued)

C Forms of Identification (Continued)

The **Resident Alien Card** (I-551) is:

- no longer issued
- valid indefinitely or until the expiration date
- commonly referred to as a “green card”
- is the replacement for the Alien Registration Recipient Card (I-151).

Recipients of the Resident Alien Card (I-551) are lawful permanent residents.



108 Foreign Entity Identification

A Definition

Foreign entity means a corporation, trust, estate, or other similar organization, that has more than 10 percent of its beneficial interest held by persons who are **not**:

- citizens of the U.S.
- lawful aliens possessing valid Permanent Resident or Resident Alien Cards (I-551).

B Determining Beneficial Interest

In determining whether beneficial interest is held, the beneficial ownership shall be based on the higher amount of interest on either of the following dates:

- date applicable program contract or agreement is executed
- beginning harvest date for the commodity as determined by STC.

Note: All interest in an entity, including interest in an embedded entity, shall be taken into account.

108 Foreign Entity Identification (Continued)

C Entity Ownership Share

Use this table to determine a person's or legal entity's ownership interest in a foreign entity.

IF ownership is of...	THEN the ownership percentage held by a person or legal entity shall be based on...
1 class of stock or other similar unit	their outstanding share of ownership compared to the total outstanding unit of ownership.
more than 1 class of stock or other similar unit	the fair market value of all outstanding stock. **Note:** To determine the fair market value, follow paragraph 146.

Note: The value of different classes of stock or other unit of ownership can be determined by COC, STC, or DAFP, but shall be determined by the earliest level **before** referring to the next higher level of authority.

D Less Than 10 Percent Interest

DAFP may determine that an ownership interest of 10 percent or less shall be considered beneficial interest.

E Entity's Responsibility

The entity shall inform COC of any increase in ownership by a member that occurs after the beneficial interest has been determined.

Note: If there has been an increase in foreign ownership after a payment, loan, or benefit has been made, the entity **must** refund the payment, loan, or benefit.

109 Foreign Person Payment Eligibility

A Introduction

This paragraph provides the requirements to determine a foreign person eligible to receive payments, loans, or benefits subject to the foreign person rule for the programs listed in paragraph 11.

B Contribution Requirements

In addition to the requirements for actively engaged, the following significant contributions **must** be provided by a person or legal entity considered to be a foreign person.

Foreign Person	Who Must Make the Contribution	What Significant Contribution Must Be Provided
Person	Person.	One or more of the following: • active personal labor • capital • land.
Entity	Each foreign person who is a stockholder or other type of member.	Active personal labor.

Note: The eligibility determination will apply to **all** program benefits associated with payments, loans, and benefits subject to the foreign person rule, with respect to any commodity produced, or land set aside from production, for that crop year.

C Active Personal Labor Exception for CRP

Labor that is custom hired may be **excluded** when determining both the amount of labor necessary to conduct the farming operation and whether the foreign person has provided a significant contribution of active personal labor, if **both** of the following apply:

- the foreign person receives **only** CRP payments
- COC determines, and State Office concurs, that such labor is **always** custom hired in the county.

Note: Exceptions shall be producer specific and documented on CCC-903 or attachment.

110 Requesting Benefits for Nonforeign Shares

A Introduction

Entities that have been determined ineligible for payment, loan, or benefit because of the foreign person rule may receive the amount of payment that represents the percentage interest of the entity that is owned by U.S. citizens or lawful aliens.

Note: This provision is also applicable to foreign stockholders, etc. of an entity if some, but **not** all, of the foreign persons provide a significant contribution of active personal labor.

B Requesting Payment

To receive the eligible portion of payment, loan, or benefit, the entity **must**:

- provide a written request for payment to COC that includes the percentage of foreign ownership (subparagraph C)
- receive an approval determination letter from COC (subparagraph D).

110 Requesting Benefits for Nonforeign Shares (Continued)

C Example Letter From Entity

This is an example letter from a foreign entity, with foreign persons holding more than 10 percent, requesting percentage of eligible payments.

To: County Committee

From: Corporation/ Entity

According to program provisions dealing with foreign persons having more than 10 percent beneficial ownership of an entity, the following request for payment of program benefits is made.

Listed below are the foreign persons holding a beneficial interest that totals more than 10 percent ownership of the entity:

Name	**Percent of Ownership**
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
Total:	_____

The information provided above indicates that _____ percent of the entity's ownership is held by U.S. citizens and/or lawful aliens. We formally request payment of this percentage of benefits that the entity is eligible to receive.

_____ _____
Signature Date

_____
Title

110 Requesting Benefits for Nonforeign Shares (Continued)

D Example COC Approval Letter

This is an example letter notifying a foreign entity, with more than 10 percent foreign ownership, of COC approval of request for payment.

Dear Producer:

The _____ County FSA Committee has reviewed your request for payment of eligible benefits. It is our finding that _____ percent of the beneficial ownership is held by foreign persons and ineligible for payment.

Based on this determination, _____ percent of payments earned by your entity will be eligible to be paid.

[Give appeal rights according to 1-APP.]

This determination has been based on the facts as submitted. Any unrevealed circumstances could require the application of a more restrictive rule.

Sincerely,

County Executive Director

111 Foreign Person Rule Notification Letter Examples

A Introduction

This paragraph provides example notification letters to foreign persons.

B Letters to Eligible Foreign Persons

Insert the following statement in notification letters to foreign persons determined eligible for payments and other benefits:

> "Based on the information you (your representative) provided, the _____ County FSA Committee has determined you to be a foreign person eligible to receive certain program benefits."

Note: Insert the statement following the actively engaged in farming and person determinations.

111 Foreign Person Rule Notification Letter Examples (Continued)

C Example Letter to Ineligible Foreign Persons

This is an example notification letter to foreign persons determined ineligible for payments and other benefits.

Dear Producer:

Based on the information you (your representative) provided, the _____ County FSA Committee has determined you are a foreign person ineligible to receive certain program benefits. These benefits include payments and loans.

[Give appeal rights according to 1-APP.]

This determination has been based on the facts as submitted. Any unrevealed circumstances could require the application of a more restrictive rule.

Sincerely,

County Executive Director

D Letter to Ineligible Foreign Entities

Insert the following statement in notification letters to ineligible foreign entities:

> "Foreign entities that have been determined ineligible to receive certain benefits may request payment of the percentage of entity ownership held by U.S. citizens and/or lawful aliens. The request **must** be in writing and include the percentage of foreign ownership."

112-115 (Reserved)

Part 4 Eligibility Determinations for Farming Operations

Section 1 General Determinations

116 Spouses

A Actively Engaged in Farming Rule for Spouses

Use this table for actively engaged in farming determinations involving spouses.

IF the spouses are both...	THEN...
farming together: • in a joint operation • as an entity	if 1 spouse is determined actively engaged in farming, the other is credited with significant contributions of active personal labor and active personal management to the same farming operation. The requirements of significant contribution of capital land, or equipment, commensurate share and risk remain applicable.
involved in separate farming operations	**each** spouse **must** independently meet all applicable requirements to be considered actively engaged in farming.

B Determinations for Spouses Example 1

Situation: Husband A and Wife B have a joint farming operation comprised of 500 acres of rented land. In addition, Wife B has 100 percent interest in Corporation X that is participating in CRP and earning annual payments.

- Husband A and Wife B jointly own all the equipment and provide all the capital for their farming operation.

- Husband A contributes at least 50 percent of the active personal labor and a significant contribution of active personal management for the joint farming operation. Wife B does not provide active personal labor or active personal management.

- Husband A's and Wife B's share of the profits or losses from the farming operation are commensurate with their contributions and the contributions are at risk.

Determination: Husband A is considered to be actively engaged in farming because he is making both a left hand and right hand contribution. Wife B is also making a left hand contribution, but is not making a right hand contribution. However, by using the actively engaged rule for spouses, Wife B is credited with contributing labor and management; therefore, Wife B is considered to be actively engaged. Husband A and Wife B are each eligible to receive their respective share of the total program payments and benefits received by the joint operation and subject to limitation. Any contributions necessary for payment eligibility credited to Wife B are **only** applicable to the joint operation and do **not** apply to the Corporation X farming operation.

116 Spouses (Continued)

C Determinations for Spouses Example 2

Situation: Husband M and Wife N have a joint farming operation comprised of 700 acres of owned and cash-rented land. Wife N is an heir to the estate of her father who died in the previous year. Wife N is a full-time employee at the local FSA office.

- Husband M and Wife N jointly own all of the equipment and provide all of the capital necessary for the farming operation.
- Husband M contributes the majority of the active personal labor and the active personal management for the farming operation.
- Wife N contributes active personal labor and active personal management, whenever able, to the farming operation, but the amount is **not** commensurate with her share.
- The estate owns land, of which Wife N is an heir, and meets the requirements to be considered actively engaged in farming under the landowner provision.
- Husband M and Wife N's shares of the profits or losses from the farming operation are commensurate with their contributions to the farming operation and the contributions are at risk.

Determination: Husband M, Wife N, and the estate are all considered actively engaged in farming. Through the special provision for spouses, Wife N is credited as making significant contributions of active personal labor and/or active personal management to the farming operation since Husband M is considered to have met the requirement of actively engaged in farming. Both Husband M and Wife N made significant contributions of capital and equipment, and consequently, both met the requirements of the cash-rent tenant rule as well. In addition to her share of the program payments received through this joint farming operation, Wife N will also be attributed payments earned by her father's estate according to her share held as an heir.

117 Minor Children

A Definition of Minor Child

[7 CFR 1400.101] Minor child means a person that is **not** 18 years of age on or before April 1 of the current year.

Notes: Court action conferring majority on such person does **not** change this person's status as a minor child.

Person A's payments will continue to be attributed to his/her parent for the applicable crop year, program year, or FY even though the age of majority is reached during the year.

B Payments to a Minor Child

Payments issued to a minor child:

- are attributed to the parent or court-appointed person who is responsible for the child
- that is a beneficiary of a trust or heir of an estate, are attributed to the parent or court-appointed person who is responsible for the child.

Exception: If both parents are receiving program payments, the minor child payments will be attributed to the parent receiving the larger amount in payments.

Notes: A conservatorship does **not** necessarily mean the appointee is responsible for the child. A conservatorship means the appointee has control of certain **assets** of the child's.

117 Minor Children (Continued)

C Exception to Rule

Payments to a minor child will not be attributed to a parent or court-appointed person for payment limitation purposes if **both** of the following requirements are met:

- the minor child is a producer on a farm
- neither the minor child's parents nor court-appointed person has any interest in the minor child's farm or production from that farm.

D Exception Restrictions

Either of the following **must** be met for the minor child to remain under the exception in subparagraph C:

- the minor child meets **all** of the following:
  - has established and maintains a separate household from the parent or court-appointed person
  - personally carries out the farming activities in his or her operation
  - maintains a separate accounting for his or her farming operation
- the minor child meets **all** of the following:
  - does **not** live in the same household as his or her parents
  - is represented by a court-appointed person responsible for the minor child
  - has ownership of the farm vested in him or her.

118 Indian Tribes

A Definition

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the U.S. because of their status as Indian.

B Rule

This table provides rules applicable to Native Americans and Indian Tribes.

IF the farming operation is conducted by...	**THEN...**
the tribe on land the tribe owns	• payments exceeding 1 limitation may be made to the tribe if a BIA official or tribal council certifies in CCC-902E, item 18, "Remarks" or attached to CCC-902E, that no 1 member, directly or indirectly, will receive more than the limitation • **[7 CFR 1400.207]** individual members of the tribe are considered actively engaged because of land ownership • earnings are attributable to each person of the tribe.
the tribe on land that is rented or otherwise acquired	determinations **must** be made as for any other joint operation.
individual Native Americans or groups of Native Americans represented by BIA on allotted land	• a BIA official **must** certify in CCC-902E, item 18, "Remarks" or attached to CCC-902E, that no 1 member, directly or indirectly, will receive more than the limitation • individual members are considered actively engaged because of land ownership • earnings are attributable to each individual Native American.

118 Indian Tribes (Continued)

C Individual Operations

[7 CFR 1400.4] If Native American individuals have their own operation plus interest in the tribal venture operation, the individual **must** certify that his or her total payments do **not** exceed the limitation. This should be completed on CCC-902I or attached to CCC-902E.

D Legal Entity Operations Involving Native Americans

Corporations, trusts (revocable or irrevocable), and estates having Native Americans as members are subject to the same rules as all other legal entities, except any Alaskan Native village or regional corporation, as defined in or established under the Alaska Native Claims Settlement Act.

E Examples

The following are examples to clarify procedure for filing CCC-902's involving Native American tribes.

Example 1 - Situation -- Native American tribe "AB" farms land owned by the tribe. BIA has certified that payments exceeding the applicable payment limitation, with respect to the land owned by the tribe, will **not** accrue directly or indirectly to any individual Native American including the spouse or minor children of the Native Americans. Individual Native Americans of the tribe also farm land owned by third parties.

Determination -- BIA certification is effective **only** for the land owned by the tribe. Each individual Native American farming land owned by third parties **must** certify that they will **not** receive payments exceeding the applicable payment limitation with respect to the earnings from:

- the tribe's farming operation
- their individual farming operation.

118 Indian Tribes (Continued)

E Examples (Continued)

Example 2 - Situation -- Native American tribe "CD" farms land that is owned by the tribe and land that is leased to the tribe. The tribe provides all the capital and equipment, but **only** a few members of the tribe contribute a significant amount of active personal labor or active personal management to the farming operation on the leased land.

BIA has certified that payments exceeding the applicable payment limitation, with respect to the land owned by the tribe, will **not** accrue directly or indirectly to any individual Native American.

Some members of the tribe lease land and farm as individuals, contributing significant amounts of leased equipment, active personal labor, or active personal management to the farming operation on the personally leased land.

Determination -- BIA's certification is applicable **only** for the land that is owned by the tribe. The tribe is considered to be actively engaged in farming, with respect to land that is owned, and may earn payments exceeding the applicable payment limitation.

The land that is leased by the tribe **must** qualify under the same provisions that apply to joint operations. Therefore, for land leased to the tribe, each member of the tribe **must** contribute a significant amount of active personal labor or active personal management to the farming operation to be considered actively engaged in farming. The tribe **must** complete the necessary forms for COC to determine whether the members of the tribe are actively engaged with respect to the leased land.

Each Native American receiving payment as an individual **must** certify that they will **not** receive payments exceeding the applicable payment limitation with respect to the earnings from:

- the tribe's farming operation
- their person farming operation.

Each Native American **must** also complete the necessary forms for COC to determine whether the individual is actively engaged in farming.

119 States, Political Subdivisions, and Agencies

A Rule [7 CFR 1400.102]

States, including agencies, divisions, or political subdivisions thereof, are ineligible for program payments, **except** as provided in subparagraph B.

B Exceptions to Rule

Exception 1: DCP and ACRE payments issued with respect to land owned by the State and used to support public schools are authorized, but limited to $500,000 annually.

Note: The term public school includes State universities.

Exception 2: DCP and ACRE payments made to States under Exception 1 are **not** limited if State has a population of less than 1.5 million.

Note: States with population of less than 1.5 million include Alaska, Delaware, Hawaii, Idaho, Maine, Montana, North Dakota, New Hampshire, Rhode Island, South Dakota, Vermont, and Wyoming.

C Written Verification

If the requirements in subparagraph B are met and the payments are **not** issued directly to a public school, written verification **must** be obtained from the State Board of Education, or other authorized official, that payments are used solely for the support of public schools.

119 States, Political Subdivisions, and Agencies (Continued)

D Action by Noncontrol County

Noncontrol County Offices shall follow this table for payments authorized according to subparagraph B, Exception 1, to a State producer.

Step	Action
1	Notify State producers **before** the end of applicable signup that: • State producers may agree to a method of disbursing program payments • a drawing will be conducted to select the payment order in which participating eligible State producers will receive program payments, if no alternative payment method is agreed upon by the State producers • State producers shall contact the control County Office by the end of signup to give the alternative payment method agreed upon by all affected parties, if applicable • the method used for selection will apply for CCC-509's.
2	Send the following to the control County Office for **all** eligible participating State producers and participating legal entities in which the State producer has an interest: • CCC-509's • CCC-902E's • CCC-926's.
3	Notify affected producers of the results of the drawing conducted by the control County Office **no** later than 1 week after the drawing is held. **Note:** Notify the control County Office of any cancellations.

119 States, Political Subdivisions, and Agencies (Continued)

E Letter to Combined State Producers

Send this letter to State producers subject to subparagraph B, Exception 1, no later than 30 calendar days **before** the end of signup.

Producer's Name Date
Street
City, State ZIP Code

Dear Producer:

A State, including all political subdivisions and agencies thereof, is only eligible for payments under DCP or ACRE if the payments are used solely for the support of public schools. Total payments **cannot** exceed $500,000 annually. To be eligible for payment, **each** legal entity **must** be determined actively engaged in farming and in compliance with highly erodible land conservation and wetland conservation provisions.

If you intend to participate in DCP and/or ACRE, you **must** enroll by [end of signup date]. **No** later than [end of signup date], all State producers should develop a method for disbursing program payments subject to limitation and inform the control County Office [give office name and address]. If no method is given, the control County Office will conduct a drawing, open to the public, on [second Friday after signup] at 10:00 a.m., for selecting the order in which participating State producers will receive payments subject to limitation. These payments are earned on State-owned land and used solely for the support of public schools.

If a drawing is conducted, you will be notified of the results.

Sincerely,

County Executive Director

119 States, Political Subdivisions, and Agencies (Continued)

F State Drawing, Control County

Control County Offices shall use this table if it is necessary to conduct a drawing for State producers. The drawing shall be open to the public and conducted at 10 a.m. on the second Friday **after** the end of signup or such other date is announced.

Step	Action
1	Determine the number of State producers by counting **each** eligible contract or application subject to the same limitation and assign a number to each. **Note:** Include **only** timely filed contracts or applications in which the State producer has an interest.
2	Select by drawing the numbers assigned in step 1 until a payment order has been established for all State producers. For CCC-509's, use the calculated direct payment amount to determine when the limitation has been reached for direct payments. **Note:** For both the direct and counter-cyclical payments, allocate the amounts to producers in the same order as determined by the drawing and issue payment when appropriate.
3	Notify the noncontrol County Offices of the results of the drawing. **Note:** Include a list of payment and designation order as determined in step 2 that indicates each producer's earnings subject to the applicable limitation.
4	Update the list in step 3 if any producers cancel their contract or application. • Subsequent final payments subject to the applicable limitations shall be made in the order listed. • Total payments for direct, counter-cyclical, and ACRE payments shall **not** exceed $500,000 for program payment limitation amount.

120 Completing CCC-902E for a Public School

A Example CCC-902E

Following is an example of CCC-902E completed for a public school.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation **FARM OPERATING PLAN FOR AN ENTITY** **2009 and Subsequent Program Years** For "actively engaged in farming" and other payment eligibility/limitation determinations.	1. County **Brazos** 2. State **Texas**	3. Program Year **2009**

This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits ***directly*** *using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)* **Wixon Valley USD#427** **#427 Wixon Rd** **Wixon Valley, TX 78888**	2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)* **2400** 3. Date of Formation *(MM-DD-YYYY)* **01-1973**

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- ☐ General Partnership
- ☐ Joint Venture
- ☐ Indian Tribe
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☒ Public School
- ☐ City, County or State-owned Entity
- ☐ Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
Public School **No members**			$		
			$		
			$		
			$		
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.	A. Name	B. Title

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. ☐ Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

120 Completing CCC-902E for a Public School (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Wixon Valley USD #427 Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☐ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

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6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)*	B. Land	C. Equipment	D. Hired Labor	E. Hired Management
%	100 %	%	%	100 %

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
								☐		
								☐		
								☐		
								☐		

120 Completing CCC-902E for a Public School (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Wixon Valley USD #427 Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: 200 Location: Brazos/TX	Wixon Valley USD #427	☒	☐	☐		15.0	100%	☒
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☒ "out of pocket" capital 100 %
☐ commercial loans/credit ____ %
☐ private loans/credit ____ %
☐ FSA loan(s) ____ %
☐ FSA program payments from this crop year ____ %
☐ Other: ____ ____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☐ NO Land: ☐ YES ☐ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
				%
				%
				%

PART G - EQUIPMENT *(All percentages are based on annual rental values.)*

1. Owned Equipment: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity 0 %

2. Leased Equipment: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased, **Go To Part H***):

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

120 Completing CCC-902E for a Public School (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Wixon Valley USD #427 Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?
☐ **NO.** GO TO PART I ☒ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider
Mowing established cover on CRP	**200**	**15.0**	**Al's Mowing Service**

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount	
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	**0**	**%**
	0	hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	**100**	%
	0	hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?
☒ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:
A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: **0** **%**
B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

2. Hired management:
A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: **100** **%**
B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

School Superintendent, Daniel Wicks, manages the land owned by the school district which is enrolled in the Conservation Reserve Program. Daniel Wicks makes all arrangements annually for mowing and weed control as deemed necessary.

3. Other management:
A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: **0** **%**
B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

120 Completing CCC-902E for a Public School (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Wixon Valley USD #427 Page 5 of 6

PART K - REMARKS

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
Daniel Wicks	Superintendent, USD #427	03/05/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

120 Completing CCC-902E for a Public School (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

121 Clubs, Societies, and Fraternal and Religious Organizations

A Rule [7 CFR 1400.103]

Charitable organizations, including clubs, societies, fraternal, and religious organizations, shall be considered separate and distinct farming operations from the members of the organization or any other legal entity.

B Exceptions to Rule

If the land operated by the organization, or the production from the operation, may transfer to a legal entity that exercises control over the organization, the payments to the organization shall be attributed to the parent organization.

Note: If parent organization's TIN is used by the organization, the payments to the organization shall be attributed to the parent organization.

Important: The fact that an organization has a separate TIN does **not** mean that it qualifies for a separate limitation. If there is any indication that 1 organization exercises control over another organization and land or proceeds transfer to the parent organization, the payments shall be attributed to the parent organization and payments limited accordingly.

Example: If land owned by a church within a diocese would transfer to the diocese upon closure of the church, payments to the church would be attributed to the diocese.

C Example of Determinations for Charitable Organizations

Situation: A charitable organization forms other charitable organizations that are represented to be separate organizations. The other organizations have separate TIN's and each is recognized by IRS as qualifying as a charitable organization. However, there is evidence that the parent organization continues to exercise control over the other organizations, and that the land, or proceeds from the land, may transfer to the parent organization.

Result: All payments will be attributed to the parent organization.

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization

A Example CCC-902E

Following is an example of CCC-902 completed for a charitable/tax-exempt organization.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	1. County **Dallas**	3. Program Year **2009**
FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years	2. State **Texas**	
For "actively engaged in farming" and other payment eligibility/limitation determinations.		

This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits ***directly*** *using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)*	2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*
Dallas Wildlife Preservation Society **89797 I-20 E** **Dallas, TX 75555**	**5300**
	3. Date of Formation *(MM-DD-YYYY)* **04-1956**

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- ☐ General Partnership
- ☐ Joint Venture
- ☐ Indian Tribe
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☒ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
501(c)(3) Tax Exempt Entity, no members			$		
			$		
			$		
			$		
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.	A. Name	B. Title

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. ☐ Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Dallas Wildlife Preservation Society Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☐ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

FOR FSA USE ONLY

6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)*	B. Land	C. Equipment	D. Hired Labor	E. Hired Management
%	100 %	%	%	100 %

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
								☐		
								☐		
								☐		
								☐		

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Dallas Wildlife Preservation Society Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: **1589** Location: **Ellis/TX**	**Dallas Wildlife Preservation Society**	☒	☐	☐		**400.0**	**100%**	☒
Farm No.: **623** Location: **Knox/TX**	**Dallas Wildlife Preservation Society**	☒	☐	☐		**318.9**	**100%**	☒
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☒ "out of pocket" capital **100** %
☐ commercial loans/credit ____ %
☐ private loans/credit ____ %
☐ FSA loan(s) ____ %
☐ FSA program payments from this crop year ____ %
☐ Other: ____ ____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☐ NO Land: ☐ YES ☐ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
				%
				%
				%

PART G - EQUIPMENT ***(All percentages are based on annual rental values.)***

1. **Owned Equipment**: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity ____ %
2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased, **Go To Part H**)*:

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Dallas Wildlife Preservation Society Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?
☐ **NO.** GO TO PART I ☒ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider
Mowing established cover	**1589**	**400.0**	**Elmo Rice**
Mowing established cover	**623**	**318.9**	**Bill Evant**

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount	
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	**0**	**%**
	0	hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	**100**	%
	0	hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?
☒ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:
A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: **0** %
B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

2. Hired management:
A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: **100** %
B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

Executive Director, Xavier Salas, manages land owned by the Society which is participating in the Conservation Reserve Program. Xavier Salas makes all arrangements annually for mowing, shredding, and weed control as necessary.

3. Other management:
A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: **0** %
B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Dallas Wildlife Preservation Society Page 5 of 6

PART K - REMARKS

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
Xavier Salas	Executive Director	03/05/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

122 Completing CCC-902E for a Charitable/Tax-Exempt Organization (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

123-125 (Reserved)

126 Actively Engaged in Farming Determinations

A Rule [7 CFR 1400.201]

A person shall be considered to be actively engaged in farming if **all** of the requirements in this table are met.

Item	Requirement
1	The person makes a significant contribution to the farming operation of **both** of the following: • capital, equipment, land, or a combination thereof • active personal labor, active personal management, or a combination thereof.
2	The person's share of the profits or losses from the farming operation is commensurate with the person's contribution to the farming operation.
3	The person's contributions are at risk.

B Other Participants That Use This Rule

This rule also applies to a person who is a:

- partner in a general partnership
- participant in a joint venture.

C Military Personnel

[7 CFR 1400.213] COC may determine a person who is called to active duty in the military during the program year actively engaged in farming according to this table.

IF the person is called to active duty in the military...	THEN COC...
before the determination is made	**must** determine that the person was making a conscious effort to be, and would have been determined to be, actively engaged in farming if **not** for being called to active duty in the military.
after the determination is made	shall allow the determination to be in effect for the program year.

127 Sharecroppers

A Rule [7 CFR 1400.209]

A sharecropper shall be considered actively engaged in farming if **all** of the requirements in this table are met.

Item	Requirement
1	The sharecropper makes a significant contribution of active personal labor to the farming operation for which the sharecropper receives a specified share of the crop produced on the farm.
2	The sharecropper's share of the profits or losses from the farming operation is commensurate with the contribution to the operation.
3	The sharecropper's contributions are at risk.

Note: To be considered actively engaged in farming under this provision, the person may:

- **not** receive wages for labor and be considered a sharecropper for this purpose
- be provided housing and "draw" cash advances to be deducted later from proceeds of the crop.

B Example

Situation: Person Y provides labor for Landowner Z on 500 acres of rice in exchange for a share of the crop. Person Y **only** contributes active personal labor to the farming operation and receives a cash advance that will be set off from the proceeds of the crop after harvest. Landowner Z provides Person Y with housing.

Determination: Person Y is considered to be actively engaged in farming since Person Y is a sharecropper and the requirements in subparagraph A are met. Landowner Z is considered to be actively engaged in farming since Landowner Z is a landowner.

128 Incapacitated Persons

A Introduction

This paragraph describes the requirements for a person who dies or becomes incapacitated during the program year to be determined actively engaged in farming,

B Rule [7 CFR 1400.210]

COC may determine a person who dies or becomes incapacitated during the program year actively engaged in farming according to this table.

IF the person dies or becomes incapacitated...	THEN COC...
before the determination is made	**must** determine that the person would have been determined to be, actively engaged in farming, if **not** for the person's death or incapacitation.
after the determination is made	shall allow the determination to be in effect for the program year.

Notes: This rule is also applicable to an entity if COC determines that the person who died or who became incapacitated would have qualified the legal entity as actively engaged in farming,

The following year, the person, the person's estate, or the legal entity, as applicable, **must** meet all of the necessary requirements to be actively engaged in farming for that year.

129 Case Examples

A Example 1

Situation: Person Z rents 1,500 acres of land on a share-rent basis. Person Z owns the equipment and contributes at least 50 percent of the commensurate share of active personal labor and contributes 100 percent of the farming operation's management. In this situation, Person Z's share of the profits or losses from the farming operation is commensurate with Person Z's contributions to the operation and the contributions are at risk.

Determination: Person A is considered to be actively engaged in farming,

B Example 2

Situation: Person A rents land on a share-rent basis. Person A contributes a significant amount of leased equipment and a significant amount of active personal management to the farming operation. Capital is borrowed from another producer on the farm at the prevailing interest rate. The labor needed for Person Z's farming operation is hired. Person A's share of the profits or losses from the farming operation is commensurate with person A's contribution to the operation and the contributions are at risk.

Determination: Person A is considered to be actively engaged in farming since Person A contributes a significant amount of both equipment and active personal management. A contribution of capital, equipment, or land is used to meet the significant contribution.

130 Completing CCC-902I

A Example CCC-902I

Following is an example of a completed CCC-902I.

This form is available electronically.

CCC-902I (12-22-08) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	1. County **Erath**	3. Program Year **2009**
FARM OPERATING PLAN FOR AN INDIVIDUAL 2009 and Subsequent Program Years	2. State **Texas**	
For "actively engaged in farming" and other payment eligibility and limitation determinations.		

*This form is to be completed by, or on behalf of, an individual who is seeking benefits from the Farm Service Agency (FSA) as an **individual** (and not as part of an entity) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the individual who receives program benefits **directly** using the social security number identified in Part A. This form also collects information about entities engaged in farming in which the individual has an interest. Such entities must complete a CCC-902E if they are requesting program benefits. Payment eligibility for the individual is based upon the contribution level of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the individual identified in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A – BASIC INFORMATION

1. Individual 's Name and Address *(Include Zip Code)*	2. Social Security Number *(If the social security number or Taxpayer ID number is on file, only the last4 digits are required)*
Dirk Jahr **437 Narrow Lane** **Stephenville, TX 72222**	**1212**

PART B - ADDITIONAL INFORMATION

1. Is this individual a U.S. citizen?	2. Is this individual an alien lawfully admitted into the U.S.?	3. FOR COUNTY FSA USE ONLY *(Was an Alien Registration Receipt Card, I-551 shown?)*
☒ YES. Go to Item 4A ☐ NO. Go to Item 2 ➔	☐ YES, must present Alien Registration Receipt Card (I-551). ☐ NO	☐ YES ☐ NO

MINORS

4A. Is this individual under 18 years of age as of April 1 of the program year specified in Item 3? ☒ NO. Go to Item 7 ☐ YES, continue with Item 4B	4B. Enter Date of Birth *(MM-DD-YYYY)*

5. Enter the name, address, and social security number of parent or guardian:

A. Parent's or Guardian's Name	B. Parent's or Guardian's Address	C. Social Security Number of Parent or Guardian *(If the social security number or Taxpayer ID number is on file, only the last4 digits are required)*

D. Does this individual maintain a separate household from parent or guardian? ☐ **YES** ☐ **NO**

6. List the direct and indirect interests in all farming operations of this individual's parents or guardians:

A. Parent's or Guardian's Name	B. Name of Farming Interest	C. % Share of Farming Interest	D. Tax ID Number of Farming Interest *(If the social security number or Taxpayer ID number is on file, only the last4 digits are required)*	E. County and State Where Farming Interest is Located

7. Other Farming Interests: Complete this item for all farming entities, including joint operations, in which the individual identified in Part A has an interest, and for any farming interests of a spouse or minor child. ☒ N/A, Go to Part C.

A. Other Farming Interests	B. Whose Farming Interest?			C. % Share	D. Tax ID Number of Farming Interest (If the social security number or Taxpayer ID number is on file only the last four digits are required)	E. County and State Where Farming Interest is Located
	Self	Spouse	Minor Child			

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

130 Completing CCC-902I (Continued)

A Example CCC-902I (Continued)

CCC-902I (12-22-08) **Name of Individual (as identified in Part A):** Dirk Jahr — Page 2 of 4

INSTRUCTIONS FOR PARTS C THROUGH H. Only include information for the individual identified in Part A. Do not include information for any entities listed in Part B, Item 7.

PART C - LAND

1. Land: Enter the following information for ALL land farmed by the individual identified in Part A and not as part of an entity. (For additional space, complete CCC-902 Continuation and attach to this form.) Check here ☐ if attached.

A. Farm No.	B. Location *(County and State)*	C. Check One: Owned	Leased To	Leased From	D. Name of Individual or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre Or % of Crop Share	G. Check here if same land interest was held last year
1213	Erath, TX	☒	☒	☐	Beringer Partners	507.3	25%	☒
1214	Erath, TX	☒	☒	☐	Jahr Dairies, Inc.	250	$45/Acre	☒
		☐	☐	☐				☐
		☐	☐	☐				☐
		☐	☐	☐				☐
		☐	☐	☐				☐
		☐	☐	☐				☐
		☐	☐	☐				☐

PART D - CAPITAL

1. What is the source of all farming capital for the individual identified in Part A for the farms listed in Part C? *(Check all that apply. Show the percent of capital from each source. Total should equal 100%.*

☒ Non-borrowed capital 100 %
☐ Commercial loans/credit ____ %
☐ Private loans/credit ____ %
☐ FSA loan(s) ____ %
☐ FSA program payments from this crop year ____ %
☐ Other: ____ ____ %

2. Will contributions of farming equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☒ NO Land: ☐ YES ☒ NO

3. If capital includes loans or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by another individual or entity? ☒ N/A. Go to Part E. ☐ NO. Go to Part E. ☐ YES. Complete Items 3A through 3E

A. Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B. Name of Loan or Credit Source	C. Guarantor's Name	D. Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E. Percent of Total Capital
				%
				%
				%

PART E - EQUIPMENT ***(All percentages are based on annual rental values.)***

1. **Owned Equipment**: What percent of ALL equipment to be used by the individual identified in Part A on the farms listed in Part C is owned by the individual identified in Part A? If the individual specified in Part A does not own any of the equipment used in the farming operation, enter 0%. 0 %

2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used by the individual identified in Part A on the farms listed in Part C:

A. Percent of Total Equipment Used by the Individual	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

130 Completing CCC-902I (Continued)

A Example CCC-902I (Continued)

CCC-902I (12-22-08) **Name of Individual (as identified in Part A):** Dirk Jahr Page 3 of 4

PART F - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the individual listed in Part A on the farms listed in Part C?

☒ NO. Go to Part G ☐ YES, complete Items 1A through 1D of this Part.

A. Type of Services (tillage, planting, cultivating, harvesting)	B. Farm Number(s)	C. Number of Acres	D. Name of Provider

PART G – LABOR

For the farms listed in Part C, enter the information for contributions of labor both active personal and hired, which will be provided by the individual identified in Part A, hired laborers; or by others:

Type	Amount
1. Active personal labor. Enter the percentage or hours to be provided personally by the individual listed in Part A.	0 %
	0 hrs
2. Hired labor. Enter the percentage or hours of labor that will be hired.	0 %
	0 hrs

A. Will any of the hired labor originate from the same source as leased equipment shown in Part E?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom farming services shown in Part F?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

3. Other labor. Enter the percentage of labor to be donated by family members or others. *(No payment will be owed).* 0%

PART H – MANAGEMENT ***(The total percentage shown in Items 1 through 3 must equal 100%)***

For the farms listed in Part C, enter the estimated percent of the individual's total management responsibility and the type of managerial duties required which will be provided by the individual identified in Part A, by hired persons or entities, or by others who are not hired.

1. Active personal management:
A. Enter the estimated percent of the active personal management to be provided by the individual identified in Part A: 100 %
B. List the type of managerial duties/activities to be personally performed by the individual identified in Part A:
I make all landowner decisions. I decide who to lease my land to and for what amount.

2. Hired management:
A. Enter the estimated percent of hired management: 0 %
B. Describe any paid management services provided by someone other than the individual identified in Part A:

3. Other management:
A. Enter the estimated percent of other management: 0 %
B. Describe any non-compensated management duties/activities provided by someone other than the individual identified in Part A:

PART I – CERTIFICATION

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation.

By signing this form, I acknowledge that:
- *all supporting documentation has been submitted as required.*
- *I have read and understood all definitions and requirements on Page 4.*
- *all information contained on this form is true and correct, and will be considered in effect continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes in the farming, ranching or forestry operation, or financial status that may affect these representations.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and that I will take all necessary actions to provide such materials to FSA if requested .*

1. Signature (By)	2. Title/Relationship of the Individual Signing in Representative Capacity	3. DATE *(MM-DD-YYYY)*
Dirk Jahr		03/05/2009

130 Completing CCC-902I (Continued)

A Example CCC-902I (Continued)

CCC-902I (12-22-08) Page 4 of 4

DEFINITIONS

The following definitions apply to Form CCC-902I.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct non-borrowed (out-of-pocket) input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed to conduct activities of the farming operation including machinery and implements used for land preparation, planting, cultivating, harvesting or marketing crops. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION** - is a business enterprise engaged in the production of agricultural products which is operated by a person or a formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is farmland consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

131-135 (Reserved)

Section 3 Joint Operations

136 Eligibility Determinations

A Rule [7 CFR 1400.203]

Each member who shares in the income from a joint operation **must** be determined to be actively engaged in farming for the joint operation to be fully eligible for payment.

B Programs Not Requiring Actively Engaged in Farming Determinations

[7 CFR 1400.7] If a program requires eligibility determinations, but **not** actively engaged in farming determinations, the following are **required** to be eligible for payments or benefits:

- claimed share of the profits or losses of the farming operation **must** be commensurate with the contributions to the farming operation
- contributions **must** be at risk.

137 Joint Operation Actively Engaged in Farming Determinations

A Rule

Members of a joint operation can be determined actively engaged in farming by meeting **all** of the requirements in this table.

Item	Requirement

1	Contributions to the farming operation of **both** of the following are made:
	
	• the member **or** joint operation makes a significant contribution of capital, equipment, or land, or a combination thereof
	
	• each member makes a significant contribution of active personal labor or active personal management, or a combination thereof, that are:
	
	  • performed on a regular basis
	  • identifiable and documentable
	  • separate and distinct from contributions of any other member.
	
	Note: See subparagraph 116 A for exceptions for spouses.

2	The member must provide satisfactory evidence that his or her contributions of land, labor, management, equipment, or capital to the joint operation are commensurate with the member's claimed share of the profits or losses of the joint operation. See subparagraphs 147 D, E, and F for recordkeeping, methods of proof, and verification requirements.
3	The member's contributions to the farming operation are at risk.

B Separate and Distinct Contribution of Labor

If a member provides active personal labor to the joint operation's farming operation that is performed on a regular basis, and that is identifiable and documentable, the member will be considered to have met the requirement of a separate and distinct contribution of labor to the joint operation's farming operation.

C Contributions Not Commensurate

For a member of a joint operation whose contributions of inputs are not equal to his or her claimed share:

- if the contribution is less than commensurate, that member is not considered "actively engaged in farming" and ineligible to receive any payment earned by the joint operation

- if the contribution is at least commensurate, that member may receive his or her share of the payment earned by the operation, but this share cannot be increased because of the ineligibility of another member.

138 Family Members in a Joint Operation

A Definition [7 CFR 1400.3]

Family member means a person to whom another member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

The term family member shall include:

- great grandparent
- grandparent
- parent
- child, including legally adopted children and stepchildren
- grandchild
- great grandchild
- sibling of the family members in the farming operation
- spouse of family members.

B Making Determinations

In making determinations, COC shall consider the makeup of the operation at the time the determinations are made.

C Rule [7 CFR 1400.208]

A person who is an adult family member shall be considered actively engaged in farming for a joint operation composed of a majority of whom are family members, if **all** of the requirements in this table are met.

Item	Requirement
1	The family member makes a significant contribution of active personal management or active personal labor, or combination thereof, to the farming operation.
2	The family member's share of the profits or losses from the farming operation is commensurate with the family member's contribution to the operation.
3	The family member's contributions are at risk.

138 Family Members in a Joint Operation (Continued)

D Example 1

Situation: In 2008, Partnership AB consists of Person A and Person B, 2 unrelated person members. In 2009, Person C, an adult son of Person A, will join the partnership.

- Persons A and B will **each** provide a significant contribution of active personal labor and active personal management.
- Person C will provide a significant contribution of active personal labor.
- The partnership will provide all of the capital and equipment. The land is share leased by the partnership from 5 different landowners.

Determination: A majority of the persons of the joint operation are family members. Based on the contributions of each member, Persons A, B, and C are **each** considered to be actively engaged in farming, if COC determines the contributions are at risk and claimed shares are commensurate with the contributions of each member.

Person C is actively engaged in farming because of the family member provision, since the joint operation consists of 3 persons, a majority of whom are persons that are family members.

E Example 2

Situation: Father A has been farming owned land and rented land for many years. Son B, an adult, is starting to farm with his father. Son B contributes a significant amount of active personal labor. Father A contributes all of the farming operation's capital, equipment, and active personal management.

Determination: Father A and Son B are both considered to be actively engaged in farming, if COC determines the contributions are at risk and claimed shares are commensurate with the contributions of each member.

138 Family Members in a Joint Operation (Continued)

F Example 3

Situation: In 2008, Partnership CD consisted of Person C and Grandfather D. In 2009, Grandson E is brought into the farming operation.

- Person C contributes all the capital and a significant amount of active personal management.
- Grandfather D contributes the use of a significant amount of equipment, owned land, and active personal management.
- Grandson E will provide all the active personal labor.

Determination: Person C, Grandfather D, and Grandson E will each be considered to be actively engaged in farming, if COC determines the claimed shares are at risk and commensurate with each partner's contribution to the farming operation.

G Example 4

Situation: ABC Partnership is a family held partnership consisting of Father A, Son B, and Daughter C. In 2009, Father A brings Son-in-law D into the farming operation.

- Daughter C, who is married to Son-in-law D, does **not** provide a significant amount of active personal labor or active personal management to the farming operation.
- Son B contributes a significant amount of capital, active personal labor, and active personal management.
- Father A originally contributed his owned equipment to the partnership and contributes some capital and a significant amount of active personal management.
- Son-in-law D contributes a significant amount of both active personal labor and active personal management to the farming operation.

Determination: Father A, Son B, and Son-in-law D are considered to be actively engaged in farming, if COC determines the claimed shares are at risk and commensurate with each partner's contribution to the farming operation. Daughter C is considered to be actively engaged in farming, if the requirements of paragraph 116 apply. Son-in-law D was brought into the farming operation using the family member provision.

138 Family Members in a Joint Operation (Continued)

H Example 5

Situation: Mother A, Daughter B, and Son C are partners in a family partnership. Son D, a minor child, becomes a partner in 2009.

- Mother A contributes a significant amount of both capital and active personal management.
- Daughter B contributes a significant amount of both capital and active personal management.
- Son C contributes a significant amount of equipment, active personal labor, and active personal management.
- Son D contributes a significant amount of active personal labor.

Determination: Mother A, Daughter B, and Son C are considered to be actively engaged in farming. However, Son D is **not** considered to be actively engaged in farming because of the family member provision because he is **not** an adult family member.

139 Joint Operation Case Examples

A Example 1

Situation: Partnership AB farms 2,000 acres of land. The partnership owns the equipment and the partners provide at least 50 percent of their commensurate share of active personal labor and a significant amount of active personal management. Each partner's share of the profits or losses from the farming operation is commensurate with the partner's contribution to the operation and each partner's contributions are at risk.

Determination: Partners A and B are considered to be actively engaged in farming and each have a separate payment limitation.

B Example 2

Situation: Partnership CD farms 2,000 acres of land. Each partner contributes a significant amount of both capital and active personal management to the farming operation. Labor is hired. Equipment and land are rented from third parties. Each partner's share of the profits or losses from the farming operation is commensurate with the partner's contribution to the operation and each partner's contributions are at risk.

Determination: Partners C and D are considered to be actively engaged in farming and each have their own respective payment limitation.

C Example 3

Situation: Partnership EFG farms 2,000 acres of land. The contributions of capital, land, and equipment are acquired from loans from a banking institution. The bank requires that all partners sign to guarantee the loan. The partners provide at least 50 percent of their commensurate share of active personal labor and a significant amount of active personal management. Each partner's share of the profits or losses from the farming operation is commensurate with the partner's contributions to the operation and each partner's contributions are at risk. None of the partners have any other farming interests.

Determination: Partners E, F, and G are considered to be actively engaged in farming. The fact that the contributions of capital, land, and equipment are guaranteed by the members does **not** prevent the contributions from being considered for a significant contribution. See subparagraphs 72 C, 72 D, and 73 C.

140 Completing CCC-902E for Joint Operations

A Example CCC-902E

Following is an example of CCC-902E for a joint operation.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08)
U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

FARM OPERATING PLAN FOR AN ENTITY
2009 and Subsequent Program Years

For "actively engaged in farming" and other payment eligibility/limitation determinations.

1. County: **Johnson**
2. State: **Texas**
3. Program Year: **2009**

This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits ***directly*** *using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)*

Beringer Partners
205 Southland Rd
Cleburne, TX 73333

2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*: **1263**
3. Date of Formation *(MM-DD-YYYY)*: **10-2008**

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- [x] General Partnership
- [ ] Joint Venture
- [ ] Indian Tribe
- [ ] Corporation
- [ ] Limited Partnership
- [ ] Limited Liability Company
- [ ] Revocable/Living Trust
- [ ] Irrevocable Trust
- [ ] Estate
- [ ] Charitable/Tax-exempt Organization
- [ ] Public School
- [ ] City, County or State-owned Entity
- [ ] Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
Jack Beringer	**0457**	**25**	**Partner** / **$0**	**Self**	
Ana Beringer	**8328**	**25**	**Partner** / **$0**	**Wife**	
Bobby Beringer	**6101**	**25**	**Partner** / **$0**	**Brother**	
Ida Beringer	**4377**	**25**	**Partner** / $0	**Sister-in-law Brother's wife**	
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.
   A. Name
   B. Title

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. [ ] Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

140 Completing CCC-902E for Joint Operations (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** **Beringer Partners** Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☒ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☒ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

FOR FSA USE ONLY

6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)*	B. Land	C. Equipment	D. Hired Labor	E. Hired Management
100 %	0 %	100 %	70 %	0 %

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
Jack Beringer							**10%**	☐		**25%**
Ana Beringer							**5%**	☐		**25%**
Bobby Beringer							**10%**	☐		**25%**
Ida Beringer							**5%**	☐		**25%**

140 Completing CCC-902E for Joint Operations (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Beringer Partners Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: 42 Location: Johnson/TX	Beringer Partners	☐	☐	☒	Rob Beckham Estate	364.0	75%	☐
Farm No.: 837 Location: Johnson/TX	Beringer Partners	☐	☐	☒	Thomas Heirs	173.0	$60/Acre	☐
Farm No.: 1213 Location: Erath/TX	Beringer Partners	☐	☐	☒	Dirk Jahr	507.3	75%	☐
Farm No.: 13 Location: Erath/TX	Beringer Partners	☐	☐	☒	Ludlow Ltd.	685.8	75%	☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☐ "out of pocket" capital _____ %
☒ commercial loans/credit 70 %
☐ private loans/credit _____ %
☐ FSA loan(s) _____ %
☒ FSA program payments from this crop year 30 %
☐ Other: _____ _____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☒ YES ☐ NO Land: ☐ YES ☐ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☒ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
Loan	PCA	Jack, Ana, Bobby & Ida Beringer	partners	70 %
				%
				%

PART G - EQUIPMENT *(All percentages are based on annual rental values.)*

1. **Owned Equipment**: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity 80 %
2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased, **Go To Part H***):

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
20 %	Rogers Implement Co.	Tractor and spray rig
%		
%		

140 Completing CCC-902E for Joint Operations (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Beringer Partners Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?
☒ **NO.** GO TO PART I ☐ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount	
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	0	%
	0	hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	70	%
	3500	hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?
☒ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:
A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: 100 %
B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

All members share equally in decisions about planting, cultivating, marketing, financing, and decisions on leasing and equipment.

2. Hired management:
A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: 0 %
B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

3. Other management:
A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: 0 %
B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

140 Completing CCC-902E for Joint Operations (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Beringer Partners Page 5 of 6

PART K - REMARKS

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
Jack Beringer	Partner	03/05/2009
Ana Beringer	Partner	03/05/2009
Bobby Beringer	Partner	03/05/2009
Ida Beringer	Partner	03/05/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

140 Completing CCC-902E for Joint Operations (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

140 Completing CCC-902E for Joint Operations (Continued)

B Example CCC-902 Continuation

Following is an example of CCC-902 Continuation.

This form is available electronically.

CCC-902 Continuation
(12-22-08)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

CONTINUATION SHEET FOR LEASED OR OWNED LAND

ATTACH TO FORM **CCC-902I** ☐ or **CCC902E** ☒

1. COUNTY
Johnson

2. STATE
Texas

3. PROGRAM YEAR
2009

4. PARTICIPANT'S NAME
Beringer Partners

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is for 7 CFR Part 1410. The information is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation and Energy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as it is required for the administration of the Food, Conservation, and Energy Act of 2006 (Pub. L. 110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A - LAND

Enter the following information for ALL land you own and/or lease. If ALL land in this farming operation is owned and operated by you, enter the farm number. County and State, check "Owned," and enter the cropland acres. If this CCC-902 Continuation is attached to CCC-902E, for a joint operation, indicate whether the land is leased or contributed by the joint operation or a member.

1. FARM NO.	2. COUNTY(IES)	3. CHECK ONE			4. NAME OF PERSON OR LEGAL ENTITY WHOM LAND IS LEASED TO AND/OR FROM	5. ACRES	6. RENTAL RATE(S) $ PER ACRE OR % CROP SHARE	7. CHECK IF YOU HAD THE SAME LAND INTEREST LAST YEAR
		OWNED	LEASED TO	LEASED FROM				
53	**Johnson**	☐	☐	☒	**JLB Enterprises**	**160**	**$60/acre**	☒
79	**Johnson**	☐	☐	☒	**L & J LLC**	**80**	**$60/acre**	☒
		☐	☐	☐				☐
		☐	☐	☐				☐
		☐	☐	☐				☐
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		☐	☐	☐				☐
		☐	☐	☐				☐

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

141-145 (Reserved)

Section 4 Corporations, LLC's, LLP's LP's, and Similar Legal Entities

146 Corporation, LLC, LLP, LP, and Similar Legal Entity Eligibility Determinations

A Ownership in Legal Entities

June 1 of the program year will be used to determine ownership interest in a legal entity that receives payment subject to limitation.

Voluntary acquisition of interest after June 1 does **not** reduce the ownership share of any interest holder for payment limitation purposes.

For interest held in other legal entities that have minor children as heirs, beneficiaries, or members, consider any program payments received by or attributed to that interest of the minor child as being attributed to the minor child's parent or legal guardian.

Note: If the minor child is considered separate for payment limitation purposes according to paragraph 117, program payments received by or attributed to the minor child's interest will **not** be attributed to the parent or legal guardian.

B Stock Classes

For corporations with more than 1 stock class; such as preferred and common, the ownership percentage of stock, or unit of ownership, shall be determined by the fair market value of outstanding stock.

Note: The value can be determined by COC, STC, DAFP, or designee, but should be determined at the earliest level **before** referring to the next higher level of authority.

146 Corporation, LLC, LLP, LP, and Similar Legal Entity Eligibility Determinations (Continued)

C Fair Market Value Factors

To determine the fair market value of stock, or unit ownership, the following available factors shall be considered:

- current market quotations for each stock class
- relevant factors affecting the value of each stock class
- rights and privileges of each stock class
- any other information that would assist in the determination.

D Programs Not Requiring Actively Engaged in Farming Determinations

If a program requires person determinations, but **not** actively engaged in farming determinations, the following are **required** to be eligible for payments or benefits:

- claimed share of the profits or losses of the farming operation **must** be commensurate with the contributions to the farming operation

- contributions **must** be at risk.

147 Corporation, LLC, LLP, LP, and Similar Legal Entity Actively Engaged in Farming Determinations

A Rule

[7 CFR 1400.204] A corporation, LLC, LLP, LP, or other similar legal entity shall be considered to be actively engaged in farming, if **all** of the requirements in this table are met.

Item	Requirement
1	The legal entity independently and separately makes a significant contribution of capital, equipment, land, or combination thereof.
2	**Each** partner, stockholder, or member with an ownership interest makes a contribution, whether compensated or **not** compensated, of active personal labor, active personal management, or a combination of active personal labor and active personal management to the farming operation; that are: • performed on a regular basis • identifiable and documentable • separate and distinct from contributions of any other partner, stockholder, or member.
3	The contribution of the partners, stockholders, and members is significant and commensurate.
4	The legal entity's share of the profits or losses from the farming operation is commensurate with the contributions to the farming operation.
5	The legal entity's contributions are at risk, with the level of risk being commensurate with the legal entity's claimed share of the farming operation.

147 Corporation, LLC, LLP, LP, and Similar Legal Entity Actively Engaged in Farming Determinations (Continued)

B Exceptions

These exceptions are only applicable to a corporation, LLC, LLP, LP, and other similar legal entity.

Spouses – If both spouses are interest holders in the same legal entity, the contribution of active personal labor and/or active personal management of 1 spouse to the farming operation of the legal entity will also meet the other spouse's requirement to make a contribution of active personal labor and/or active personal management to the farming operation of the legal entity.

Minor children – If a parent is an interest holder in a legal entity in which his or her minor children are also interest holders, the parent's contribution of active personal labor and/or active personal management to the legal entity's farming operation will also meet the requirement that each minor child **must** make a contribution of active personal labor and/or active personal management to the same farming operation.

Spouses and minor children – If both spouses and minor children are in the same legal entity, the contributions of 1 spouse/parent of active personal labor and/or active personal management to the legal entity's farming operation will meet the requirements that all such interest holders of the legal entity **must** contribute active personal labor and/or active personal management to the legal entity's farming operation.

Note: Contributors of active personal labor and/or active personal management to a legal entity's farming operation **must** hold an ownership interest in the legal entity at the time the contributions are made.

C Separate and Distinct Contributions of Labor

If a partner, stockholder, or member provides active personal labor to the entity's farming operation that is performed on a regular basis, and that is identifiable and documentable; that partner, stockholder, or member will be considered to have met the requirements of a separate and distinct contribution of labor to the entity's farming operation.

147 Corporation, LLC, LLP, LP, and Similar Legal Entity Actively Engaged in Farming Determinations (Continued)

D Burden of Proof Recordkeeping Requirements

All partners, stockholders and members with an ownership interest must contribute active personal labor and/or active personal management to the entity's farming operation.

Each partner, stockholder, and member must be able to show by reasonable means that such activities:

- are performed on a regular basis throughout the crop year
- are identifiable and documentable as to which partner, stockholder, or member made such contribution
- are separate and distinct from any other partner, stockholder or member with an ownership interest in the farming operation.

E Methods of Proof

Reasonable records may include, but are not limited to, the following:

- appointment books
- calendars
- narrative summaries
- phone logs
- contemporaneous records
- activity logs with date, time, and description of activity performed
- documents for goods and services used by the farming operation signed only by the interest holder.

147 Corporation, LLC, LLP, LP, and Similar Legal Entity Actively Engaged in Farming Determinations (Continued)

F Verification of Recorded Activities

COC may request verification from an interest holder if:

- the records provided for such activities seem unreasonable for the type and size of farming operation
- performance is questionable of such activities as claimed
- the farming operation is selected for an end of year review for payment eligibility and payment limitation compliance purposes.

G Payment Reduction

If any partner, stockholder, or member fails to meet the requirements in subparagraph A, **all** payments to the legal entity subject to the actively engaged determination will be reduced by an amount commensurate with the ownership share held by the partner, stockholder, or member.

148 Corporation, LLC, LLP, LP, and Similar Legal Entity Case Examples

A Example 1

Situation: Corporation XYZ rents 3,000 acres of land for 1/3 share of the crop.

- Corporation XYZ contributes a significant amount of capital to the operation.
- Corporation XYZ hires the majority of all labor necessary for the operation.
- All 3 stockholders provide the balance of the labor needed.
- All 3 stockholders regularly during the crop year and all management decisions are made jointly during these meetings.
- Each stockholder has defined responsibilities, such as marketing, field operations and equipment, financing and daily business activities.
- Each stockholder is on-site almost everyday during the crop year.
- The corporation's share of the profits or losses from the farming operation is commensurate with the corporation's contributions and the contributions are at risk for a loss.

Determination: Corporation XYZ is considered actively engaged in farming. Each stockholder contributed active personal labor and active personal management to the farming operation on a regular basis, identifiable and documentable, and each stockholder's contributions were separate and distinct from contributions made by the other stockholders.

148 Corporation, LLC, LLP, LP, and Similar Legal Entity Case Examples (Continued)

B Example 2

Situation: Corporation AB consists of Father A and Son B, each having a 50 percent share. Corporation AB cash-rents land.

- Father A is a retired farmer who created the corporation for tax reasons and to aid in the transfer of the farm to Son B.
- The corporation contributes a significant amount of capital and equipment to the farming operation.
- Son B contributes both active personal labor and active personal management to the farming operation.
- Father A lives on the farm and contributes no active personal labor, but periodically advises Son B about farm related matters.

Determination: Because the corporation provides at capital and equipment, and Son B contributes active personal labor and active personal management; Corporation AB is considered to be actively engaged in farming. However, Corporation AB will be subject to payment reduction commensurate with the 50 percent ownership interest held by Father A because COC determined the advice provided by Father A is not considered management.

C Example 3

Situation: Corporation GH consists of Husband G owning 70 percent of the corporate stock and Wife H owning 30 percent of the corporate stock.

- Corporation GH provides all the capital, equipment, and leased land for the farming operation.
- Husband G provide all of the active personal labor and active personal management necessary for the farming operation.

Determination: Corporation GH is actively engaged in farming through the contributions of the corporation and of Husband G. Even though Wife H failed to make any contributions of active personal labor, active personal management, or a combination thereof, the exception applicable to spouses in subparagraph 147 B applies. Corporation GH and **no** payment reduction will be applied to Corporation GH.

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities

A Example CCC-902E

Following is an example of CCC-902E for a corporation.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	1. County **Texas**	3. Program Year **2009**
FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years	2. State **Oklahoma**	
For "actively engaged in farming" and other payment eligibility/limitation determinations.		

*This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits **directly** using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)*	2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*
J & J Inc. **N 1020 Rd** **Hardesty, OK 73999**	**3333**
	3. Date of Formation *(MM-DD-YYYY)* **01-2008**

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- ☐ General Partnership
- ☐ Joint Venture
- ☐ Indian Tribe
- ☒ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
John Hardesty	**8989**	**60**	**President** **$0**	**Father**	
Jimmy Hardesty	**7272**	**40**	**V. President** **$0**	**Son**	
			$		
			$		
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.	A. Name	B. Title

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. ☐ Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** J & J Inc. Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☒ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☒ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

FOR FSA USE ONLY

6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)*	B. Land	C. Equipment	D. Hired Labor	E. Hired Management
100 %	100 %	100 %	80 %	0 %

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
John Hardesty							**15%**	☒		**60%**
Jimmy Hardesty							**5%**	☐		**40%**
								☐		
								☐		

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** J & J Inc. Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: 273 Location: Texas/OK	J & J Inc.	☐	☐	☒	Guymon Investors Ltd.	1239.0	$60/Ac.	☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☒ "out of pocket" capital 10 %
☒ commercial loans/credit 70 %
☐ private loans/credit ____ %
☐ FSA loan(s) ____ %
☒ FSA program payments from this crop year 20 %
☐ Other: ____ ____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☒ NO Land: ☐ YES ☒ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☒ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
Line of credit	Sunray National Bank	John Hardesty Jimmy Hardesty	stockholders	70 %
				%
				%

PART G - EQUIPMENT ***(All percentages are based on annual rental values.)***

1. **Owned Equipment**: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity 100 %
2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased, **Go To Part H**)*:

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** J & J Inc. Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?
☒ **NO.** GO TO PART I ☐ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount	
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	0	%
	0	hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	80	%
	0	hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?
☒ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:
A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: 100 %
B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

John – 60% - makes decisions about planting, harvesting, marketing, and financing
Jimmy – 40% - makes decisions about planting, harvesting, and equipment maintenance

2. Hired management:
A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: 0 %
B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

3. Other management:
A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: 0 %
B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** J & J Inc. Page 5 of 6

PART K - REMARKS

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
John Hardesty	President, J + J Inc.	03/05/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

149 Completing CCC-902E's for Corporations, LLC's, LLP's, LP's, and Similar Legal Entities (Continued)

A Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

150-155 (Reserved)

156 Actively Engaged in Farming Determinations

A General Rule

For 2 program years **after** the program year in which a person dies, the person's estate shall be considered to be actively engaged in farming if all of the requirements in this table are met.

Item	Requirement
1	The estate separately makes a significant contribution of capital, equipment, land, or a combination thereof.
2	The personal representative (executor, administrator, etc.) or heirs of the estate collectively make a significant contribution of active personal labor, active personal management, or combination thereof, to the farming operation.
3	The estate's share of the profits or losses from the farming operation is commensurate with the contribution to the farming operation.
4	The estate's contributions are at risk.

Notes: See paragraph 128 for the incapacitated person rule.

See 1-CM for estate EIN requirements.

B Rule for Estates in Existence Longer Than 2 Years

Following the period of 2 program years after the program year in which a person dies, the deceased person's estate shall **not** be considered to be actively engaged in farming **unless**, on a case-by-case basis, COC determines that the estate is still active and is being kept active for reasons other than receiving program payments.

C Required COC Reviews and Determinations

On an annual basis, COC is required to:

- identify all estates requesting program benefits that have been in existence for more than 2 program years after the date of death of the person
- review all supporting documentation provided by an authorized representative on behalf of the estate
- determine if the estate is kept active for reasons other than receiving program benefits and document the decision in COC minutes.

156 Actively Engaged in Farming Determinations (Continued)

C Required COC Reviews and Determinations (Continued)

Information provided by an authorized representative of the estate for this **required** COC review may include, but is **not** limited to:

- Letter of Testamentary issued by the court within the last 12 months
- prior year tax return; applicable IRS Forms
- written explanation from the executor, administrator, or legal counsel for the estate.

If an identified estate fails to meet these requirements, the estate shall be:

- determined ineligible for current and subsequent years program benefits
- provided written notice of COC's ineligibility determination
- given appeal rights according to 1-APP.

D DD Review of Estates of in Existence Longer Than 2 Years

For estates that have been in existence for more than 2 program years after the date of death of the person, DD **must**:

- review COC findings
- concur with the determination for the estate to be recognized as eligible
- annually provide a report to the State Office of all estates in existence longer than 2 years that have had reviews and determinations made by COC.

E State Office Review of Estates in Existence Longer Than 2 Years

Effective for 2009 and subsequent years, State Offices shall:

- collect reports from all DD's
- consolidate information for future reporting purposes to DAFP, PECD.

157 Case Examples

A Example 1

Situation: Estate E is formed upon the death of Person E that occurred less than 2 years ago. Person B is the sole heir of the estate and provides a significant amount of active personal management. Estate E provides equipment and rented land. All labor is hired. All contributions are commensurate and are at risk.

Determination: Estate E is considered to be actively engaged in farming since the heir, Person B, has provided a significant amount of active personal management and the estate has provided equipment and land.

B Example 2

Situation: Estate C is formed upon the death of Person C that occurred less than 2 years ago. The heirs are Persons E, F, and G, each having a 1/3 interest. Person E will serve as executor for the estate.

- **Before** the death of Person C, Person C owned equipment and all of the acreage farmed was cash leased.
- For the current year, Estate C will cash lease land. Estate C will contribute a significant amount of cash-rented land, owned equipment, and capital for the farming operation.
- Person E will provide a significant amount of active personal management with the estate hiring all labor.
- All contributions are commensurate and are at risk.
- COC reviewed the Letter of Testamentary and the prior year tax return, and determined that Estate C is being kept active for reasons other than receiving program benefits.

Determination: Estate C is considered to be actively engaged in farming and eligible for program benefits.

157 Case Examples (Continued)

C Example 3

Situation: Estate Y is formed upon the death of Person Y that occurred less than 2 years ago.

- **Before** death, Person Y had been determined to be actively engaged in farming and had entered into CCC-509 to participate in current year DCP.

- Estate Y will continue to farm the acreage that was leased to Person Y, as a successor-in-interest to the current year CCC-509. Estate Y will hire any labor and management that is needed for the farming operation.

Determination: Estate Y is considered to be actively engaged in farming because Person Y was determined to be actively engaged in farming and had executed CCC-509 to participate in DCP **before** death. However, to continue to be actively engaged in farming for the current year, the heirs or personal representative of the estate will have to provide a significant amount of active personal labor or active personal management, and the estate will have to provide a significant amount of capital, equipment, or land.

158 Completing CCC-902E's for Estates

A Introduction

The following forms are required for estates:

- CCC-901
- CCC-902E.

B When to File

File CCC-902E with COC no later than the ending signup date for the applicable program. See paragraph 31.

C Supporting Data

COC shall require adequate supporting data to make proper actively engaged in farming and eligibility determinations according to paragraph 32.

D Related Forms

If any member of this legal entity is another legal entity or a joint operation, that legal entity or joint operation will be required to provide CCC-902E.

The legal entity completing CCC-902E will be required to submit CCC-901 for itself and every legal entity that is a member.

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E

Following is an example of CCC-902E completed for an estate.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08)
U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

FARM OPERATING PLAN FOR AN ENTITY
2009 and Subsequent Program Years

For "actively engaged in farming" and other payment eligibility/limitation determinations.

1. County: Johnson
2. State: Texas
3. Program Year: 2009

This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits ***directly*** *using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)*
Rob Beckham Estate
4600 Beckham Rd
Cleburne, TX 73333

2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*: 1933

3. Date of Formation *(MM-DD-YYYY)*: 08-2008

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- ☐ General Partnership
- ☐ Joint Venture
- ☐ Indian Tribe
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☒ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
Martha Beckham	6555	100	Beneficiary $ no salary	wife	
			$		
			$		
			$		
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.
A. Name: Robert Beckham Jr.
B. Title: Executor

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. ☐ Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Rob Beckham Estate Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☒ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☒ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

FOR FSA USE ONLY

6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)*	B. Land	C. Equipment	D. Hired Labor	E. Hired Management
%	100 %	%	%	%

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
								☐		
								☐		
								☐		
								☐		

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Rob Beckham Estate Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: 42 Location: Johnson/TX	Rob Beckham Estate	☒	☒	☐	Beringer Partners	364.0	25%	☒
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☐ "out of pocket" capital _____ %
☐ commercial loans/credit _____ %
☐ private loans/credit _____ %
☐ FSA loan(s) _____ %
☐ FSA program payments from this crop year _____ %
☐ Other: _____ _____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☐ NO Land: ☐ YES ☐ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
				%
				%
				%

PART G - EQUIPMENT ***(All percentages are based on annual rental values.)***

1. **Owned Equipment**: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity _____ %
2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased,* ***Go To Part H****)*:

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Rob Beckham Estate Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?
☒ **NO.** GO TO PART I ☐ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	0 **%**
	0 hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	0 %
	0 hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?
☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:
A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: _____ %
B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

2. Hired management:
A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: _____ %
B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

3. Other management:
A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: 100 %
B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

The Executor of the estate makes all decisions regarding the land owned by the estate.

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** Rob Beckham Estate Page 5 of 6

PART K - REMARKS

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
Robert Beckham Jr.	Executor, Rob Beckham Estate	03/05/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

158 Completing CCC-902E's for Estates (Continued)

E Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

159-165 (Reserved)

166 Revocable and Irrevocable Trusts

A Types of Trusts

For payment limitation purposes, there are 2 types of trusts, as follows.

Trust Type	Characteristics
Revocable	• Can be modified or terminated by the grantor or the assets revert to the grantor after a specific period of time. • Does **not** meet the criteria for an irrevocable trust.
Irrevocable	• May **not** be modified or terminated by the grantor. • The grantor does **not** have any future, contingent, or remainder interest in the corpus of the trust. • For trusts established after January 1, 1987, does **not** provide for transferring the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established, **except** in cases where the transfer is contingent upon the remainder beneficiary achieving at least the age of majority or upon the death of the grantor or income beneficiary. **Note:** All trusts **not** meeting these requirements shall be considered revocable trusts.

B Trust Scrutiny

All trusts that receive payments shall be carefully scrutinized to ensure that the trusts are legitimate legal entities and have **not** been created solely for the purpose of evading payment limitation provisions.

County Offices shall:

- require producers to provide a copy of the trust agreement unless the trust is a revocable trust

  Note: A copy of the trust agreement for a revocable trust may be required to establish signature authority for the legal entity.

- determine whether provisions are included in the trust that would require the trust to be considered a revocable trust for payment limitation purposes.

167 Trust Eligibility Determinations

A Revocable Trust and Grantor

A revocable trust is the same as the grantor.

B Trusts With Minor Children Beneficiaries

For trusts with 1 or more minor children as beneficiaries and the minor children do **not** qualify as a separate limitation according to paragraph 117, payments earned by the minor children's interest will be attributed to the parent's or court-appointed person's interest.

Note: If the minor children are the sole beneficiaries, or if all the minor children are under the same parent or court-appointed person's care, payments earned by the minor children's interest will be attributed to the parent responsible for the minor children.

C Programs Not Requiring Actively Engaged in Farming Determinations

If a program requires eligibility determinations, but **not** actively engaged in farming determinations, the following are **required** to be eligible for payments or benefits:

- claimed share of the profits or losses of the farming operation **must** be commensurate with the contributions to the farming operation

- contributions **must** be at risk.

D IRA's

An IRA may be considered an eligible program participant, as a trust **only**, if the Regional Attorney determines the account:

- meets the definition of legal entity
- has full function of a trust
- is owner of the land on which program benefits are requested.

Note: Approval from the Regional Attorney is **required before** any eligibility determinations.

168 Trust Actively Engaged in Farming Determinations

A Rule

[7 CFR 1400.205] An irrevocable or revocable trust shall be considered to be actively engaged in farming if **all** of the requirements in this table are met.

Item	Requirement
1	The trust separately makes a significant contribution of capital, equipment, land, or a combination thereof.
2	Income beneficiaries that make contributions of active personal labor or active personal management, have a combined interest of at least 50 percent, and collectively make a significant contribution to the farming operation.
3	The trust's share of the profits or losses from the farming operation is commensurate with the contribution to the farming operation.
4	The trust's contributions are at risk.
5	The trust has provided TIN of the trust, **unless** the trust is a revocable trust and the grantor is the sole income beneficiary.
6	The trust has provided a copy of the trust agreement to COC, **unless** the trust is a revocable trust.

B TIN's

A single TIN, such as a Social Security number, may **not** be used to pay both a person and a trust in the same year.

Note: See 1-CM for EIN requirements for trusts.

C Trustee Actions

The personal actions of a trustee, either labor or management, **cannot** be considered as contributions of the trust in meeting the requirement of actively engaged in farming.

Only the income beneficiaries of a trust can provide the required, at-risk contributions of active personal labor, active personal management, or combination thereof, for the trust to be considered actively engaged in farming.

169 Trust Case Examples

A Irrevocable Trust Example 1

Situation: EF Trust meets the requirements to be considered an irrevocable trust for payment limitation purposes. The trust, with Persons E and F each having a 50 percent interest, contributes a significant amount of capital to the farming operation. Each beneficiary contributes a significant amount of active personal management. All labor is hired. The land and equipment are leased. The trust's share of the profits or losses from the farming operation is commensurate with the trust's contributions to the operation and the contributions are at risk.

Determination: EF Trust is considered to be actively engaged in farming because the trust provides capital and the beneficiaries contribute a significant amount of active personal management.

B Irrevocable Trust Example 2

Situation: The terms of a late husband's will made certain specific bequests of cash and nonfarm property to persons other than his widow. The balance of the estate, including farmland, is distributed to a testamentary trust. The widow has the sole right to the income of the trust during her lifetime. At the time of her death, the trust is to be terminated and the property distributed to her heirs.

Determination: Because the widow has the sole right to income of the trust during her lifetime, the widow is considered the sole beneficiary. The trust is considered actively engaged in farming because of the landowner provision.

169 Trust Case Examples (Continued)

C Revocable Trust Example 1

Situation: ST Trust is a revocable trust.

- Person U is the grantor and income beneficiary.
- ST Trust contributes a significant amount of both capital and equipment to the farming operation.
- Beneficiary contributes a significant amount of active personal management to the operation.
- All land is leased and all labor is hired.
- The trust's share of the profits or losses from the farming operation is commensurate with its contribution to the operation and the contributions are at risk.

Determination: ST Trust is considered to be actively engaged in farming. For payment limitation purposes, all payments issued to ST Trust will be attributed to Person U as grantor of the trust.

170 Required Forms and Example of CCC-902E for a Trust

A Trust Required Forms

The following forms are **required** for trusts:

- CCC-901
- CCC-902E.

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E

Following is an example of CCC-902E completed for a trust.

This form is available electronically. *(See Page 5 for Privacy Act Statement.)*

CCC-902E (12-22-08) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	1. County **Johnson**	3. Program Year **2009**
FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years	2. State **Texas**	
For "actively engaged in farming" and other payment eligibility/limitation determinations.		

This form is to be completed for an entity, including a joint operation, that is seeking benefits from the Farm Service Agency (FSA) under one or more programs that are subject to the regulations at 7 CFR Part 1400. This form collects farming and other information about the entity that receives program benefits ***directly*** *using the tax identification number listed in Part A. This form also collects information about the members of such entity. An individual who receives program benefits directly as an individual must complete a CCC-902I with respect to that individual's operation. Payment eligibility is based upon the contribution of certain inputs to a farming operation such as land, capital, equipment, labor, and management by the entity listed in Part A. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

PART A - ENTITY INFORMATION

1. Entity's Name and Address *(Include Zip Code)*	2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*
Martha Beckham Trust No. 1 **4600 Beckham Rd** **Cleburne, TX 73333**	**6549**
	3. Date of Formation *(MM-DD-YYYY)* **01-10- 2009**

PART B - TYPE OF OPERATION (Select only one)

1. Select appropriate type of operation that defines the entity identified in Part A:

- ☐ General Partnership
- ☐ Joint Venture
- ☐ Indian Tribe
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☒ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Other: _____

2. Supporting documentation (such as articles of incorporation, trust papers, partnership agreement, evidence of heirship, and operational authorities of all shareholders, members and owners) is required, except for public schools, States, State entities, cities, and counties, to verify the legal status of the entity and the authority of its shareholders, members or owners to the satisfaction of CCC.

PART C - MEMBER INFORMATION

1. Members - List all members/interest holders of the entity identified in Part A of this form:

A. Name *(If member is a minor child, also complete Item F)*	B. Tax ID Number *(If Taxpayer ID No., is already on file list last 4 digits)*	C. % Share	D. Position and Salary *(If applicable)*	E. Family Member Relationship	F. Enter Date of Birth for any member under 18 years old as of April 1
Curtis Ludlow	**3875**	**33**	**beneficiary** **$0**	**grandson**	
Christi Ludlow	**3877**	**34**	**beneficiary** **$0**	**granddaughter**	
Charles Ludlow Jr.	**4434**	**33**	**beneficiary** **$0**	**grandson**	
			$		
			$		
			$		

2. If the entity in Part A is an Estate or Trust, enter information on the Executor, Administrator or Grantor.	A. Name **Martha Beckham**	B. Title **Grantor**

3. Embedded Entities - A CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E if any member or interest holder of the entity identified in Part A is an entity. ☐ Check if CCC-901 is attached.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 2 of 6

4. Minor Members or Interest Holders – For any Member or Interest Holder who is a minor, provide the following: (If none of the members listed in Part C, Item 1, is a minor check this box ☒ N/A). Then Go to Item 5.

A. Minor's Name	B. Parent's or Guardian's Name	C. Parent's or Guardian's Address	D. Social Security Number *(Parent's or Guardian's, if the SSN is already on file list last 4 digits)*

E. Does the minor maintain a separate household from the parent or guardian?
☐ YES. Check this box if the minor maintains a separate household. ☐ NO

F. If a minor's parent(s) or guardian(s) has any interest in a farming operation, complete the following for all such interests:

(1) Minor's Name	(2) Parent or Guardian's Name	(3) Name of Farming Interest	(4) % Share	(5) Tax ID No. of Farming Interest *(If Taxpayer ID No., is already on file list last 4 digits)*	(6) County and State Where Farming Interest is Located

5. Citizenship Status of Members and Interest Holders *(Complete Items 5A and 5B for the entity or joint operation listed in Part A).*

A. Are ALL individual members and interest holders U.S. citizens or aliens lawfully admitted into the U.S.?
☒ YES. If an alien lawfully admitted into the U.S., list the name and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

B. Are any members or interest holders an entity? ☐ YES. Go to Item 5C. ☒ NO. Go to Part D

C. Are ALL members of the entity(ies) U.S. citizens or aliens lawfully admitted into the U.S.?
☐ YES. If an alien lawfully admitted into the U.S., list the name(s) and present Alien Registration Receipt Card, I-551.
Names: _____ , _____ , _____

☐ NO. List ALL individuals who are not US citizens and are not aliens lawfully admitted into the U.S.
Names: _____ , _____ , _____

FOR FSA USE ONLY

6. Was an Alien Registration Receipt Card, I-551 presented for each individual in Item 5A and 5C who is an alien lawfully admitted to the US?
☐ YES ☐ NO

PART D – SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION

1. What percentages of the overall inputs for the farming operation of the entity identified in Part A will be contributed directly by that Entity? Enter the following information for contributions to be made by the entity identified in Part A. *(Provide information about these contributions in Items A – E.)*

A. Capital *(current year)* %	B. Land 100 %	C. Equipment %	D. Hired Labor %	E. Hired Management %

2. What contributions to the farming operation of the entity identified in Part A will be provided by Members listed in PART C? Enter the following information for the contributions to be made by the members. *(Provide information about these contributions in Items B – H).* Percentages in Items 1 and 2 must equal 100%.

A. Member's Name	B. Capital *(Current Year)* %	C. Land %	D. % of Owned Land	E. Equipment %	F. % of Owned Equipment	G. Labor (%)			H. Management (%)	
						Hired	Active Personal	Check if 1000 Hours	Hired	Active Personal
								☐		
								☐		
								☐		
								☐		

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 3 of 6

PART E - LAND

1. Land: Enter the following information for ALL land in the farming operation of the entity identified in Part A. *(For additional space, complete CCC-902 Continuation and attach to this form)*:

A. Farm No. and Location *(County and State)*	B. Land Leased or Contributed By	C. Check One: Owned	Leased To	Leased From	D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)*	E. Acres	F. Rental Rate $ per Acre/ % or Crop Share	G. Check here if same land interest was held last year
Farm No.: 3945 Location: Johnson/TX	Martha Beckham Trust No. 1	☒	☒	☐	Charles Ludlow Jr.	160	25%	☒
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐
Farm No.: Location:		☐	☐	☐				☐

PART F - CAPITAL

1. What is the source of all farming capital for the entity identified in Part A? *(Check ALL that apply. Show the percentage of capital from each source. Total should equal 100%).*

☐ "out of pocket" capital _____ %
☐ commercial loans/credit _____ %
☐ private loans/credit _____ %
☐ FSA loan(s) _____ %
☐ FSA program payments from this crop year _____ %
☐ Other: _____ _____ %

2. Will contribution(s) of equipment or land be acquired as a result of a loan or credit arrangement?
Equipment: ☐ YES ☐ NO Land: ☐ YES ☐ NO

3. If capital includes loan*(s)* or credit, will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity *(other than the entity indicated in PART A)*? ☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

A Type of Capital Contribution *(Specify loan, cash advance, farm supply account)*	B Name of Loan or Credit Source	C Guarantor's Name	D Credit Source or Guarantor's Affiliation or Interest in the Farming Operation	E Percent of Total Capital
				%
				%
				%

PART G - EQUIPMENT ***(All percentages are based on annual rental values.)***

1. **Owned Equipment**: What percent of ALL equipment to be used in the farming operation of the entity identified in Part A of this form is owned by the entity _____ %
2. **Leased Equipment**: Enter the following information for ALL leased equipment to be used in the farming operation of the entity identified in Part A *If no equipment used in this farm operation is leased, **Go To Part H***):

A. Percent of Total Equipment Used in the Farming Operation	B. Name of Party/Entity Equipment is Leased From	C. Type of Equipment Leased
%		
%		
%		

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 4 of 6

PART H - CUSTOM SERVICES

1. Will custom services on cash-leased acres be utilized by the entity identified in Part A on the farms listed in Part E?

☒ **NO.** GO TO PART I ☐ **YES.** Complete Items 1A – 1D.

A. Type of Services *(tillage, planting, cultivating, harvesting)*	B. Farm Number(s)	C. Number of Acres	D. Name of Provider

PART I – LABOR

For the farms listed in Part E, enter the information for contributions of labor to the farming operation of the entity identified in Part A, both active personal and hired, which will be provided by hired laborers or personally by others:

Type	Amount
1. **Active personal labor:** Enter the percentage or the number of hours to be donated by family members or others for which no payment will be issued or owed.	**0** %
	0 hrs
2. **Hired labor**. Enter the percentage or hours of labor that will be hired.	**0** %
	0 hrs

A. Will any of the hired labor originate from the same source of leased equipment in Part G?

☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

B. Will any of the hired labor be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", attach documentation, acceptable to CCC, to prove such relationship.*

PART J - MANAGEMENT

For the farms listed in Part E as operated by the entity identified in Part A, enter the estimated percent of the farming operation's total management responsibility and the type of managerial duties required for this farming operation which will be provided personally by member(s) of the entity or joint operation, or by hired management.

1. Active personal management:

A. Enter the estimated percent of active personal management that will be provided to the farming operation in Part A by each member or shareholder listed in Part C of this form: **0** %

B. List the type of managerial duties/activities that will be performed personally by each member or shareholder:

2. Hired management:

A. Enter the estimated percent of hired management that the entity identified in Part A will annually use to conduct its farming operation: **0** %

B. Describe any management duties/activities that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who receives compensation for this activity)*:

3. Other management:

A. Enter the estimated percent of other management that the entity identified in Part A will annually use to conduct its farming operation: **100** %

B. Describe any non-compensated management that will be provided by someone other than a member or shareholder *(include management by an administrator or trustee who does not receive compensation for this activity)*:

The Trustee makes all decisions regarding the land owned by the Trust.

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E (Continued)

CCC-902E (12-22-08) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 5 of 6

PART K - REMARKS

Trust documents provided to Johnson County FSA Office on 3/20/09

PART L - CERTIFICATION - ***(FOR JOINT VENTURES AND GENERAL PARTNERSHIP, A SIGNATURE IS REQUIRED FOR EACH MEMBER)***

I certify that all the information entered on this document and any supporting documentation is true and correct. I understand that furnishing incorrect information will result in forfeiture of payments and may result in the assessment of a penalty. I will timely provide written notification to the Farm Service Agency committees for the county and State listed on this form of any changes in this farming operation. By signing this form I acknowledge that:

- *all supporting documentation has been submitted as required*
- *I have reviewed and understand all definitions and requirements on Page 6 of this form.*
- *all information provided is true and correct, and will be considered in effect until continuously unless changes or revisions are submitted.*
- *it is my responsibility to timely notify FSA in writing of any changes that may affect these representations, including, but not limited to: the composition of the entity indicated in Part A; the farming, ranching or forestry operation of the entity indicated in Part A; financial status of the entity indicated in Part A.*
- *evidence such as tax records, certified public accountant's certification, or other documentation may be required to validate these representations and I will take all necessary actions to provide such materials to the applicable State or county committee if requested by FSA..*
- *it is my responsibility to timely notify FSA in writing of any successors who acquire an interest in this farming operation as the result of the death of a member or interest holder.*

1. Signature (By)	2. Title/Relationship of Individual Signing in the Representative	3. Date *(MM-DD-YYYY)*
/s/ Charles Ludlow	Trustee	3/20/2009

NOTE: *The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L.110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

170 Required Forms and Example of CCC-902E for a Trust (Continued)

B Example CCC-902E (Continued)

CCC-902E (12-22-08) Page 6 of 6

DEFINITIONS

The following definitions apply to Form CCC-902E.

1. **ACTIVELY ENGAGED IN FARMING –** means providing both: 1) significant contributions of capital, equipment, or land, or combination thereof to the farming operation; and 2) significant contributions of active personal labor or active personal management, or a combination thereof, to the farming operation as described. Further, for a person or legal entity to be considered actively engaged in farming for program payment purposes, the contributions of the person or legal entity must be at-risk and commensurate with the person's or legal entity's claimed share of the profit and loss of the farming operation. Failure to meet these requirements will result in the determination of ineligibility for payments under programs specified in 7 CFR Part 1400.

2. **INTEREST IN A FARMING OPERATION** – a person or legal entity is considered to have an interest in a particular farming operation if the person or legal entity owns or rents land to or from that farming operation; has an interest in the agricultural commodities produced on the operation; or is a member of a joint operation that either owns or rents land to or from the farming operation, or has an interest in the agricultural commodities produced on that operation.

3. **JOINT OPERATION -** is a general partnership, joint venture, or similar organization.

4. **PERSON** – is a natural person (an individual) and does not include a legal entity.

5. **ACTIVE PERSONAL LABOR** – a person is considered to be providing active personal labor with respect to a farming operation if that person is directly and personally providing physical activities necessary to conduct the farming operation, including land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities in the farming operation. Other qualifying physical activities include establishing and maintaining conserving covers and those physical activities necessary for livestock production for the farming operation.

6. **ACTIVE PERSONAL MANAGEMENT** – a person is considered to be providing active personal management with respect to a farming operation if that person is directly and personally providing the general supervision and direction of activities and labor involved in the farming operation; or providing services (whether performed on-site or off-site) reasonably related and necessary to the farming operation.

7. **CAPITAL** – with respect to a farming operation is the funding provided by a person or legal entity to the farming operation in order for such operation to conduct farming activities. To be considered a countable contribution for a person or legal entity, the capital must have been derived from a fund or account separate and distinct from that of any other person or entity involved in such operation. Countable capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the person or entity. Capital does not include advance program payments.

8. **CONTRIBUTION –** with respect to a farming operation is the provision of land, capital or equipment assets, and providing active personal labor, or active personal management to the farming operation in exchange for, or the expectation of, deriving benefits based solely on the success of the farming operation.

9. **CUSTOM SERVICES** – with respect to a farming operation is the hiring of a contractor or vendor that is in the business of providing such specialized services to perform services for the farming operation in exchange for the payment of a fee for such services performed.

10. **ENTITY -** is a corporation, joint stock company, limited liability company, association, limited partnership, limited liability partnership, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization including any such organization participating in the farming operation as a partner in a general partnership, participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar organization.

11. **EQUIPMENT** – with respect to a farming operation is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting or marketing of the crops produced by the farming operation. Equipment also includes machinery and implements needed to establish and maintain conserving covers.

12. **FAMILY MEMBER** – a person is considered to be a family member of another person in the farming operation of that person is related to the other as a lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

13. **FARMING OPERATION -** is a business enterprise engaged in the production of agricultural products which is operated by a person or formal or informal entity which is eligible to receive payments, directly or indirectly.

14. **LAND** – with a respect to a contribution to a farming operation is agricultural land consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program for which payments or benefits are sought.

15. **SUPPORTING DOCUMENTATION** – is any information that supports the relevant representations made such as, but not limited to: articles of incorporation; corporate meeting minutes; stock certificates; organizational papers; trust agreement; last will or testament or a deceased individual; affidavit of heirship approved by Office of General Counsel; partnership agreement; property lease agreement; purchase agreement; land deed; lending security agreement; and financial statement.

16. All other terms utilized in this form shall be defined pursuant to 7 CFR Part 1400.

171-175 (Reserved)

Part 5 Payment Limitation by Direct Attribution

176 Program Payment and Benefit Limitations

A Person or Legal Entity

Program payments and benefits specified in paragraphs 11 and 14 are limited to:

- person
- legal entity.

B Joint Operation

Program payments and benefits to a joint operation are limited by the total number of persons and legal entities that are members multiplied times the dollar amount of the limitation of the program specified in paragraph 14.

177 Payment Reductions

A Proportionate Reductions

Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership of a person or legal entity that has otherwise reached the applicable maximum payment limitation.

178 Exceptions for Inheritance and Estates

A Inheritance

Payments received directly or indirectly by a person may exceed the applicable limitation if **all** of the following apply:

- ownership interest in the land or commodity was transferred because of death
- the new owner succeeds to contract
- the new owner meets all other eligibility requirements.

The new owner determined eligible **cannot** exceed the following:

- amount the previous owner was entitled to receive under the applicable program contracts at the time of death

- applicable limitation in the year following the year of death of the previous owner.

B Estates

Payments received by an estate will be:

- restricted by the amount applicable to any other legal entity
- attributed to the heirs.

Heirs of an estate will **not** be restricted to the applicable limitation if the estate succeeds to a contract of the deceased individual. If the estate meets **all** program and payment eligibility requirements, this provision will apply as follows:

- for DCP and ACRE, 1 program year
- for CRP and multi-year agreements and contracts, the term of the contract or agreement.

179 Payment Attribution

A Payments to a Person

Program payments made, directly or indirectly to a person, are combined with the pro rata interest held in any other legal entity that received payments, **unless** the payments to the legal entity were reduced by the pro rata share of the person.

B Payments to a Legal Entity

Program payments made directly to a legal entity are attributed to those persons that have a direct and indirect interest in the legal entity (Exhibit 4), **unless** the payments to the legal entity have been reduced by the pro rata share of the person.

C Attribution Levels

Payments attribution to a legal entity will be tracked through 4 levels of ownership in the legal entity according to this table.

Levels of Ownership	Payment Attribution
First	Any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in the amount that represents direct ownership in the payment entity.
Second	Any payment made to a legal entity that is owned in whole or in part by another legal entity at the second level will be attributed to this entity in the amount that represents the direct ownership in the payment entity. **Note:** If the second level entity is owned in whole or on part by a person, the amount of payment made to the payment entity will be attributed to the person in the amount that represents the indirect ownership in the payment entity.
Third and Fourth	Any payments made to a legal entity at the third and fourth levels of ownership shall be attributed in the same manner as at the first and second levels of ownership.
Fourth **Only**	If any part to the ownership interest at the fourth level is owned by another legal entity, a reduction in payment will be applied to the payment entity in the amount that represents the indirect of the fourth level entity in the payment entity.

For illustrations of direct attribution, see Exhibit 4.

180 Ownership Interest for Direct Attribution Purposes

A Determining Ownership Interest

Ownership interest that a person or legal entity holds in a legal entity for payment will be determined as of June 1.

B Cooperative Associations

Government payments issued to a cooperative association on behalf of eligible producers will be attributed (Exhibit 4) to the members as persons.

181 Interest Notification

A Legal Entity Payment Eligibility Condition

Each legal entity receiving any payments **must** disclose either of the following:

- name and Social Security number of each person
- name and TIN of each legal entity that holds or acquires an ownership interest in the legal entity.

B Person Payment Eligibility Condition

Each person receiving any payment **must** disclose the name and TIN of each legal entity in which the person holds an ownership interest.

182-185 (Reserved)

Part 6 Adjusted Gross Income (AGI)

186 Average AGI Limitations

A Rule

[7 CFR 1400.500] A person or legal entity shall **not** be eligible to receive certain program benefits during the 2009 through 2012 crop, program, or FY if the average AGI exceeds specified amounts.

B Three AGI Limitations

The AGI limitations are as follows.

IF average adjusted gross…	THEN the person or legal entity is ineligible for…
nonfarm income exceeds $500,000	commodity, price support, and disaster assistance program benefits listed in subparagraph D. **Note:** A person or legal entity with average adjusted gross nonfarm income that exceeds $500,000 is **not** eligible for marketing loan gains and LDP payments. However, the person or entity is eligible for MAL's, but the loans **must** be repaid at principal plus interest, or commodity certificates may exchanged for the loan collateral.
farm income exceeds $750,000	DCP direct payments.
nonfarm income exceeds $1 million	conservation program benefits listed in subparagraph D, **unless** 66.66 percent or more of the average AGI was derived from activities related to farming, ranching, and forestry operations.

186 Average AGI Limitations (Continued)

C Quick Reference for AGI Amounts

This is a quick reference for determining AGI amounts.

Average AGI
minus the
Average Adjusted Gross Farm Income
equals the
Average Adjusted Gross Nonfarm Income

D Quick Reference for Programs and Applicable AGI Provisions

This is a quick reference for programs and applicable AGI limitations.

Program	Less Than $500,000 Nonfarm AGI	Greater Than $750,000 Farm AGI	Less Than $1 Million Nonfarm AGI	Greater Than $1 Million Nonfarm AGI and at Least 66.66 Percent of AGI is Derived From Farming	Greater Than $1 Million Nonfarm AGI and Less Than 66.66 Percent of AGI is Derived From Farming
DCP/ACRE	Eligible				
Direct Payments	Eligible	Ineligible			
ELAP, LFP, LIP, NAP, SURE, and TAP	Eligible				
CCC-580's, MLG's, and LDP's	Eligible				
CRP, EQIP, and all other Conservation			Eligible	Eligible	Ineligible
All other.	As determined by regulation for each program.				

187 Applying Average AGI Limitations

A Programs and Benefits

[7 CFR 1400.500 (c)] Effective for FY's 2009 through 2012, programs and benefits subject to the average AGI limitation provision include the following:

- ACRE
- DCP
- ELAP
- LDP
- LFP
- LIP
- MAL's
- NAP
- SURE
- TAP
- conservation programs and EQIP as specified under the following:
    - Food, Conservation, and Energy Act of 2008, Title I
    - Food Security Act of 1985, Title XII.

187 Applying Average AGI Limitations (Continued)

A Programs and Benefits (Continued)

The average AGI limitation provision includes all benefits, cost-share payments, easements, and rental payments under programs such as:

- AMA
- AWEP
- CBWP
- CCPI
- CRP
- CSTP
- EQIP
- FRPP
- GRP
- WHIP
- WRP
- any other program this provision is made applicable by statute and regulation.

B Average AGI Limitation Provision Exemptions

The following are **exempt** from the average AGI limitation provision:

- States, counties, political subdivisions, and agencies thereof

- Federally recognized Indian Tribes

- CRP-1's and other multi-year agreements approved and effective **before** October 1, 2008

- payments to vendors for technical services or assistance provided along with programs made applicable by statute or regulation

- payments to an escrow agent or other in similar capacity that is maintaining temporary custody with eventual disbursement to the eligible recipient.

188 AGI Definitions and Determinations

A Definition of AGI and Average AGI for a Person or Legal Entity

[7 CFR 1400.501] AGI means, for a:

- person, the amount reported to IRS on the appropriate tax filing documents as AGI
- legal entity, the comparable measure according to this handbook.

Average AGI for a person or legal entity means the average AGI, or comparable measure, of the individual or entity over the 3 tax years immediately preceding the year for which benefits are requested.

Note: Exclude any years that the individual or entity did **not** have taxable income.

B Definition of Average Adjusted Gross Farm Income

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

<table>
<tr><th>Income Related to Livestock and Crops</th><th>Other Types of Income</th></tr>
<tr><td rowspan="2">Production of livestock, including but not limited to:

• cattle, sheep, goats, swine
• elk, reindeer, bison, deer
• horses
• poultry
• fish and other aquaculture products used for food
• honeybees.</td><td>The sale of land that has been used for agriculture.</td></tr>
<tr><td>The sale of easements and development rights to:

• farmland, ranchland, or forestry land
• water or hunting
• environmental benefits.</td></tr>
<tr><td>The feeding, rearing, or finishing of livestock.</td><td rowspan="2">The rental or lease of land or equipment used for farming, ranching or forestry operations, including water or hunting rights.</td></tr>
<tr><td>Products produced by or derived from livestock.</td></tr>
<tr><td>Production of crops, specialty crops, and unfinished raw forestry products.</td><td>Any payment or benefit, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans.</td></tr>
<tr><td rowspan="2">The processing, packing, storing, shedding, and transporting of farm, ranch, and forestry commodities, including renewable energy.</td><td>Payments and benefits authorized under any program made applicable to payment eligibility and payment limitation rules.</td></tr>
<tr><td>Production of farm-based renewable energy.</td></tr>
<tr><td colspan="2">Any other activity related to farming, ranching, or forestry as determined by the Deputy Administrator.</td></tr>
<tr><td colspan="2">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.</td></tr>
<tr><td colspan="2">The sale of equipment 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 adjusted gross farm income is at least 66.66 percent of the average AGI.</td></tr>
</table>

Note: Wages earned from farming are not considered farm income.

188 AGI Definitions and Determinations (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, 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.

189 Average AGI Certification

A Certifying Compliance

To comply with the AGI requirement for the applicable crop year, program, or FY, an individual or entity shall provide **1** of the following:

- statement from a certified public accountant or an attorney that the average AGI does **not** exceed the limitation
- CCC-926 applicable to the year that program benefits are requested.

B Required AGI Certifications for Payment Eligibility

AGI compliance certifications are required for payment eligibility for **all**:

- persons
- legal entities
- interest holders in a legal entity, including embedded entities to the fourth level of ownership interest, regardless of the level of interest held
- members of a general partnership or joint venture
- Indians and Native Americans represented by BIA.

189 Average AGI Certification (Continued)

C Deadline for AGI Certifications

AGI certification **must** be submitted:

- according to the deadlines established by the applicable programs
- **before** approving and issuing any program benefit subject to AGI provisions.

D Using FSA-211's

FSA-211's may be used to complete AGI certifications. See 1-CM.

E Multi-County Producers

Persons or legal entities with multi-county farming interests will submit the required AGI certifications **only** once in the control county.

The control county shall make any AGI compliance determinations, if necessary, and share the information with other counties according to paragraphs 228 and 229.

190 Rules for Special Cases

A Acceptable Documentation

For a person or legal entity, including a foreign person or legal entity that does **not** have tax records or is **not** required to file tax returns, acceptable forms of AGI documentation may include, but are **not** limited to, the following:

- annual budgets and statement of operations
- annual public financial disclosures
- financial statements
- other documentation as deemed acceptable by the reviewing authority.

B Churches, Clubs, Fraternal Organizations, Societies, and Similar Associations

Persons who attend a church or belong to a club, fraternal organization, association, or similar type of entity that is requesting payments or benefits:

- do **not** hold an ownership interest in the entity
- are **not** required to submit an AGI certification for the entity to meet AGI provision.

Note: The church, club, etc. are required to provide an AGI certification.

190 Rules for Special Cases (Continued)

C Multi-Year Contracts and Agreements

For program contracts and agreements that extend more than 1 crop year, program year, or FY, the average AGI determination will:

- be based on the 3 taxable years preceding the most immediately preceding complete taxable year for which the contract or agreement is approved
- be made once and apply for the entire term of the contract or agreement.

D Succession-in-Interest

The average AGI limitations, according to this part, do **not** apply to multi-year contracts; such as CRP-1's that were effective **before** October 1, 2008. The average AGI provisions in this part were **not** part of the original contract or agreement when executed.

If succession occurs to a multi-year contract or agreement that was effective:

- **before** FY 2009, the successors **will not** be subject to AGI provisions in this part on the multi-year contract or agreement
- for FY 2009 or subsequent years, the successors **will** be subject to AGI provisions on the multi-year contract or agreement.

E Multi-Year CRP-1 Extensions and Re-Enrollments

See Exhibit 10 for multi-year CRP-1 extensions and re-enrollments.

191 Determining AGI and Average AGI

A Determining Total AGI (Farm and Nonfarm)

Determine AGI according to the following table.

IF certification is by...	THEN AGI is the...
a person filing a separate tax return	amount reported as AGI on the final IRS tax return for the person for the applicable year.
a person filing a joint tax return	full amount reported as AGI on the final IRS tax return for the applicable year. **Exception:** A certification is provided by a certified public accountant or an attorney that specifies what the amounts would have been if separate tax returns would have been filed for the applicable year.
an LLC, LLP, LP, or similar type of organization	income from trade or business activities **plus** the amount of guaranteed payments to the members as reported on the final IRS tax returns for the applicable year.
an estate or trust	adjusted total income **plus** charitable deductions as reported on the final IRS tax return for the applicable year.
a corporation, including subchapter S corporation	total taxable income **plus** the amount of charitable contributions as reported on the final IRS tax return for the applicable year.
a tax-exempt or non-profit organization	unrelated business taxable income as reported to IRS **less** any income that CCC determines to be from noncommercial sources.

191 Determining AGI and Average AGI (Continued)

B Using IRS Data for AGI Determinations

The following provides guidance on AGI determinations using data reported to IRS.

IF determining AGI for…	THEN see IRS Form…	AND use the amount entered on…
corporations	1120	line 30 (total taxable income) **plus** line 19 (charitable contributions) for years 2000 through 2008.
estates or trusts	1041	line 17 (AGI) **plus** line 13 (charitable deductions) for years 2000 through 2008.
LLC's, LLP's, LP's, or other similar type organization	1065	line 22 (total income from trade or business) **plus** line 10 (guaranteed payments to partners) for years 2000 through 2008.
persons	1040	• line 37 (AGI) for **2005 through 2008** • line 36 (AGI) for **2004** • line 34 (AGI) for **2003** • line 35 (AGI) for **2002** • line 33 (AGI) for **2001** • line 33 (AGI) for **2000**.
tax-exempt or charitable organizations	990-T	line 34 (unrelated business taxable income) **minus** income that CCC determined to be from non-commercial activity for years 2000 through 2008.

Note: Variations of the referenced IRS tax forms, or comparable forms, may apply in which the line items for the appropriate income amounts will be different.

191 Determining AGI and Average AGI (Continued)

C Determining Average AGI (Continued)

Determine the average AGI according to the following table.

IF determination is for a…	THEN average AGI is the average…
• person • legal entity in business for **all** of the applicable 3-year period	of AGI, including losses, for the 3 taxable years preceding the most immediately preceding complete taxable year. **Note:** This includes legal entities **not** required to file an IRS tax return or legal entities that did **not** have taxable income in 1 or more years of the applicable 3-year period.
legal entity **not** in business for all of the applicable 3-year period	AGI, including losses for only the years in the base period that the new legal entity was in business.

D Average Nonfarm AGI's Exceeding $1 Million Limitation

When the average nonfarm AGI is greater than $1 million, a comparison **must** be made to determine if less than 66.66 percent of the average AGI was derived from farming, ranching, forestry operations, and related activities.

IF…	THEN see IRS Form…
corporation	1120; compare the 3-year average of line 10 (other income per Schedule F) with the average AGI determined for the same time period.
estate or trust	1041; compare the 3-year average of line 6 (farm income or loss) with the average AGI determined for the same time period.
LLC, LLP, LP, or other similar organization	1065; compare the 3-year average of line 5 (farm income or loss) with average AGI determined for the same time period.
person	1040; compare the 3-year average of line 18 (farm income or loss) with the average AGI determined for the same time period.
tax-exempt or charitable organization	990-T; compare the 3-year average of line 8 (interest, annuities, royalties, and rents per Schedule F) with the average AGI determined for the same time period.

Note: Exceptions may be applicable to the 3-year base period.

E AGI Compliance Worksheet

For AGI compliance determinations, use worksheet in paragraph 197.

191 Determining AGI and Average AGI (Continued)

F Rule for New Entity

A new legal entity shall **not** be considered new to the extent that it takes over an existing operation and has any elements of common ownership or interests with the preceding legal entity, or persons and legal entities, with an interest in the old legal entity.

The income of the old legal entity will be averaged with the income of the new legal entity for the base period if any of the elements of commonality are present.

Example for 2009: Twin Falls Corporation is comprised of Joe Plummer (50 percent) and John Plummer (50 percent).

The average AGI from the 3 complete taxable years 2005, 2006, and 2007 for Twin Falls Corporation was $1.1 million. Less than 66.66 percent was derived from farming, ranching, forestry operations, and related activities. Twin Falls Corporation had $3 million AGI in 2008.

Twin Falls Corporation exceeded the average $1 million nonfarm AGI limitation, and; therefore, was determined ineligible for 2009 conservation program benefits.

Example for 2010: Plummer LLC is comprised of Joe Plummer (5 percent), John Plummer (5 percent), and Twin Falls Corporation (90 percent).

Plummer LLC takes over the farming operation previously represented as Twin Falls Corporation.

The average AGI for Plummer LLC for 2010 payment eligibility purposes will be $1.73 million, the average of AGI of Plummer LLC and Twin Falls Corporation for the years 2006, 2007, and 2008. Plummer LLC is ineligible for 2010 conservation program benefits because of the average $1 million nonfarm AGI limitation.

192 Average AGI Limitations and Payment Eligibility

A Applying Average AGI

The following table shows how different average AGI amounts affect payment eligibility for a person or legal entity under different programs.

Average AGI Programs and Limitations			
Program	**Average AGI Amount**	**Income**	**Average AGI**
Commodity and Price Support	$500,000	Nonfarm.	Adjusted gross nonfarm income.
Conservation	$1 Million	Nonfarm, unless 66 percent or more average AGI is farm.	Adjusted gross nonfarm income unless **not** less than 66 percent of the average AGI is average adjusted gross farm income. **Note:** May be waived on a case-by-case basis if environmentally sensitive land of special significance would be protected.
DCP Direct Payments	$750,000	Farm.	Adjusted gross farm income.

192 Average AGI Limitations and Payment Eligibility (Continued)

B AGI Examples

The following examples show how different average AGI amounts affect payment eligibility for different programs.

Applying Average AGI Limitations					
			Program Benefits		
Example	**Average AGI**		**Commodity**	**DCP Direct Payment**	**Conservation**
1	Farm	$1.4 Million	**Not** Eligible	**Not** Eligible	Eligible
	Nonfarm	$600,000			
	AGI	$2 Million			
2	Farm	$3 Million (71%)	**Not** Eligible		Eligible
	Nonfarm	$1.2 Million			
	AGI	$4.2 Million			
3	Farm	$700,000	**Not** Eligible		Eligible
	Nonfarm	$600,000			
	AGI	$1.3 Million			
4	Farm	$800,000 (40%)	**Not** Eligible		**Not** Eligible
	Nonfarm	$1.2 Million			
	AGI	$2 Million			
5	Farm	$3 Million	Eligible		Eligible
	Nonfarm	$0			
	AGI	$3 Million			

193 Selecting Cases for Average AGI Review

A Selecting Cases

Reviews for compliance with average AGI provisions may be:

- initiated by COC or STC representative
- selected on a nation-wide basis by DAFP.

B Verifying Compliance

Information necessary to verify compliance with average AGI provisions includes, but is **not** limited to, the following:

- balance sheets
- financial statements
- information prepared for a private lender
- IRS and State income tax returns
- reports prepared for other government agencies
- other credible information of income for the qualification period.

Note: IRS and State income tax information may be requested by the reviewing authority if that is the only way to establish compliance with average AGI provisions.

The reviewing authority must safeguard the confidentiality of information provided.

Note: Information provided by program participants to verify compliance with average AGI provisions under this part shall **not** be subject to any requests submitted under FOIA.

193 Selecting Cases for Average AGI Review (Continued)

C Selection Notification

Program participants selected for review shall be notified, in writing, of:

- the nature and reason for the review
- suggested sources and types of information most helpful
- the established deadline to submit the information
- consequences of failing to timely provide the requested information (subparagraph D).

D Failure to Provide Information

Failure to timely provide correct and accurate information to establish compliance with average AGI requirement will result in any of the following:

- ineligibility for all program payments subject to this requirement for the applicable years
- required refund of all such program benefits affected
- possible civil suit or criminal prosecution.

If requested information is **not** timely provided:

- notify the program participant of the ineligibility for payments from the affected programs

- include appeal rights according to 1-APP.

194 Commensurate Reductions

A Commensurate Payment Reductions

[7 CFR 1400.503] Any payment and benefit earned by a legal entity or joint operation shall be reduced by an amount that is commensurate with the direct and indirect interest of any member or shareholder who either:

- is determined to have an average AGI in excess of the limitations
- fails to timely submit a certification statement.

Ownership interest in a legal entity shall be reviewed to the fourth level, if applicable, to determine applicable commensurate share reductions.

Note: If the fourth level ownership interest is **not** held by a **person**, that share is **not** eligible for payment or benefits.

B Applying Commensurate Payment Reductions

Commensurate payment and benefit reductions apply to:

- the crop year, program year, or FY
- all program payments and benefits to which average AGI applies.

195 Average AGI and NRCS Programs

A Data-Sharing With NRCS

NRCS:

- administers some programs for which payments and benefits subject to the average AGI limitation are issued
- has program coordination and delivery responsibilities.

FSA has the responsibility for data collection and determining average AGI compliance for applicable persons and legal entities.

Upon request from NRCS, FSA will supply average AGI compliance data for the persons and legal entities specified in the request.

If FSA has records on file for the person or legal entity, FSA will provide the following:

- average AGI certification statement submitted by the persons or legal entities
- cover letter that states whether the person or legal entity was considered in compliance with AGI, based on the information provided
- screen print of the eligibility file that shows the ‘value’ set for the corresponding average AGI compliance determination for the person or legal entity.

B Statements Not on File

If a statement is **not** on file:

- FSA will request AGI certification from the person or legal entity
- FSA will make the corresponding average AGI compliance determination
- provide the same information to NRCS as specified in subparagraph A.

196 Waiving Average AGI Limitation for Conservation Programs Only

A Secretary Waiving Conservation Program Average AGI Limitation

The Secretary may waive the AGI limitation applicable to conservation programs:

- on a case-by-case basis
- to protect environmentally sensitive land of special significance.

B Written Requests

Written requests for consideration of Secretarial waiver **must**:

- document that land, within or adjacent to the producer's agricultural operation, contains critical resources; such as, but **not** limited to the following:
    - critical groundwater recharge areas
    - historical of cultural resources
    - threatened, endangered, or at-risk species
    - unique wetlands
- do either of the following:
    - show that using conservation program funding by 1 producer is critical to the success of the project that benefits multiple producers in a community watershed or other geographic area
    - achieve enduring conservation treatment through using long-term agreement (greater than 15 years) or deed restriction on the land.

196 Waiving Average AGI Limitation for Conservation Programs Only (Continued)

C Referral and Review

Any written requests received for average AGI limitation waiver consideration will be subject to a joint review completed by the following:

- NRCS State Conservationist and FSA's SED
- Chief, NRCS, and the Administrator, FSA, or their designees

D Determination and Implementation

Determinations for any waiver of average AGI limitation for conservation program requests will be implemented with the coordination of **both** NRCS and FSA officials, as appropriate.

197 Calculating Average AGI for 2009 and Subsequent Years

A Worksheet for Calculating Average AGI for 2009 and Subsequent Years

Use the following worksheet to calculate the average AGI for a person or legal entity.

Step	Action	Result
1	Enter the total AGI (both nonfarm and farm) for the 3 complete taxable years preceding the most immediately preceding complete taxable year of the year for which program benefits are requested. Year Amount _____ $_____ _____ _____ _____ _____	
2	Total the dollar amounts in step 1.	$
3	Calculate the **average AGI** by dividing the result of step 2 by the number of years in step 1.	$
4	Enter AGI for the same 3 years in step 1 that was derived from all activities related to farming, ranching, and forestry operations. Year Amount _____ $_____ _____ _____ _____ _____	
5	Total the dollar amounts in step 4.	$
6	Calculate the **average adjusted gross farm income** by dividing the result of step 5 by the number of years in step 4.	$
7	Calculate the **average adjusted gross nonfarm income** by subtracting the result of step 6 from the result of step 3.	$
8	Calculate the **percentage of the average adjusted gross farm income from the average AGI** by dividing the result of step 6 by the result of step 3, and multiply by 100.	%
	If **step 8 is 66.66% or greater**, and the person or legal entity has income for equipment sales or input services, go to step 13; otherwise, go to step 9.	
	Determination	**Eligible**
9	If the result of step 7 is $500,000 or less, the person or legal entity is **eligible** for all commodity, MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits, **unless** step 6 resulted in ineligibility for direct payments.	☐ YES ☐ NO
10	If the result of step 6 is $750,000 or less, the person or legal entity is **eligible for direct payments** under DCP.	☐ YES ☐ NO
11	If the result of step 7 is $1 million or less, the person or legal entity is **eligible for all conservation program payments**.	☐ YES ☐ NO
12	If the result of step 7 exceeds $1 million, but the result of step 8 is at least 66.66%, the person or legal entity is **eligible for all conservation program payments**.	☐ YES ☐ NO

197 Calculating Average AGI for 2009 and Subsequent Years (Continued)

A Worksheet for Calculating Average AGI for 2009 and Subsequent Years (Continued)

Step	Action	Result
13	Enter the total AGI derived from equipment sales and input services for the 3 complete taxable years preceding the most immediately preceding complete taxable year of the year for which program benefits are requested. Year Amount _____ $_____ _____ _____ _____ _____	
14	Total the dollar amounts in step 13.	$
15	Calculate the **average AGI** from equipment sales and input services by dividing the result of step 14 by the number of years in step 13.	$
16	Enter adjusted gross farm income for the same 3 years in step 4 that was derived from all activities related to farming, ranching, and forestry operations, plus the amounts entered in Step 13 for equipment sales and input services. Year Amount _____ $_____ _____ _____ _____ _____	
17	Total the dollar amounts in step 16.	$
18	Calculate the **average adjusted gross farm income** including equipment sales and input services by dividing the result of step 17 by the number of years in step 16.	$
19	Calculate the **average adjusted gross nonfarm income** by subtracting the result of step 18 from the result of step 3.	$
20	Calculate the **percentage of the average adjusted gross farm income from the average AGI** by dividing the result of step 18 by the result of step 3, and multiply by 100.	%
	If **step 20 is 66.66% or greater**, and the person or legal entity has income for equipment sales and input services, **go to step 21**.	
	Determination	**Eligible**
21	If the result of step 19 is $500,000 or less, the person or legal entity is **eligible** for all commodity, MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits.	☐ YES ☐ NO
22	If the result of step 18 is $750,000 or less, the person or legal entity is **eligible for direct payments** under DCP.	☐ YES ☐ NO
23	If the result of step 19 is $1 million or less, the person or legal entity is **eligible for all conservation program payments**.	☐ YES ☐ NO
24	If the result of step 19 exceeds $1 million, but the result of step 20 is at least 66.66 percent, the person or legal entity is **eligible for all conservation program payments**.	☐ YES ☐ NO

197 Calculating Average AGI for 2009 and Subsequent Years (Continued)

B Special Rule for Average AGI Determination

If at least 66.66 percent of a person's or legal entity's average AGI is derived from all other sources of farm income, income from the following, if applicable, shall **also** be considered as farm income:

- sale of equipment to conduct farm, ranch, and forestry operations
- provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

C Applying the Special Rule for Determining the Average AGI

The following are examples of applying the rule in subparagraph B.

Example 1: Jake has requested 2009 DCP benefits. Jake's total average AGI was $900,000. His farm AGI was $650,000 from the production of crops and livestock. His nonfarm AGI was comprised of $150,000 from his aerial spraying service and $100,000 from oil and gas royalties.

Facts and figures: Over 66.66 percent of Jake's total AGI was from the production of crops ($650,000 divided by $900,000 times 100 equals 72.22 percent). Jake also has nonfarm AGI from his aerial spraying; a custom service to farmers and ranchers, that now **must** be considered farm AGI for payment eligibility purposes.

The result: Jake's farm AGI is now $800,000 (the total of $650,000 and $150,000); nonfarm AGI is $100,000. Jake's farm AGI exceeds $750,000. Jake is eligible for 2009 DCP benefits, **except** for direct payments.

Example 2: Wanda has requested 2009 DCP, NAP, and EQIP benefits. Wanda's total AGI was $3 million. Her farm AGI was $2.25 million from the production of crops and livestock. Her nonfarm AGI was $750,000; comprised of $500,000 for livestock equipment sales and $250,000 from commercial real estate rental.

Facts and figures: Over 66.66 percent of Wanda's total AGI was from the production of crops and livestock ($2.25 million divided by $3 million times 100 equals 75 percent). Wanda also has nonfarm AGI of $500,000 from livestock equipment sales that now **must** be considered average farm AGI for payment eligibility purposes.

The result: Wanda's farm average AGI is now $2.75 million ($2.25 million and $500,000); nonfarm AGI is $250,000. Wanda's farm AGI still exceeds $750,000, but her nonfarm AGI is now less than $500,000. Wanda is eligible for all program benefits requested, **except** for 2009 DCP direct payments.

198 Average AGI Certification

A Example CCC-926

The following is an example of a completed CCC-926.

This form is available electronically.

CCC-926 (11-20-08) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation **AVERAGE ADJUSTED GROSS INCOME (AGI) STATEMENT**	1. County FSA Office or Service Center Address *(Include Zip Code)* Erath County FSA Office 1234 Rough Rd Glen Rose, TX 74444

The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 1410. The information requested is necessary for CCC to assist in determining eligibility for program benefits. Information about the average Adjusted Gross Income limitations can be found in the regulations at 7 CFR Part 1400. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation, and Energy Act, the Privacy Act or 1974, the E-Government Act of 2002, and related authorities. This information collection is exempted from the Paperwork Reduction Act, as it is required for the administration of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration). The provisions of criminal and civil fraud statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

2. Name and Address of Person or Legal Entity *(Include Zip Code)* Ludlow Ltd. 2342 Burke Rd Glen Rose, TX 74444	3. Identification Number *(Last 4 digits of SSN or Tax ID No.)* 4432

NOTE: Please read and complete all items. Definitions of terms such as "nonfarm income" and "farm income" are contained on Page 2.

CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME

4. Select the program year for which program benefits are requested *(Check only one)*.

A. ☒ **2009**	The applicable 3-year period for calculation of the average AGI will be the taxable years of 2007, 2006 and 2005.	**C.** ☐ **2011**	The applicable 3-year period for calculation of the average AGI will be the taxable years of 2009, 2008 and 2007.
B. ☐ **2010**	The applicable 3-year period for calculation of the average AGI will be the taxable years of 2008, 2007, and 2006.	**D.** ☐ **2012**	The applicable 3-year period for calculation of the average AGI will be the taxable years of 2010, 2009 and 2008.

5. Was the average adjusted gross **nonfarm income $500,000 or less** for the applicable 3-year period for the program year selected in Item 4?

A. ☒ **YES.** B. ☐ **NO**

6. Was the average adjusted gross **farm income $750,000 or less** for the applicable 3-year period for the program year selected in Item 4?

A. ☒ **YES.** **B.** ☐ **NO**

7. Was the average adjusted gross **nonfarm income $1,000,000 or less** for the applicable 3-year period for the program year selected in Item 4?

A. ☒ **YES** **B.** ☐ **NO**

8. Was the average adjusted gross farm income for the applicable 3-year period selected in Item 4 at least 66.66 percent of the average adjusted gross income (that is, both farm and nonfarm income)?

A. ☒ **YES** **B.** ☐ **NO** *If "Yes" is checked, and if income includes the sale of farm equipment or production inputs and services to farmers, ranchers, foresters, and farm operations, see definition of Farm Income on Page 2.*

By signing this form:

- I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form;
- I certify that all information contained within this certification is true and correct;
- I take responsibility to timely notify FSA in writing of any changes to the farming, ranching, or forestry operation, or a change in financial status that may affect this certification;
- I certify that my income certifications are consistent with the tax returns filed with the Internal Revenue Service (IRS) and with the definitions specified on Page 2 of this form;
- I agree that at least every three years beginning no later than for the 2011 program year, or the year this person or legal entity ceases operation if that occurs first, I will submit evidence such as tax records, business documents (for review only, not for retention), or a signed third-party verification deemed acceptable by CCC to verify the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income, and that I will take the necessary actions to provide such documents or certification;
- If requested, I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes and I will take all necessary actions required by the terms and conditions of the IRS disclosure laws so that CCC can obtain such data.

9. Signature (By) /s/ Charles Ludlow Ludlow, LTD	10. Title/Relationship *(Individual Signing in the representative capacity)* President, Ludlow Ltd	Date *(MM-DD-YYYY)* 12-12-2008

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

198 Average AGI Certification (Continued)

A Example CCC-926 (Continued)

CCC-926 (11-20-08) Page 2 of 2

GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME

Limitations related to income levels are a statutory payment eligibility provision for a number of commodity and conservation programs administered by CCC. This certification is needed to assist in program administration. Except as may be provided in applicable program regulations, any person or legal entity requesting certain program payments, either directly or indirectly, shall be subject to this provision. Any person or legal entity that is determined to have an average adjusted gross income that exceeds specified limits shall be ineligible for the program payment subject to that limit for the applicable crop, fiscal, or program year. Further, any covered benefit issued to a legal entity, general partnership, or joint venture shall be reduced by an amount that is commensurate with the direct or indirect ownership interest in the legal entity, general partnership, or joint venture of each person or legal entity whose relevant average adjusted gross income for the relevant period exceeds the average adjusted gross income limit. These determinations will be made pursuant to, and subject to, regulations issued on behalf of the Secretary. As of the time this form was created, the applicable limits were as follows:

For commodity, price support benefits, disaster assistance programs, and for the Milk Income Loss Compensation Program, if the person or legal entity has:

- average adjusted gross **nonfarm income** greater than $500,000, the person or legal entity is **not** eligible for payments and benefits from these programs.
- average adjusted gross **farm income** greater than $750,000, the person or legal entity is **not** eligible for direct payments under the Direct and Counter-cyclical Program.

For new contracts or participation in conservation programs after October 1, 2008, if the person or legal entity has:

- average adjusted gross **nonfarm income** greater than $1 million, the person or legal entity is **not** eligible, unless 66.66 percent or more of the average adjusted gross income is attributable to activities related to farming defined as "farm income" below.

Please note as indicated above that payments are further limited if persons and legal entities with an interest, either directly or indirectly, in a legal entity or partnership exceeds these same levels. Those persons and legal entities must also submit this form.

DEFINITIONS

Adjusted Gross Income is the individual's or legal entity's IRS-reported adjusted gross income. A three year average of that income will be computed for the three years of the relevant base period. Base periods vary by program year as indicated on the first page of this form.

Adjusted Gross Farm Income is for a year that part of the adjusted gross income that is farm income as defined below. The amount will be computed for each year separately and then averaged.

Adjusted Gross Nonfarm Income is the difference for the year between the filer's adjusted gross income and the filer's adjusted gross farm income. The difference shall be computed for each year of the base period, and then averaged.

Farm income means income related to the following: production of crops, livestock, fish and aquaculture for food; the feeding and rearing of livestock; products produced or derived from livestock; production of specialty crops and unfinished raw forestry products; processing, packing, storing and transporting farm, ranch and forestry commodities including renewable energy; production of farm-based renewable energy; the sale of land used for agriculture; sale of land or sale of easements and development rights to agricultural land, water and hunting rights, and environmental benefits; rental or lease of land or equipment used in farming, ranching, forestry operations; payments and benefits from risk management practices, crop insurance indemnities, catastrophic risk protection plans, conservation programs and government farm program payments. Proceeds from the sale of farm equipment and from production inputs to farmers and ranchers are generally considered nonfarm income. However, if for a year not less than 66.66 percent of the average adjusted gross income of the person or legal entity is derived from farming, ranching, or forestry operations, the person's or legal entity's farm income shall also include the sale of equipment to conduct farm, ranch, or forestry operations, and the production inputs and services to farmers, ranchers, foresters, and farm operations.

Legal Entity is a corporation, joint stock company, association, limited partnership, charitable organization, or similar entity, including any such entity or organization participating in the operation as a partner in a general partnership, a participant in a joint venture, a grantor in a revocable trust, or as a participant in a similar entity, including joint ventures and general partnerships as determined by the Secretary.

Program year means the relevant program year as determined by CCC, for which a specific benefit is made available under a program authorized by legislation such as the Direct and Counter-cyclical Program, Milk Income Loss Contract Program, Conservation Reserve Program, Noninsured Crop Disaster Assistance Program, Supplemental Revenue Assistance Program. FSA may require additional information as necessary to make the relevant program payments.

Third-party verification means a signed statement from a certified public accountant (CPA) or an attorney that the person or legal entity meets the applicable AGI provisions for payment eligibility.

HOW TO DETERMINE ADJUSTED GROSS INCOME

Person. For persons that file the IRS Form 1040, specific lines on that form represent the adjusted gross income and the income from farming, ranching or forestry operations.

Trust or Estate. For a trust or estate, the adjusted gross income is the total income and charitable contributions reported to IRS.

Corporation. For a corporation, the adjusted gross income 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. For an LP, LLC or LLP, 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. For a 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.

199-205 (Reserved)

Part 7 Payment Eligibility and Payment Limitation Determinations

Section 1 COC Responsibilities

206 COC Determinations

A Introduction

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

B Determination Deadlines

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.

206 COC Determinations (Continued)

C Insufficient Information

If the file does **not** contain adequate information for COC to make determinations, COC shall 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 shall make the determination, based on the file as it exists, to avoid a default determination.

D Determination Appeals

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

207 Completing CCC-903's

A Introduction

COC shall use CCC-903 to document determinations for payment eligibility and payment limitation purposes.

B Documenting Determinations

Record the factors on CCC-903 that COC used to make the actively engaged in farming and eligibility determinations. Significant contributions **must** be identified and recorded. Include how the cash-rent tenant and substantive change rules were met, when applicable.

C Determination Narratives

A short narrative explaining the determining factors in the COC determination shall be documented on CCC-903, item 7.

Example: The following is an example narrative:

> "Organic Farms, Inc. provides a significant contribution of capital and equipment. The single stockholder provides a significant contribution of active personal management. The cash-rent tenant provision is met through the significant contribution of equipment and significant contribution of active personal management. All contributions are commensurate and at risk."

207 Completing CCC-903's (Continued)

D Example CCC-903

The following is an example of a completed CCC-903.

This form is available electronically.

CCC-903 (12-23-08) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation	1. NAME Beringer Partners
WORKSHEET FOR PAYMENT ELIGIBILITY AND PAYMENT LIMITATION DETERMINATIONS	2. COUNTY AND STATE Johnson, TX
	3. PROGRAM YEAR 2009

PART A – Type of operation

4. The operation reviewed is a:

☐ Person	☐ Sole Proprietor/Small Business	☒ General Partnership	☐ Limited Partnership
☐ Estate	☐ City, County or State-owned Entity	☐ Joint Venture	☐ Limited Liability Company
☐ Charitable/Non-Profit	☐ Indians rep. by BIA	☐ Revocable Trust	
☐ Corporation	☐ Irrevocable Trust	☐ Public School	☐ Other _____

PART B - Review of Eligibility Requirements and Contributions

Answer the following questions by checking **"YES, "NO"** or **N/A"**.

		YES	NO	N/A
1	Are the Name and SSN (or EIN) provided for the person, legal entity and each member or interest holder?	X		
2	If participant is an Estate, has a tax identification number (EIN) been provided for the estate?			X
3	If participant or any interest holder is a trust, has an EIN been provided for the trust, unless the trust is revocable trust and the grantor is the sole income beneficiary?			X
4	Is the person a US Citizen or a holder of a valid form I-551 (Alien Registration Receipt Card)? If the participant is a legal entity, are all interest holders US Citizens or holders of valid form I-551s?	X		
5	If this person or any interest holder in this legal entity is under 18-years-old, has the MINOR qualified to receive payment separate from the parent or guardian? (if NO, Common Attribution is shown in Remarks.)			X
6	Does this person or legal entity meet ALL of the following with regard to the farming operation: • has a separate and distinct interest in the land, crops, and livestock • demonstrates separate responsibility for the interest in land, crops and livestock • maintains funds and accounts separate from all other farming operations.	X		
7	Are cash rent tenant provisions met with significant contributions of either of the following: • active personal labor, or • active personal management and equipment (Note: If participant is a joint operation, each member must meet cash rent tenant provisions.)	X		
8	If equipment or land is leased from a person or legal entity with interest in this farming operation, are rates and repayment terms reasonable and customary for the area? (If NO, the input is not a significant contribution.)	X		
9	If hired labor and leased equipment originate from the same source, are separate contracts provided for the labor and for the equipment? (If NO, equipment is not a significant contribution.)			X
10	For limited partnerships, LLPs, LLCs, corporations and other similar legal entities, are all partners, members or stockholders providing active personal labor and/or active personal management?			X
11	If participant or any interest holder is an estate that has been in existence for over 2 years, has required documentation been provided and determination made according to 4-PL?			X
12	If a trust, does the trust provide for modification or interest by the grantor, or if established after January 1, 1987, provide for transfer to the remainder beneficiary in less than 20 years.			X
13	If an irrevocable trust, has trust documentation been provided and is such documentation on file?			X
14	For a State, political subdivision, or an agency thereof, is the land owned by the entity and used solely for the support of public schools?			X
15	If a charitable organization, does the land or proceeds from the farming operation transfer to an entity that exercises control over the organization? (If YES, Common Attribution is shown in Remarks)			X
16	Substantive change rules were met by (check each applicable substantive change): X Addition of 2 (number) adult family member(s)			
	__ For a landowner only, a change from cash rent to share rent			X
	__ A 20% increase in base acres, allowing recognition of one person or legal entity for payment			X
	__ A qualifying change in ownership of equipment			X
	__ A qualifying change in ownership of land			X

207 Completing CCC-903's (Continued)

D Example CCC-903 (Continued)

CCC-903 (12-23-08)

Participant's Name: Beringer Partners	**Crop Year:** 2009

PART C – DETERMINATIONS OF THE REVIEWING AUTHORITY

	Based on the information provided, COC determined the following: (Or, for joint operations with 6 or more members, the State Office determined:)	**YES**	**NO**
1	LANDOWNER PROVISIONS apply to this participant.	☐	☒
2A	The person's or entity's contributions are COMMENSURATE and AT RISK; And the person or entity is ACTIVELY ENGAGED IN FARMING (If NO, explanation is in REMARKS)	☒	☐
2B	For JOINT OPERATIONS ONLY, each member's contributions are COMMENSURATE and AT RISK; And EACH MEMBER is ACTIVELY ENGAGED IN FARMING (If NO, explanation is in REMARKS)		
3	COMMON ATTRIBUTION rules apply (Persons and Entities with common attribution are listed in Remarks)	☐	☒
4	A CROPLAND FACTOR applies because CASH RENT TENANT rules are not met by the person, the entity, or by one or more members of the joint operation. (If YES, explanation is in Remarks)	☐	☒

SIGNIFICANT CONTRIBUTIONS were determined as follows:
(Complete 5A if the participant is a PERSON or ENTITY. Complete 5B if the participant is a JOINT OPERATION.)

5A	The PERSON or ENTITY is determined to make the following SIGNIFICANT CONTRIBUTIONS:	☐ ACTIVE PERSONAL LABOR ☐ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT
5B	The JOINT OPERATION is determined to make the following SIGNIFICANT CONTRIBUTION(S).	☐ LAND ☒ CAPITAL ☒ EQUIPMENT
	MEMBERS of the JOINT OPERATION are determined to make the following SIGNIFICANT CONTRIBUTIONS:	
	Member(s) Name(s): Jack Beringer, Bobby Beringer	☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT
	Member(s) Name(s): Ana Beringer, Ida Beringer	☐ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT
	Member(s) Name(s):	☐ ACTIVE PERSONAL LABOR ☐ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT
	☐ Additional Pages are attached to show significant contributions of additional members.	
	☐ Special rules for SPOUSES are used to credit a spouse with a significant contribution of active personal labor or active personal management in this farming operation.	

PART D – REMARKS

COMMON ATTRIBUTION applies to:	
Ineligible FOREIGN PERSONS are:	
ADDITIONAL REMARKS regarding persons or entities that did not meet one or more of the following requirements: - actively engaged in farming - cash rent tenant rules - substantive change - providing Names/IDs of persons, entities or interest holders - other (see explanation)	

PART E – SIGNATURE OF REVIEWING AUTHORITY

COC or STO Representative:	Title:	Date:
Joe Workingman	Chairperson, COC	03/12/2009

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of Discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

208 COC Requirements to Make Timely Determinations

A Introduction

COC shall make the initial actively engaged in farming and eligibility determinations within the deadlines established in paragraph 206.

Note: See paragraph 236 for required State Office determinations.

B Definition

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

C Rule

If COC does **not** make the initial determinations within the 60 calendar day time limit, the applicant shall 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 243 and 244 for notification requirements of both the default and correct determination letters to the producer.

209-215 (Reserved)

216 Redelegating Authority

A Introduction

COC may redelegate their authority to CED to make actively engaged in farming and eligibility determinations in certain circumstances.

B Redelegating Circumstances

COC's authority to make actively engaged in farming and eligibility determinations may be redelegated to CED when the cases delegated are routine.

Note: Record all COC determinations in COC minutes, including determinations made by CED for COC.

C Spot-Checking Redelegated Determinations

Periodically, COC's and DD's shall review a sufficient number of redelegated cases to ensure that proper determinations are being made.

217 Meritorious Relief and Incorrect Determinations

A Misaction or Misinformation

See 7-CP for cases involving misaction or misinformation.

B Incorrect Determination Corrective Action

Use this table if a determination is found to be in error by any reviewing authority.

IF a determination is found to be in error...	THEN the...

within 60 calendar days of the date the producer filed a complete CCC-902	• producer shall be immediately notified of the corrected determination and advised of the right to appeal according to 1-APP
	
	• corrected determination shall be applicable for the current year, **unless** COC determines and DD concurs that both of the following apply:
	
	  • error was **not** so great that the producer should have noticed the error
	
	  • producer, relying on the erroneous written determination and acting in good faith:
	
	  • materially changed plans because of the erroneous determination
	
	  • was **not** notified in time to comply with the correct determination without suffering a loss.

but **not** within 60 calendar days of the date the producer filed a complete CCC-902	• initial determination shall be considered a default determination according to paragraph 208 for the current year and any previous year to which CCC-902 is applicable
	
	Exception: The correct determination shall apply for the current year if **both** of the following apply:
	
	  • incorrect determination was made in a previous year and considered to be in effect for subsequent years
	
	  • error was discovered and the producer was notified **before** a payment.
	
	• producer shall be notified of the correct determination according to paragraph 244.

218-225 (Reserved)

Section 2 County Office Responsibilities

Subsection 1 Multiple State and County Producers

226 Responsibilities of County Office Receiving CCC-902

A Overview

This paragraph explains the basic responsibilities of a County Office that receives CCC-902 from a multiple county producer.

B Responsibilities

Counties receiving CCC-902 for a multiple county producer shall follow this table.

Step	Action
1	Immediately photocopy **all** forms and supporting documentation submitted.
2	Prepare a letter advising other County Offices involved of: • the filing date • which county is the control county.
3	Mail the letter with a set of the photocopied documents to **each** County Office where the producer has a farming interest.

C Determination Deadline

COC **must** make determinations and notify the producer within 60 calendar days after the producer files a complete CCC-902. The 60 calendar day period begins on the date a complete CCC-902 is filed, regardless of whether or **not** the County Office receiving the filing is the control county.

227 Control County Responsibilities

A Responsibilities

This table contains a list of responsibilities of control counties in different situations.

IF the multiple county producer is involved in...	THEN the control County Office shall make...
only 1 farming operation	• eligibility determinations • actively engaged in farming determinations.
multiple farming operations and all operations are in the control county	• all eligibility determinations • all actively engaged in farming determinations.
multiple farming operations and all farming operations are **not** in the control county	• all eligibility determinations • actively engaged in farming determinations for the farming operations located in the control county.

B Actively Engaged Determination Exception

The control county is **not** responsible for making the actively engaged determination for a farming operation located entirely in another county.

228 Interaction Between Counties

A Overview

Counties with multiple county producers shall remain in close contact. This paragraph provides the interaction that **must** take place between counties.

B Control County Responsibilities

The control county shall:

- notify the producer of the determination within 60 calendar days of the producer filing date

  Note: The control county shall **not** delay notification to the producer to obtain the concurrence of other COC's.

- notify COC's involved with the multiple county producer of the determinations

- upon receiving concurrence from other COC's, update eligibility flags according to 3-PL.

228 Interaction Between Counties (Continued)

C Other County Initial Determination Responsibilities

COC's in noncontrol counties receiving an initial determination notification by the control county COC for a multiple county producer shall respond according to this table.

IF COC's in noncontrol counties...	THEN the noncontrol county shall...
agree with the determination	notify the control county of the concurrence in **writing**.
do **not** agree with the determination made by the control county	• immediately contact the control county to resolve the differences • involve DD's and State Offices if needed to resolve the differences • notify the control county of concurrence, in **writing**, when the differences have been resolved.

Note: If the original determination is changed for any reason, the control county shall immediately repeat the procedures in this paragraph.

D Other County Updated Determination Responsibilities

COC's in noncontrol counties receiving an updated determination notification by the control county COC for a multiple county producer shall take the following action.

IF COC's in noncontrol counties...	THEN that county...
agree with the determination that is being updated	is **not** required to respond when the letter sent by the control county indicates that an agreeing response is **not** needed.
do **not** agree with the updated determination	shall follow the instructions in subparagraph C when a noncontrol county does **not** agree.

229 Producers With Multiple State Interests

A COC Determinations for Multiple State Producers

Procedure applicable to multicounty producers shall be followed for multiple State producers, according to paragraph 228.

B State Office Concurrence

Counties should communicate directly with and provide notification and determination copies to the State Offices for concurrence.

230-235 (Reserved)

Subsection 2 State Office Determinations

236 Required State Office Determinations

A Rule on Required State Office Determinations

[7 CFR 1400.2] State Office review and determination is:

- **required** for initial eligibility and actively engaged in farming determinations for joint operations with 6 or more members
- **not** required when **both** of the following apply:
  - State Office made eligibility and actively engaged in farming determinations for the joint operation in a previous year
  - producer certifies minor changes in the farming operation and COC determines that the changes will **not** affect determinations previously made by the State.

Notes: State Offices are **not** required to make initial determinations for Indians receiving payment through affiliation with BIA or on lands owned by or held in trust for an Indian tribal venture.

Complex cases **must** be reviewed by STC.

COC's shall **not** make or recommend a determination.

236 Required State Office Determinations (Continued)

B Related Farming Operations

If State Office is required to make eligibility and actively engaged in farming determinations for a producer and the producer is also involved in another farming operation as an individual or member of a joint operation or entity:

- CCC-902's for the other farming operations are **not** required to be sent to the State Office for determination

  Exception: If there is reason to believe the additional CCC-902's would change the determination, the State Office may require CCC-902's for the other farming operations.

- the applicable control COC for the other farming operations shall:

  - make the required determinations for that farming operation
  - notify the producer.

236 Required State Office Determinations (Continued)

C Determination Deadlines

This table provides deadlines for the State Office to make eligibility and actively engaged in farming determinations and producer notification (subparagraph 237 B)

IF CCC-902 is filed for programs...	THEN make...
not requiring an actively engaged in farming determination	an eligibility determination and notify the producer within 60 calendar days of the date the applicable CCC-902 was filed. **Note:** An actively engaged in farming determination is **not** required until benefits are requested for a program requiring an actively engaged in farming determination.

not requiring an actively engaged in farming determination, but benefits are later requested for a program requiring an actively engaged in farming determination	• an eligibility determination, and notify the producer within 60 calendar days of the date the applicable CCC-902 was filed
	
	• an actively engaged in farming determination within 60 calendar days of the later of the following:
	
	  • date the application or contract to participate for the program subject to an actively engaged in farming determination is filed
	
	  • date a new or updated CCC-902 is filed, if applicable.

requiring an actively engaged in farming determination	eligibility and actively engaged in farming determinations, and notify the producer within 60 calendar days of the date the applicable CCC-902 is filed.

D Default Determinations

If the State Office does **not** make the initial determinations within the 60 calendar day time limit, the applicant shall receive a default determination according to paragraph 208.

237 Required Documentation

A Sending Files to the State Office

If a State Office determination is required according to this paragraph, County Offices shall send, by fastest means possible, new or updated CCC-902's with supporting documentation to State Office no later than 3 workdays following the day CCC-902's were received in the County Office.

Supporting documentation shall include a copy of:

- the requests for program benefits filed by the producer
- CCC-902's for the interests of the producer in other farming operations as an individual or member of a joint operation or entity as required by the State Office.

Supporting documentation may also include:

- copy of cash or share leases
- legal documentation about:
  - corporations
  - land ownership
  - partnerships
  - trusts
- additional documentation, as required by the State Office.

B Notifying Producers of Joint Operations With 6 or More Members

County Offices shall notify applicable producers by letter that:

- CCC-902 and supporting documentation, if applicable, has been sent to the State Office according to the requirement that State Offices make initial eligibility and actively engaged in farming determinations for joint operations with 6 or more members
- determination notifications will be sent from the State Office.

238-240 (Reserved)

Subsection 3 Notifying Producers of Determinations

241 Notifying Producers of COC Determinations

A Introduction

County Offices shall notify producers of COC's payment eligibility and payment limitation determinations as soon as possible after the determinations are made.

B Rule

County Offices shall notify producers of COC's determinations **no** later than 60 calendar days after the date the completed CCC-902 was filed.

C Types of Notifications

County Offices shall mail the following types of notification letters to producers:

- payment approvals to entities with more than 10 percent foreign ownership
- default
- foreign person ineligibility
- payment eligibility and payment limitation
- proper determination after default determination
- payment reductions.

242 Payment Eligibility and Payment Limitation Determinations

A Notification Requirements

Notification letters informing participants of the COC's determinations for payment eligibility and payment limitation purposes must include information on the following:

- actively engaged in farming determination
- if applicable, determinations for cash-rent tenant and AGI compliance
- the number of payment limitations applicable
- for a legal entity and joint operation, that payments will also be attributed to each partner, stockholder, or member according to the ownership share represented
- an explanation of any reduction in payment to the legal entity commensurate with the ownership interest held by the stockholder, partner, or member that failed to make a contribution of active personal labor and/or active personal management to the farming operation that are performed on a regular basis; identifiable and documentable; and separate and distinct from such contributions of any other partner, stockholder, or member of the farming operation
- the statement, "This determination is based on facts as submitted. You are responsible for promptly notifying the County Office of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule."
- these determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in the farming operation that would affect these determinations
- a statement that the determination may be appealed within 30 calendar days of notification, if the determination is adverse.

243 Default Determinations

A Rule

Every participant shall receive a determination **no** later than 60 calendar days after submitting a completed CCC-902. If COC **cannot** make an initial determination within the required 60-calendar-day period, the producer will receive and be notified of a default determination.

B Notification Example

This is an example of a letter notifying the producer of a default determination.

[*Letterhead*]

Riverside County FSA Office
Box 123
Anytown CA 92241-0123

Date

Ms. Becky Montana, President
Montana Farms, Inc.
P O Box 3
Anytown CA 92241-0003

Dear Ms. Montana:

The Orange County FSA Committee did **not** complete its review within 60 calendar days of the date CCC-902 was filed in the County Office. Therefore, you will receive the determination that you sought for [*year*], provided the information given accurately reflects your farming operation. Montana Farms, Inc., will be considered. [*Insert the correct determination response; for example; actively engaged in farming; restricted to one limitation.*] Any payments received by this corporation will be attributed to each stockholder listed, based on the ownership shares as represented.

If it is subsequently determined that the farming operation was **not** conducted as indicated on the CCC-902, the determination sought by you will no longer automatically apply, and a more restrictive determination may be applied.

[*Give appeal rights according to 1-APP*.]

Sincerely,

Tom Jones
County Executive Director

244 Proper Determinations

A Rule

A default determination does **not** relieve COC from making a proper determination. If the proper determination is different from the default determination, notify the producer of the following:

- the proper determination
- that FSA will honor the default determination for the current year, if the operating plan is followed **exactly**.

Note: The proper determination will apply for the:

- current year, if it is determined that the farm operating plan is **not** followed **exactly** as presented
- following year, if the operation is **exactly** the same in the following year.

244 Proper Determinations (Continued)

B Example Notification

This is an example letter notifying producers of a proper determination after a default determination.

[*Letterhead*]

Orange County FSA Office
Box 123
Anytown CA 92680-0123

Date

Ms. Sandra Fields
P O Box 3
Anytown CA 92680-0003

Dear Ms. Fields:

By letter dated _____, we notified you that _____ is [*are*] considered to be eligible for [*year*], separate and distinct from any other individual or entity.

The Orange County FSA Committee has completed a more thorough review of the farm operation plan for [*year*] and found the original determination to be incorrect. If there are no changes in your operation for [*next year*] and subsequent years, this revised determination will be effective for those years.

Based on the information submitted, the Committee determined that _____
_____.

Based on these understandings, the Committee determined that _____
_____.

As stated above, this revised determination does **not** affect the determination given you earlier for this year. However, the determination will be effective for [*year*], if no changes are made for that year.

This determination is based on the facts as submitted. Any unrevealed circumstances could require the application of a more restrictive rule.

[*Give appeal rights according to 1-APP*.]

Sincerely,

F. Amos
County Executive Director

245 Notification Letters

A Introduction

Use the example notification letters in subparagraphs B and C as guides when notifying participants of payment eligibility and payment limitation determinations.

B Letter for an Individual

This is an example of a letter notifying the producer of COC determination for an individual.

[*Letterhead*]

Date

Mr. Charles Ludlow
2342 Burke Rd
Glen Rose, TX 74444

Dear Mr. Ludlow:

The Erath County FSA Committee has completed its review of your farm operating plan for [*year*]. Based on the information submitted, the Committee determined the following:

- you are "actively engaged in farming" and eligible for payments and benefits that may be requested under programs subject to the payment eligibility and payment limitation provisions

- you are restricted to one limitation for payment limitation purposes.

These determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[*Provide appeal rights according to 1-APP if determination is adverse.*]

Sincerely,

Joe B. Grumpy
County Executive Director

245 Notification Letters (Continued)

C Letter for a Legal Entity

This is an example of a letter notifying the producer of COC determination for a legal entity.

[*Letterhead*]

Date

Mr. John Hardesty
J and J Inc.
N 1024 Rd
Someplace, OK 98764

Dear Mr. Hardesty:

The Sooner County FSA Committee has completed the review of the farm operating plan and supporting documentation submitted on behalf of J and J Inc. for [*year*]. The Sooner County FSA Committee understands that J and J Inc. is a properly chartered corporation having 2 stockholders, each owning 50 percent of the stock. Corporate interests are as follows:

Individual/legal entity	Percent Interest
John Hardesty	50
Jimmy Hardesty	50

Based on the information submitted, the Committee determined the following:

- J and J Inc. is "actively engaged in farming" and eligible for payments under programs subject to the payment eligibility and payment limitation provisions

- J and J Inc. is restricted to one limitation for payment limitation purposes and payments will also be attributed to each stockholder in accordance with the ownership share represented.

These determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[*Provide appeal rights according to 1-APP if determination is adverse.*]

Sincerely,

Jane C. Doe
County Executive Director

245 Notification Letters (Continued)

C Letter for a Legal Entity (Continued)

[*Letterhead*]

Date

Mr. John Smith
S & J LLC
N Dusty Road
Sometown, NE 98764

Dear Mr. Smith:

The Huskers County FSA Committee has completed the review of the farm operating plan and supporting documentation submitted on behalf of J & S LLC for [*year*]. The Huskers County FSA Committee understands that J & S LLC is a properly organized limited liability company with 2 interest holders, each owning 50 percent of the entity. Entity interests are identified as follows:

Individual/legal entity	Percent Interest
John Smith	50
Jimmy Jones	50

Based on the information submitted, the Committee determined the following:

- J & S LLC is "actively engaged in farming" and eligible for payments under programs subject to the payment eligibility and payment limitation provisions.

- J & S LLC is restricted to one limitation for payment limitation purposes and payments will be attributed to each stockholder in accordance with the ownership share represented.

- Program payments issued to J & S LLC will be reduced by 50 percent, the interest held by Jimmy Jones. All interest holders in an entity are required to make contributions of active personal labor and/or active personal management to the farming operation. Such activities must be contributed to the farming operation on a regular basis throughout the crop year; identifiable and documentable; and separate and distinct from such contributions of any other interest holder. The failure of an interest holder to meet these requirements results in a reduction in payments commensurate with the ownership interest held by such interest holder in the entity. The CCC-902E farm operating plan submitted for J & S LLC revealed that Mr. Jones did not make any contributions to the farming operation.

- These determinations will remain in effect for the current and subsequent years and a new farm operating plan will not be required unless a change occurs in your farming operation that would affect these determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying County FSA Office in writing of any change that would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

[*Provide appeal rights according to 1-APP.*]

Sincerely,

Jane C. Doe
County Executive Director

246-250 (Reserved)

Subsection 4 Filing

251 Filing Payment Limitation Documentation

A Introduction

County Offices shall file applicable payment limitation documentation received from producers and other County Offices.

B How to File

County Offices shall file producer and County Office documentation:

- in separate folders
- alphabetically by producer.

252-255 (Reserved)

Section 3 DD Responsibilities

256 Monitoring COC Determinations

A Introduction

DD's shall monitor COC initial, end-of-year, scheme or device, and default determinations to ensure that proper and timely determinations are made.

B Initial Determinations

DD's shall review initial COC determinations to ensure that COC has timely:

- made determinations that properly considered:
    - cash-rent tenant provisions
    - commensurate contributions
    - significant contributions
    - substantive change rules
- and properly notified producers, in writing, of determinations
- and adequately monitored determinations for multiple county producers.

256 Monitoring COC Determinations (Continued)

C End-of-Year Determinations

DD's shall review a number of cases selected for end-of-year review to ensure that:

- cases for review were properly selected
- correct determinations were made based on documentation provided
- documentation was sufficient to support the determination
- reviews were made in a timely manner.

Note: DD's are encouraged to review documentation **before** COC determination. In all cases, DD's should review **before** producer is notified of the outcome of the review.

D Scheme or Device Determinations

DD's shall:

- provide assistance to COC, as appropriate

- concur with COC's determination of scheme or device **before** the producer is notified of the determination

- initial COC determination in COC minutes.

257 Corrective Actions

A Introduction

If DD's review of COC determinations or County Office determination handling reveals errors or other problems, DD's shall take immediate and appropriate action.

B Guidelines

DD's shall determine the magnitude of the situation when errors or problems are discovered. Based on the magnitude, DD's shall determine how to provide assistance to correct the situation.

DD's shall use this table to decide the best way to handle situations.

IF the error or problem is...	THEN...
isolated to a small number of cases	review with COC or County Office the correct procedure and corrective action, if applicable.
widespread	• review with COC or County Office the correct procedure and corrective action • contact State Office specialist to determine whether additional action, such as training, is necessary.
recurring after DD's guidance to correct	contact State Office specialist for assistance in correcting the situation.

C Subsequent Review

After subsequent visits to County Offices, DD's shall review to determine whether:

- errors or problems have been resolved
- COC or County Office is following procedure.

D Report to State Office

DD shall be prepared to report to STC or State Office any errors or problems encountered in the district.

258 DD Disagreement With COC Determinations

A Introduction

DD's do **not** have authority to overrule COC determinations.

B Determination Disagreements

If a disagreement on the determination **cannot** be resolved at the local level, DD shall:

- submit the case with all documentation to STC for a determination
- transmit the file with a memorandum containing a short narrative explaining:
    - why COC determination is believed to be incorrect
    - DD's recommended determination.

259, 260 (Reserved)

Section 4 STC Responsibilities

261 STC Authority

A Introduction

STC's have authority over COC's, County Offices, DD's, and State Office specialists to implement the provisions of this handbook.

B Responsibilities

STC's shall:

- assign a State program specialist the responsibility to carryout provisions of this handbook
- resolve questioned COC determinations
- establish a date by which end-of-year reviews **must** be completed
- establish a date for submitting end-of-year review report
- be responsible for reviewing cases involving initial eligibility determinations for joint operations consisting of 6 or more members.

C Actions

STC's may take any action authorized or required to be taken by COC's that is **not** taken by COC. STC's may also:

- correct, or require COC's to correct, any action taken by COC that is **not** according to the provisions of this handbook
- require COC's to withhold taking any action that is **not** according to this handbook.

261 STC Authority (Continued)

D Assigning Program Specialist

STC shall assign a State program specialist the overall responsibility for the day-to-day administration of payment limitation determinations.

E Questioned COC Determinations

STC's shall:

- resolve determinations that are questioned by DD's
- complete determination resolution responsibilities by reviewing material submitted by DD's according to paragraph 258.

F End-of-Year Reviews

STC shall specify a date by which all end-of-year reviews **must** be completed within the State. STC shall take into consideration the following:

- different dates may be established for specific areas within the State
- an action; such as marketing of a crop, may **not** be completed at the time of the end-of-year review

  Note: Do **not** consider the determination incorrect simply because the action is **not** completed by the established end-of-year review date.

- that some factors to be considered may require verification beyond the STC-established end-of-year review date

  Note: The end-of-year review should be completed to the extent that followup actions are known and scheduled.

- the date final payments will be made.

Note: This paragraph shall be supplemented by each State Office to specify dates by which end-of-year reviews shall be completed.

262 State Office Specialist Responsibilities

A Introduction

The State Office specialist is assigned the overall responsibility for the day-to-day operation of payment limitation determinations according to this handbook within the State. The State Office specialist shall:

- provide training
- provide technical assistance
- accumulate reports.

B Training

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

C Technical Assistance

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

- assisting with reviews of any determination questioned by DD
- obtaining assistance of OIG, 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 CED's and program assistants to serve as members of district teams to conduct end-of-year reviews.

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

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

262 State Office Specialist Responsibilities (Continued)

D Accumulating Reports

The State Office specialist shall:

- 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 end-of-year reviews from each County Office.

E Required Determinations

State Offices shall:

- make initial eligibility and actively engaged in farming 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 control County Office shall make all other eligibility determinations according to paragraph 227.

F Determination Priority

Determinations shall be sorted to prioritize determinations involving newly filed CCC-902's, operations with payments exceeding $40,000, or any other applicable limitation.

If the volume of determinations prevents timely determinations in all cases, producers shall receive a default determination according to paragraph 243.

G Determination Required Action

State Offices shall:

- notify applicable producers of determinations made according to this handbook
- notify designated control county for the producer of determinations
- maintain a record of determinations made by the State Office
- conduct end-of-year reviews for determinations required to be made by State Office.

263-265 (Reserved)

Section 6 National Office Responsibilities

266 General Responsibilities

A General Supervision

[7 CFR 1400.2] The provisions of this handbook shall be administered under the general supervision and direction of the Executive Vice President, CCC and the Administrator, FSA.

B DAFP Authority

[7 CFR 1400.2 (d)] DAFP may take any action authorized or required to be taken by either COC or STC that is **not** taken by COC or STC. DAFP may also:

- correct or require COC or STC to correct any action taken by COC or STC that is **not** according to the provisions of this handbook

- require COC or STC to withhold taking any action that is **not** in keeping with provisions of this handbook.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026A	Supplemental to AD-1026		34
CCC-502	Farm Operating Plan for Payment Eligibility Review for _____		Ex. 10
CCC-509	2009-2012 Direct and Counter-Cyclical Program Contract		3, 119, 157
CCC-526	Payment Eligibility Average Adjusted Gross Income Certification		Ex. 10
CCC-580	Milk Income Loss Contract (MILC)		186
CCC-901	Member's Information - 2009 and Subsequent Years	99	Text
CCC-902 Continuation	Continuation Sheet for Leased or Owned Land (Attach to Form CCC-902I or CCC-902E)	140	Text, Ex. 10
CCC-902E	Farm Operating Plan for an Entity - 2009 and Subsequent Program Years	120, 122, 140, 149, 158, 170	Text, Ex. 10
CCC-902I	Farm Operating Plan for an Individual - 2009 and Subsequent Program Years	130	Text, Ex. 10
CCC-903	Worksheet for Payment Eligibility and Payment Limitation Determinations	207	33, 109
CCC-926	Average Adjusted Gross Income (AGI) Statement	198	31, 32, 119, 189, Ex. 10
CRP-1	Conservation Reserve Program Contract		13, 187, 190, Ex. 10
FSA-211	Power of Attorney		189
I-151 1/	Alien Registration Receipt Card		107
I-551	Permanent Resident Card/Resident Alien Card	107	108, Ex. 2
IRS-990	Return of Organizations Exempt From Income Tax		97

1/ Form is obsolete.

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

Abbreviations Not Listed in 1-CM

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

Approved Abbreviation	Term	Reference
ACRE	Average Crop Revenue Election	3, 11, 14, 119, 178, 186, 187
AGI	adjusted gross income	Text, Ex. 2, 10
AMA	Agriculture Management Assistance	11, 187
AWEP	Agricultural Water Enhancement Program	11, 187
CBWP	Chesapeake Bay Watershed Program	11, 187
CCPI	Cooperative Conservation Partnership Initiative	11, 187
CSTP	Conservation Stewardship Program	11, 14, 187
EIN	employer identification number	156, 168
ELAP	Emergency Assistance Program for Livestock, Honey Bees, and Farm-raised Fish	11, 14, 186, 187
EQIP	Environmental Quality Incentive Program	11, 14, 186, 187, 197
FRPP	Farm and Ranchland Protection Program	11, 187
GRP	Grassland Reserve Program	11, 14, 187
IRA	individual retirement account	167
LIP	Livestock Indemnity Program	11, 14, 186, 187
LLC	limited liability company	34, 56, 146-149, 191, 245
LLP	limited liability partnership	34, 52, 146-149, 191
LP	limited partnership	34, 52, 146-149, 191, Ex. 2
MAL	marketing assistance loan	3, 12, 14, 186, 187
MILC	Milk Income Loss Contract	11, 197
MLG	marketing loan gain	3, 11, 12, 14, 186
SURE	Supplemental Revenue Assistance Program	11, 14, 186, 187
TIN	tax ID number	21, 56, 96, 98-100, 121, 168, 181
WHIP	Wildlife Habitat Incentives Program	11, 14, 187

Redelegations of Authority

This table lists redelegations of authority in this handbook.

Redelegation	Reference
Making Determination Decisions	216
Monitoring Determinations	216

Definitions of Terms Used in This Handbook

Active Personal Labor

Active personal labor means personally providing physical activities necessary in a farming operation. These activities include physical activities:

- involved in land preparation, planting, cultivating, harvesting, and marketing of agricultural commodities
- required to establish and maintain conserving cover crops or conserving use acreages
- required in livestock operations.

Active Personal Management

Active personal management means personally providing:

- the general supervision and direction of activities and labor involved in the farming operation
- services, whether performed on-site or off-site, reasonable related and necessary to the farming operation, including any of the following:
    - supervision of activities necessary in the farming operation
    - business-related actions that include discretionary decision making
    - evaluation of the financial condition and needs of the farming operation
    - assistance in structuring or preparing financial reports or analyses for the farming operation
    - consultations in or structuring of business-related financing arrangements for the farming operation
    - marketing and promoting agricultural commodities produced by the farming operation
    - acquiring technical information used in the farming operation
    - any other management function necessary to conduct the farming operation and for which the operation would ordinarily be charged a fee.

Definitions of Terms Used in This Handbook (Continued)

Adequate Documentation

Adequate documentation means whatever documentation is required by the reviewing authority to make proper actively engaged in farming, attribution, and average AGI compliance determinations.

Adjusted Gross Income (AGI)

AGI means, for a:

- person, the amount reported to IRS on the appropriate tax filing documents as AGI
- legal entity, the comparable measure according to this handbook.

"Arm's Length" Business Transaction

"Arm's length" business transaction means a transaction between 2 parties, however closely related they may be, conducted as if the parties were strangers, so that no conflict of interest arises.

Attribution

Attribution means crediting payments made to entities, such as corporations, estates, trusts and limited partnerships, to "real persons" based on the share of the entity held by the individual stockholder, heir, beneficiary, etc.

Definitions of Terms Used in This Handbook (Continued)

Average Adjusted Gross Farm Income

Average adjusted gross farm income 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: • 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: • 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 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 adjusted gross farm income is **at least** 66.66 percent of the average AGI.	

Definitions of Terms Used in This Handbook (Continued)

Average AGI for a Person or Legal Entity

Average AGI for a person or legal entity means the average AGI, or comparable measure, of the individual or entity over the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested.

Note: Exclude any years that the individual or entity did **not** have income or had AGI considered as zero.

Capital

For payment limitation purposes, capital means the funding provided by a person or legal entity to the farming operation for the operation to conduct farming activities.

Cash-Rent Tenant

Cash-rent tenant means a producer that rents land from another producer for cash, or a guaranteed crop share, as the amount of the commodity to be paid in rent.

Complete Control

Complete control means exclusive access and use by the tenant.

Corporation

Corporation means an entity recognized by law comprised of 1 or more persons or legal entities, which has certain rights and duties.

Note: For payment limitation purposes, a subchapter S corporation is included in this definition.

Custom Farming

Custom farming means performing any field work, crop production handling, or related activity; such as crop harvesting, land preparation, or chemical application, for a producer on a fee for service basis; such as by the hour or per acre basis.

Default Determination

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

Definitions of Terms Used in This Handbook (Continued)

Embedded Legal Entity

Embedded legal entity means an entity that has an interest, directly or indirectly, as a stockholder, member, beneficiary, or heir, in another entity that is earning payments.

Equipment

For payment limitation purposes, equipment means the machinery and implements used by the farming operation to conduct activities of the farming operation.

This includes:

- machinery and implements for:
  - land preparation, planting, cultivating, or harvesting of the crops involved
  - establishing and maintaining conservation cover crops or conservation use of acreages
  - conducting livestock operations
- irrigation equipment that is:
  - **not** of a permanent nature
  - commonly used in the area.

Definitions of Terms Used in This Handbook (Continued)

Family Member

Family member means a person to whom another member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

The term family member shall include:

- great grandparent
- grandparent
- parent
- child, including legally adopted children and stepchildren
- grandchild
- great grandchild
- sibling of the family members in the farming operation
- spouse of family members.

Farming Operation

Farming operation means a business enterprise engaged in production of agricultural products, commodities, or livestock, operated by a person, legal entity, or joint operation that is eligible to receive payments, directly or indirectly, under 1 or more programs specified in § 1400.1. A person or legal entity may have more than 1 farming operation if this person or legal entity is a member of 1 or more joint operations.

Definitions of Terms Used in This Handbook (Continued)

Foreign Entity

Foreign entity means a corporation, trust, estate, or other similar organization, that has more than 10 percent of its beneficial interest held by individuals who are **not**:

- citizens of the U.S.
- lawful alien possessing a valid Permanent Resident Card or Resident Alien Card (Form I-551).

Foreign Person

Foreign person means someone who is **not** a:

- citizen of the U.S.
- lawful alien possessing a valid Permanent Resident Card or Resident Alien Card (Form I-551).

Income From Farming, Ranching, or Forestry Operations

Income from farming, ranching or forestry operations means income derived from producing crops, livestock, or unfinished raw forestry products.

Indian Tribe

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the U.S. because of their status as Indian.

Joint Operation

Joint operation means a general partnership, joint venture, or other similar business organization in which 2 or more individuals or entities pool their resources, such as land, labor, capital, management, and equipment to conduct the operation for a common purpose that the group intends to carry out, with sharing of the profits and losses.

Definitions of Terms Used in This Handbook (Continued)

Land

For payment limitation purposes, land means farmland consisting of cropland, pastureland, wetland, or rangeland that meets the specific requirements of the applicable program.

"Left-Hand" Contribution

"Left-hand" contribution to the farming operation means 1 or a combination of the following:

- capital
- land
- equipment.

Legal Entity

Legal entity means an entity created under Federal or State law that owns land or an agricultural commodity, product, or livestock.

Limited Partnership (LP)

For payment limitation purposes, LP means LP has both of the following:

- at least 1 general partner entrusted with managing and controlling the partnership's business
- at least 1 limited partner.

Minor Child

Minor child means a person that is **not** 18 years of age on or before April 1 of the current year.

Note: Court action conferring majority on such person does **not** change this person's status as a minor child.

Person

Person means a natural person (individual) and does **not** include a legal entity.

Note: A cooperative association of producers that market commodities shall **not** be considered the person, and payments and benefits thereby limited for the commodities marketed for the producers.

Definitions of Terms Used in This Handbook (Continued)

Public School

Public school means a primary, elementary, secondary school, college, or university which is directly administered under the authority of a governmental body or which receives a predominant amount of its financing from public funds.

"Right-Hand" Contribution

"Right-hand" contribution to the farming operation means 1 or a combination of the following:

- active personal labor
- active personal management.

Separate and Distinct Contribution

Separate and distinct contribution is a contribution to the farming operation that is:

- unique and apart from other contributions
- distinguishable from the contributions of other partners, stockholders, or members of the same legal entity or joint operation.

Sharecropper

Sharecropper means an individual who:

- performs work in connection with the production of the crop under the supervision of the operator
- receives a share of the crop in return for the provision of such labor.

Total Value of a Farming Operation

Total value of a farming operation means the total of the costs, excluding the value of active personal labor and active personal management that is contributed by a member of the farming operation, needed to carry out the farming operation for the year for which the determination is made.

Tribal Venture

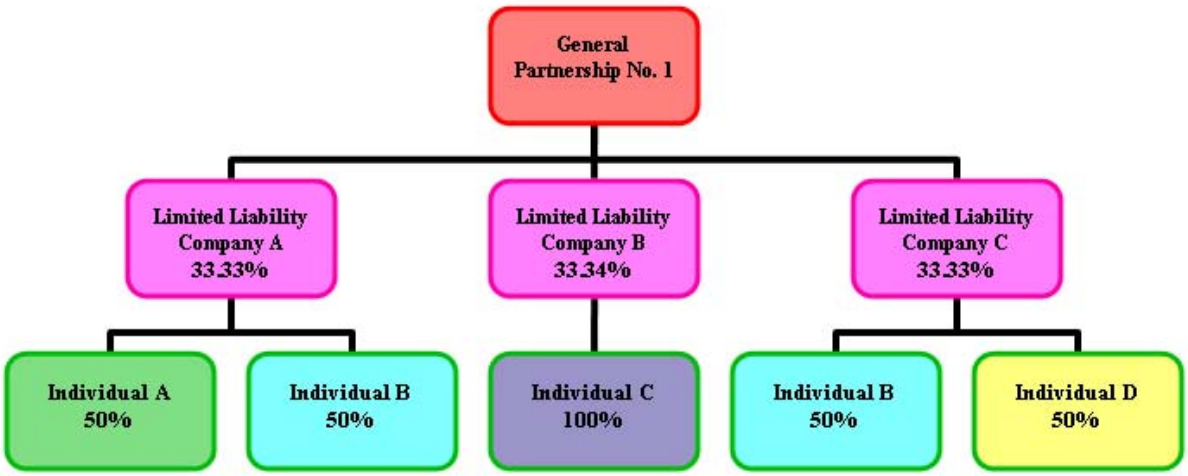
Tribal venture means a joint operation conducted by members of a Native American or Indian tribe.

Direct Attribution

A 2008 and 2009 Rules

The following compares rules for 2008 and 2009.

Current Rules - 2008



Farming Op of General Partnership No 1 - The GP:	**Determinations –**
-provides all capital; -owns all equipment; -cash rents all the land; - hires all the labor. The members provide all active personal management. - all individuals and entities are AGI compliant	- all 3 LLC's, are actively engaged in farming; - the cash rent tenant rule is met by the GP's owned equipment and the active personal management by the interest holders of the LLC's; - 3 "persons" for payment limitation as follows: LLC-A; LLC-B and Individual C combined; LLC-C.

The Results ($):

- LLC-A.....limited to $ 40,000 direct
- LLC-B and Ind. C combined.....limited to $ 40,000 direct
- LLC-C.....limited to $ 40,000 direct

Total .....$120,000 direct

Individual A....limited to $40,000 from other operations.....=$ 40,000

Individual B....limited to $40,000 from other operations.....=$ 40,000

Individual C....reached the limit.....=$ 0

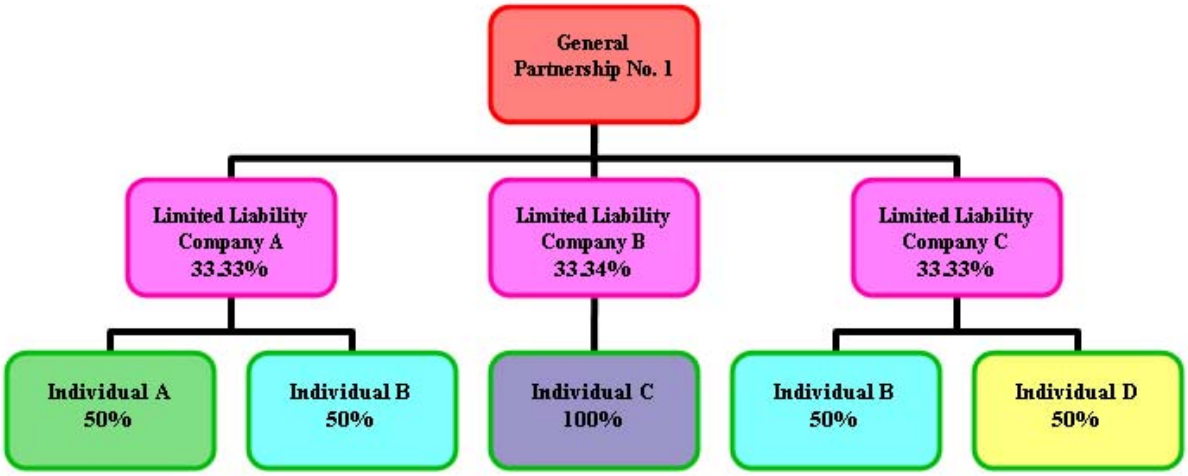
Individual D....limited to $40,000 from other operations.....= 40,000

Total.....$240,000

Direct Attribution (Continued)

A 2008 and 2009 Rules (Continued)

Direct Attribution - 2009



Farming Op of General Partnership No 1 -
The GP:
-provides all capital;
-owns all equipment;
-cash rents all the land;
- hires all the labor.
The members provide all active personal management.
- all individuals and entities are AGI compliant

Determinations –
- all 3 LLC's, are actively engaged in farming;
- the cash rent tenant rule is met by the GP's owned equipment and the active personal management by the interest holders of the LLC's;
- GP limited to $120,000 in direct payments

(number of members X the limitation)

The Results ($):
- LLC-A…… attributed $40,000 direct
- LLC-B…… attributed $40,000 direct
- LLC-C…… attributed $40,000 direct
Total ……$120,000 direct
- AND-
Individual A….attributed $20,000 from LLC-A (limited to $40,000 from all operations, has $20,000 that can be earned from other sources.)
Individual B….attributed $40,000 ($20,000 from LLC-A and $20,000 from LLC-C (reached the $40,000 limit)
Individual C….attributed $40,000 from LLC-B (reached the $40,000 limit)
Individual D….attributed $20,000 from LLC-C (limited to $40,000 from all operations, has $20,000 that can be earned from other sources.)
Potential Earnings:
- LLC-A…… attributed $40,000 direct
- LLC-B…….attributed $40,000 direct
- LLC-C…….attributed $40,000 direct
Total ……$120,000 direct
Individual A.....$20,000
Individual B.....$ 0
Individual C.....$ 0
Individual D.....$20,000
Grand Total.....$160,000

Direct Attribution (Continued)

B Attribution Examples

The following show the effect of attribution rules on spouses with multiple interests.

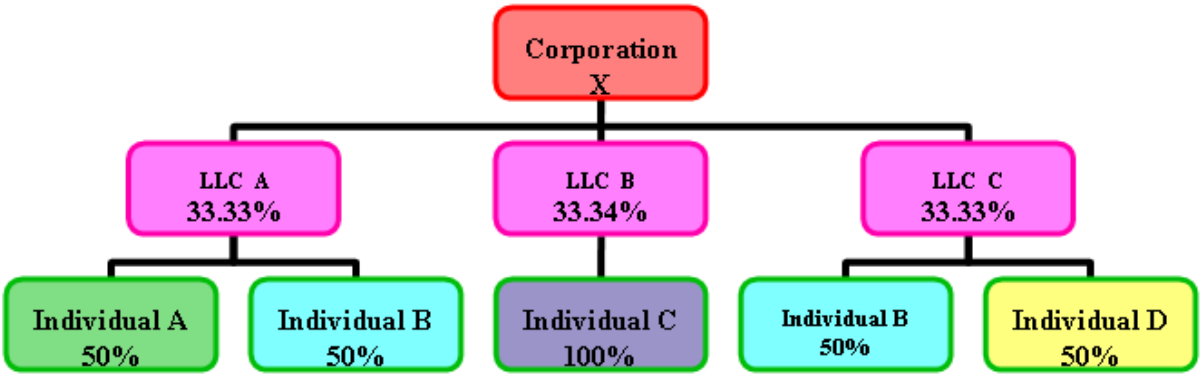
Description of Farming Operations				
Husband and Wife share 50/50 in a joint operation.	**Wife is 100% beneficiary of a trust.**	**Husband has 25% interest in his father's estate.**	**Husband has 35% interest in a limited partnership with his brothers**	**Husband has 50% interest in the corporation that is the general partner of the Limited Partnership.**
Husband/Wife Jt Op. H = 50%, W = 50% Earns $70,000 NAP Earns $66,000 DCP	Trust W = 100% Earns $8,000 NAP Earns $10,000DCP	Estate H = 25% Earns $12,000 NAP Earns $9,000 DCP	Bros Cattle LTD H = 35% Earns $10,000 NAP Earns $15,000 DCP	Bros Cattle LTD Corp = 1% H = 50% of Corporation LTD earns $10,000 NAP LTD earns $15,000 DCP
Attributed Amounts from Each Operation				
From the Jt Op	From the Trust	From the Estate	From his interest in LTD	Embedded interest in Corp
NAP H = $35,000 W = $35,000 Jt Op = $0	NAP H = $0 W = $8,000 Estate = $8,000	NAP H = $3,000 W = $0 Estate = $12,000	NAP H = $3,500 W = $0 LTD = $10,000	NAP H = $50 W = $0 Corp = $100
DCP H = $_33,000_____ W = $_33,000_____ Jt Op = $_0_____	DCP H = $__0_____ W = $__**7,000**__* Trust = $7,000_	DCP H = $___2,250____ W = $___0_____ Estate = $_9,000___	DCP H = $_**4,750**_____ W = $_0_____ LTD = $_**14,425**_____	DCP H = $_0_____ W = $__0_____ Corp = $__**75**_____
	* Wife's DCP payment through the trust is limited because she already received $33K in the Jt Op.		Husband's DCP earnings from his direct interest in the LTD is limited to his available attribution limit, bringing his total DCP to $40,000. Amount attributed to the corporation reflects reductions made for the Husband's interests exceeding the direct attribution limit.	Husband's interest in the corporation is not eligible because his available attribution is $0. His 50% of the corporation's 1% will not be paid.

Direct Attribution (Continued)

B Attribution Examples (Continued)

The following is an example of attribution rules for a corporation.

Attribution Example



Farming Op of CORPORATION X
The corporation:
- provides all capital, owns all equipment, cash rents all land
- hires all the labor.

Individuals all provide AP management through the respective LLCs.
- all persons and entities are AGI compliant

Determinations
- Corporation X is actively engaged in farming; cash rent tenant rule met with owned equipment and the active personal management by the LLC's;
- Corporation is limited to $40,000 in direct payments

Person or Entity	Total Attribution Limit	Attributed from this Farming Operation	Available from Other Farming Operations	Total Potential Earnings
Corporation X	$40,000	$40,000	$0	$40,000
LLC A	$40,000	$13,332	$26,668	1/
LLC B	$40,000	$13,336	$26,664	2/
LLC C	$40,000	$13,332	$26,668	3/
Individual A	$40,000	$6,666	$33,334	$40,000
Individual B	$40,000	$13,332	$26,668	$40,000
Individual C	$40,000	$13,336	$26,664	$40,000
Individual D	$40,000	$6,666	$33,334	$40,000
Grand Total of Potential Earnings for All Persons and Entities Involved				$200,000

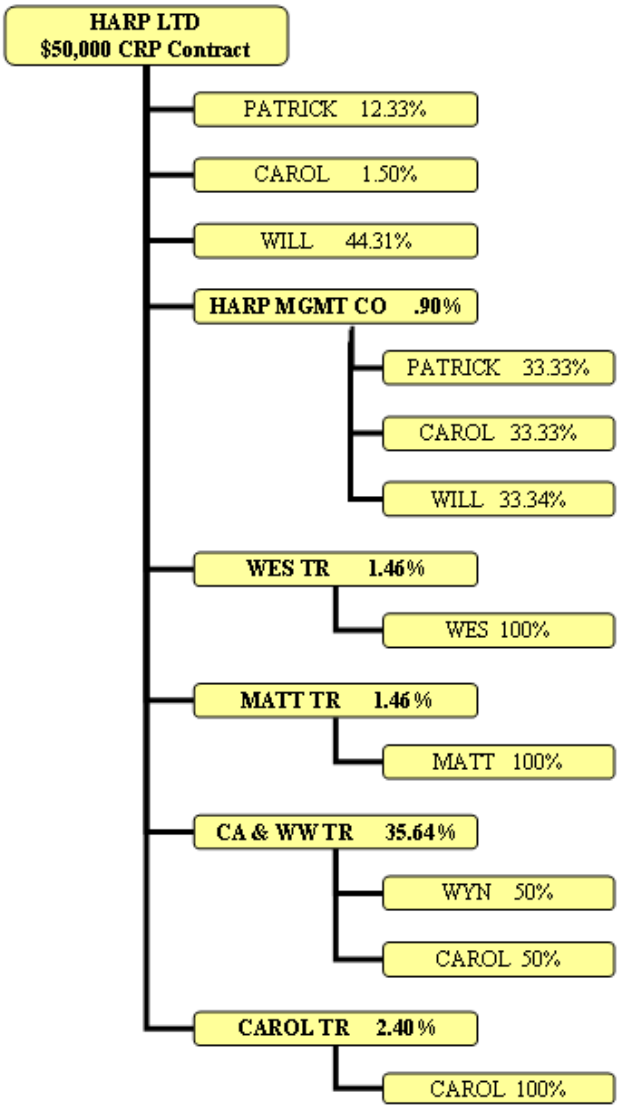
1/ A pro rata reduction will be made for any payments attributed to individuals A or B
2/ A pro rata reduction will be made for any payments attributed to individual C
3/ A pro rata reduction will be made for any payments attributed to individuals B or D

Direct Attribution (Continued)

B Attribution Examples (Continued)

The following is an example of attribution rules for a limited partnership.

Attribution Example



HARP LTD is a limited partnership.
The entity owns land participating in CRP only.
Patrick is the father. Carol is the mother.
Wes, Matt & Wyn are their minor children.
Will is an adult son.
Determinations: The corporation is AEIF based on landowner provisions. Contributions are commensurate and at risk.
CRP Limitations:
$50,000 for each entity: Harp Ltd, Harp Mgmt Co, Wes Tr, Matt Tr, CA & WW Tr, Carol Tr
$50,000 for each person: Patrick, Will
$50,000 for minors and parent earning greatest amount of payments: Wes, Matt, Wyn & Carol
Potential Payments:
Harp Ltd's CRP contract is worth $50,000

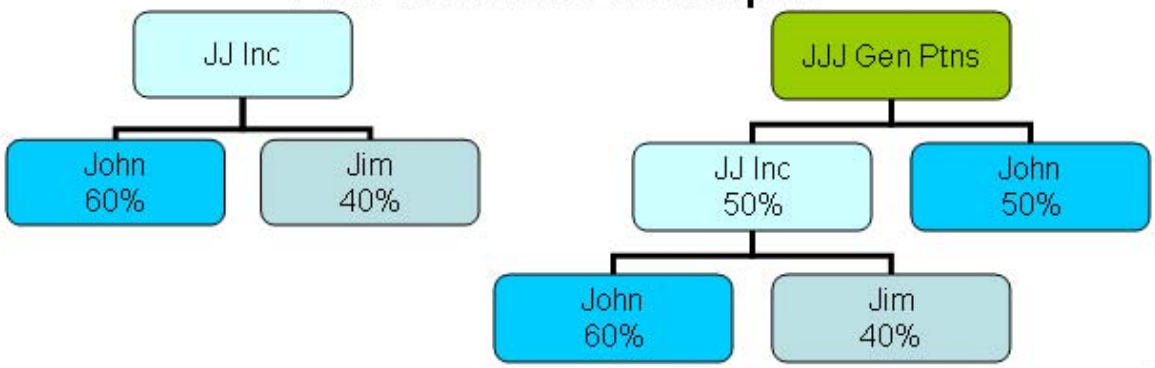
Person or Entity	Total Attribution	Calculation
Harp LTD	**50,000**	**ALL**
Harp Mgmt Co	450	.9 x 50,000
Wes Tr	730	.0146 x 50,000
Matt Tr	730	.0146 x 50,000
CA&WW Tr	17,320	.3564 x 50,000
Carol Tr	1200	.024 x 50,000
Patrick (Individual & embedded)	6,165 +150 6,315	.1233 x 50,000 .3333 x 450
Will (individual & embedded)	22,155 +150 22,305	.4431 x 50,000 .3334 x 450
Carol, Wes, Matt & Wyn (individual & embedded interests)	750 150 730 730 17,320 1200 20,880	.015 x 50,000 .3333 x 450 100% x 730 100% x 730 100% x 17,320 100% x 1,200

Direct Attribution (Continued)

B Attribution Examples (Continued)

The following is an example of attribution rules for a corporation and limited partnership.

Attribution Example



JJ Inc is a corporation.
The entity provides all capital & equipment. Land is share rented. John provides significant AP management.
Determinations: The corporation is AEIF. Contributions are commensurate.
DCP (DIR) Limitations: $40,000 for JJ Inc, $40,000 for John, $40,000 for Jim

JJJ Gen Ptns is a general partnership made up of JJ Inc (50%) and John (50%).
The joint operation provides all capital and equipment. Land is share rented. John provides significant AP management for his individual interest and for the corporation.
Determinations: The members of the general partnership are AEIF. Contributions are commensurate. DCP (DIR) Limitations: $40,000 for JJ Inc, $40,000 for John, $40,000 for Jim

Potential Payments:
JJ Inc's share of the DCP contract is worth $40,000 in DCP (DIR)
JJJ Gen Ptns' DCP contract is worth $10,000 in DCP (DIR)

Person or Entity	Total Attribution Limit	Attributed from JJ Inc's farming operation	Attributed from JJJ Gen Ptns' farming operation	Total Attributed Earnings
JJ Inc	$40,000	$40,000	$0 1/	$40,000
John	$40,000	$24,000	$5,000 1/	$29,000
Jim	$40,000	$16,000	$0 1/	$16,000
JJJ Gen Ptns 2/	$0	$0	$0	$0

1/ Because JJ Inc received $40,000 from its own farming operation, no attribution is available to the corporation through the General partnership
2/ Payments are attributed to persons and entities, but not to joint operations.

Direct Attribution (Continued)

C Test Questions and Answers

The following are test questions to reinforce direct attribution rules.

Test Questions

Question 1.

John Brown was a participant in a 2009 DCP contract which generates $10,000 in direct payments. John Brown passed away before any contract payments were issued. John Jr. inherited his father's farm and became the successor to the DCP contract once held by his father. John Jr. has other 2009 DCP contracts with direct payments that total $35,000. What is the maximum amount of direct payments that John Jr. can receive under the 2009 DCP contracts?

A. $35,000
B. $40,000
C. $45,000

Question 2.

Stooges Incorporated has three equal stockholders, Larry, Curly and Moe. Stooges Inc is a participant with a 100% share in a DCP contract that generated $21,000 in direct payments. Curly is the only interest holder in Curly LLC., and that entity is also a participant with 100% share in a DCP contract that generates $1,000 in direct payments. Under direct attribution, how should the Hollywood COF correctly issue the DCP payments?

A. $7,000 to Larry; 7,000 to Moe; $8,000 to Curly
B. $21,000 to Stooges Inc.; $1,000 to Curly LLC.
C. None of the above.

Direct Attribution (Continued)

C Test Questions and Answers (Continued)

Test Questions

Question 3.

Steve has applied for 2009 NAP benefits and is eligible to receive $20,000. An application was also filed for Steve Inc., of which Steve holds 60% interest and his spouse holds the remainder, and the entity was approved to receive $20,000. What are the payment limitations for NAP for these individuals and entity?

A. Steve and Spouse combined for $100,000; Steve Inc $100,000
B. Steve, Spouse, and Steve Inc. combined for $100,000
C. Steve $100,000; Spouse $100,000; Steve Inc. $100,000
D. Steve $60,000; Spouse $40,000; Steve Inc. $0.

Question 4.

John has an average AGI of $1.1 million and according to his complete tax return, the average of the amounts from the Schedule F's was $800,000. What program benefits is John eligible for? (66.66% of the $1.1 million is $733,260).

A. Nothing – his average AGI is too high
B. DCP and EQIP
C. DCP (including direct payments) and LDP's
D. DCP (excluding direct payments), EQIP and LDP's
E. LDP's only.

Impact of Food, Conservation, and Energy Act of 2008 on CRP-1 Payment Eligibility and Payment Limitation

Type of Action	Date Action Was Approved		Applicable Payment Eligibility/Limitation Rules	Forms	Example
	10/1/02 Through 9/30/08	10/1/08 or Later			
New CRP-1	✓		Based on original CRP-1 **Approval Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI.	CCC-502 CCC-526	COC approves original CRP-1 **after** October 1, 2002.
Succession-in-Interest (When CRP-1 was **not** subject to AGI before succession.)	✓	✓	Based on original CRP-1 **Effective Date**: Person, AEIF, Permitted Entity **(AGI Not Applicable)**.	CCC-502	New producer succeeds to a 1999 CRP-1 approved July 1, 2004. According to 1-PL, AGI rules do **not** apply for CRP-1 with an effective date before October 1, 2002; therefore, AGI rules will **not** apply to the successor.
Succession-in-Interest (When CRP-1 was subject to AGI before succession.)	✓	✓	Based on the CRP-1 succession **Approval Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI.	CCC-502 CCC-526	New producer succeeds to a 2004 CRP-1, effective August 1, 2009. (1-PL rules apply for life of CRP-1 based on the original October 1, 2003, effective date.)
	Before 12/29/06				
REX Extension (When CRP-1 was **not** previously subject to AGI.)	✓		Based on CRP-1 **Extended Period Start Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI.	CCC-502 CCC-526	COC approves a 3-year extension to a 1997 CRP-1 on November 16, 2006. Effective date of the extension is October 1, 2007. (CRP-1F Addendum activates AGI from the CRP-1 extended period.)
REX Re-Enrollment (Created new CRP-1 subject to AGI.)	✓		Based on the re-enrollment CRP-1 **Approval Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI	CCC-502 CCC-526	COC approves a re-enrollment (new CRP-1) for a 2000 CRP-1 on December 5, 2006. Effective date for the re-enrollment is October 1, 2010. (1-PL rules will apply based on the approval date **before** October 1, 2008.)
New CRP-1		✓	Based on CRP-1 **Approval Date**: Direct Attribution, $1 Million AGI.	CCC-902 CCC-926	COC approves original CRP-1 **after** October 1, 2008.
Succession-in-Interest (When CRP-1 was subject to 2008 Act AGI before succession.)		✓	Based on CRP-1 **Approval Date**: Direct Attribution, $1 Million AGI.	CCC-902 CCC-926	New producer succeeds to a 2009 CRP-1, effective August 1, 2011.

Impact of Food, Conservation, and Energy Act of 2008 on CRP-1 Payment Eligibility and Payment Limitation (Continued)

Type of Action	Applicable Payment Eligibility/Limitation Rules	Forms	Example
	Action Approved 10/1/02 thru 9/30/08		
New CRP-1	Based on CRP-1 **Effective Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI	CCC-502 CCC-526	New CRP-1 is approved September 10, 2008. New producer succeeds to a 1999 CRP-1, effective July 1, 2008.
Succession-in-Interest (When CRP-1 **was not** subject to AGI **before** succession.)	Based on the parent CRP-1 **Effective Date**: Person, AEIF, Permitted Entity (**Not** $2.5 Million AGI).		
Succession-in-Interest (When CRP-1 was subject to AGI before succession.)	Based on the parent CRP-1 **Effective Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI		New producer succeeds to a 2004 CRP-1, effective August 1, 2008.
REX Extension (When CRP-1 **was not** previously subject to AGI.)	Based on the **Extended Period Start Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI		COC approves a 3-year extension to a 2000 CRP-1 on November 16, 2006. Effective date of the extension is October 1, 2010.
Re-Enrollment (New CRP-1 subject to AGI.)	Based on the re-enrollment CRP-1 **Approval Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI.		COC approves a re-enrollment (new CRP-1) on December 5, 2006. Effective date for the re-enrollment is October 1, 2009.
	Action Approved 10/1/08 or Later		
New CRP-1	Based on CRP-1 **Effective Date**: Direct Attribution, $1 Million AGI	CCC-902 CCC-926	New CRP-1 is approved on December 12, 2009.
Succession-in-Interest (When CRP-1 was **not** subject to AGI before succession.)	Based on the original CRP-1 **Effective Date**: Person, AEIF, Permitted Entity (**Not** $2.5 Million AGI).	CCC-502 CCC-526	New producer succeeds to a 2001 CRP-1, approved December 10, 2008.
Succession-in-Interest (When CRP-1 was subject to AGI before succession.) REX Extension during the extended period.	Based on CRP-1 **Effective Date**: Person, AEIF, Permitted Entity, $2.5 Million AGI	CCC-502 CCC-526	New producer succeeds to a 2006 CRP-1, approved June 10, 2009.
Succession-in-Interest (When CRP-1 was subject to 2008 Act AGI before succession.)	Based on CRP-1 **Approval Date**: Direct Attribution, $1 Million AGI.	CCC-902 CCC-926	New producer succeeds to a 2009 CRP-1 effective August 31, 2010.