# FSA
## HANDBOOK

# Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income

To access the transmittal page click on the short reference.

For State and County Offices

SHORT REFERENCE

4-PL

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

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

| **Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income 4-PL** | **Amendment 16** |
|---|---|

**Approved by:** Acting Deputy Administrator, Farm Programs

## Amendment Transmittal

### A Reasons for Amendment

Part 9 has been added to provide the purpose and instructions for the use of the AGI Review and Compliance Tracking System (ARCT) for 2009 and subsequent years AGI reconciliation and compliance activities.

Exhibit 30 has been added to provide an abbreviated reference guide for the users of ARCT.

| **Page Control Chart** | | |
|---|---|---|
| **TC** | **Text** | **Exhibit** |
| 7<br>8 (add) | 8-83<br>9-1 through 9-74 (add) | 1, page 3<br>2, pages 1, 2<br>30, pages 1-6 (add)<br>page 7 (add) |

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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 | *--1-LDAP.--* |
| *--marketing assistance, loan, and LDP 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. |
| *--SURE Program | 1-SURE |
| web-based subsidiary files | 3-PL (Rev. 1).--* |

## 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. 101-217

Pub. L. 101-217, dated December 11, 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
- that 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 (see Exhibit 9)

  **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

- 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

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

- 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.

**O The Food, Conservation, and Energy Act of 2008, as Amended for 2010 and Subsequent Crop, Program, and FY's**

The Food, Conservation, and Energy Act of 2008, as amended for 2010 and subsequent crop, program, and FY's, provides the following:

- changes to "actively engaged in farming" provisions to allow a legal entity, such as a corporation or limited partnership, to be considered "actively engaged in farming" and fully eligible for payment, if the total of direct DCP payments received both directly and indirectly by the stockholders and members does **not** exceed $40,000; **and** at least 50 percent of the ownership interest in the legal entity is held by stockholders/members who are collectively providing a significant contribution of active personal labor and/or active personal management to the farming operation

- an average AGI validation process using IRS tax data

- effective for 2010 through 2012 crop, program, and FY's, June 1 of the current year will be used as the date for determining:

  - minor child for applying minor child rules

  - ownership interest in a legal entity for applying direct attribution for payment limitation purposes.

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

### P The Consolidated and Further Continuing Appropriations Act of 2012

The Consolidated and Further Continuing Appropriations Act of 2012 amended the provisions of the Food Security Act of 1985 and the Food, Conservation, and Energy Act of 2008, and provided a $1,000,000 average AGI limitation that:

- represents the total amount of the average AGI (including all income, both farm and nonfarm) of the person or legal entity
- is based on the same 3-year period as the other average AGI limitations
- applies only to 2012 direct payments under DCP and ACRE
- is in addition to the $500,000 average nonfarm AGI, the $750,000 average farm AGI, and the $1,000,000 average nonfarm AGI limitations.

### *--Q The American Taxpayer Relief Act of 2012

The American Taxpayer Relief Act of 2012 amended the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) and extended all payment eligibility and payment limitation provisions, including AGI limitations, for the 2013 crop, program, and FY's.--*

## 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. See Exhibit 9.

| 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 |
| CSTP | | | X | | X |
| ECP | | | X | | X 1/ |
| 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 * * * | | | 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 |
| TAAF | | | 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.

**1/** Only for certain apportionments that specifically identify AGI as a requirement.

## 11 Applicable Programs (Continued)

*** * ***

## 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 and Rules

### 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 the provisions of this handbook.

| Program Payment Type | Limitation (in Dollars) *--2009 Through 2013--* |
|---|---|
| **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 and incentive payment. | 50,000 |
| *--CSTP (all contracts for FY 2009-2013). | 200,000 |
| ECP (per disaster) | 200,000 |
| EQIP (all contracts for FY 2009-2013).--* | 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 |
| | |
| **Price Support Programs** | |
| LDP, MAL, and MLG | No limits. |
| **Other Programs** | |
| TAAF | 10,000 **3/** |

**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.

**3/** TAAF payments and counter-cyclical payments received by a person or legal entity for the same program or FY are limited to combined total of $65,000 if counter-cyclical payments are received for covered commodities or peanuts; or a total of $130,000 if counter-cyclical payments are received for both covered commodities and peanuts.

**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 or CCC-931, and related forms, the producers **not**--* filing the applicable forms will be ineligible to receive program benefits subject to eligibility and limitation applicable to 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.

#### *--B Deadline for Filing CCC-901, CCC-902, CCC-926 or CCC-931, and Related Forms

CCC-901, CCC-902, CCC-926 or CCC-931, and related forms may be filed at any time.**--***

Encourage producers to file these forms:

- according to the deadlines established for each applicable program for which payments are requested
- as timely as practicable.

## 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 or CCC-931, 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 or CCC-931'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 Forms and 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 (Rev. 1), subparagraph 26 B 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 *****--or CCC-931.--*****

**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 such as:

- articles of incorporation

  *** * ***

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

  **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

  *** * ***

- 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. See subparagraph 206 B for the start of the 60 calendar day period to make determinations.**--***

### 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

***--**FLM or appropriate farm loan staff shall be provided access to 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 *** * *** or **http://www.sc.egov.usda.gov**
- through the authorized use of FSA's approved spreadsheet package available at ***--http://intranet.sc.egov.usda.gov/DAFP/Default.htm**.**--***

### 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<br>• CCC-902I Short Form | 130 |
| | •***--**Automated CCC-902. | 130.5 |
| a general partnership or joint venture | • CCC-901<br>• Automated CCC-902<br>• CCC-902E<br>• CCC-902E Continuation. | 99 |
| a corporation, LLC, LLP, LP, association, or any other similar legal entity | | 130.5**--*** |
| | | 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 the Producer Farm Data Report (3-CM, paragraph 250) 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 the Producer Farm Data Report **after** the information is added.**--***

## 34 General Form Requirements (Continued)

### D Forms for Conservation, Price Support, Disaster and Livestock Assistance, TAAF, and Other Program Payment Eligibility and Payment Limitation Purposes

For persons and legal entities who are participants in conservation, price support, disaster assistance, and other programs, CCC-901 and CCC-902 will be used to collect information for the application of the following:

- direct attribution
- minor child rules
- rules for foreign persons.

CCC-901 is required for all legal entities for the application of direct attribution of payments for payment limitation purposes.

***--**Complete only the applicable parts of CCC-902I, CCC-902I Short Form, or CCC-902E**--***
for information on minor children and foreign persons who are applicants, or members of applicants, that request program benefits. Do **not** make a determination of "actively engaged in farming".

**Note:** If using business file application, it is **not** necessary to complete manual form.

Designate these forms similarly to the following examples:

- "For MAL and LDP purposes only"
- "For Conservation Reserve Program purposes only"
- "For ECP purposes only"
- "For TAAF purposes only".

**Note:** This requirement only applies to a new program participant who has **not** previously submitted these forms to FSA for participation in other programs.

COC will:

- make the required determinations based on this information
- provide written notification to the participant according to Part 7
- update subsidiary files according to 3-PL (Rev. 1), Part 3
- record entities and joint operations according to 2-PL.

## 35-40 (Reserved)

## 41 Custom Services

### A Definition of Custom Services

Custom services mean the hiring of a contractor or vendor that is in the business of providing such specialized services or to perform services for the farming operation in exchange for the payment of a fee for such services performed.

### B Applicability

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

- 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 services **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 completed control over the equipment.

### *--C Exceptions

**The Custom Services provision does not apply to farming operations in which all the--* land is owned.**

*** * ***

## 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:<br>• obtain DD concurrence of COC's determination<br>**Note:** DD shall initial the determination in COC minutes.<br>• notify **all** County Offices in which the scheme or device participants have an interest of the determination<br>• notify the scheme or device participants of the determination<br>• obtain a refund of **all** payments received by the scheme or device participants for the year in which the scheme or device was adopted<br>• **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:<br>• obtain DD concurrence of the COC's determination (DD **must** initial the COC minutes)<br>• notify **all** County Offices in which the participants affected by this determination have an interest<br>• issue written notification to **all** participants affected by the determination and the results of the determination<br>• 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<br>• 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<br>• 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:<br>• **not** have their payment eligibility adversely affected for a period of time in excess of 2 years<br>• 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**<br>Owner-Sam Brown<br>Rental-None | **Farm 2**<br>Owner-Pete Smith<br>Rental-Crop share |
| **Farm 3**<br>Owner-Henry Black<br>Rental-Crop share | **Farm 4**<br>Owner-Two Buddies Partnership<br>Partners: • Pete Smith<br>• Henry Black<br>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.<br><br>**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**<br>**Tract 1**<br>Owner-Sam Brown<br>Rental-None | **Farm 9**<br>**Tract 2**<br>Owner-Pete Smith<br>Rental-Cash lease |
| **Farm 9**<br>**Tract 3**<br>Owner-Henry Black<br>Rental-Cash lease | **Farm 9**<br>**Tract 4**<br>Owner-Two Buddies Partnership<br>Partners: • Pete Smith<br>• Henry Black<br>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.<br><br>**Note:** Pete Smith has no farming operation. |
| Henry Black | none of the land in Farm 9.<br><br>**Note:** Henry Black has no farming operation. |
| Two Buddies Partnership | none of the land in Farm 9.<br><br>**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**<br>**Tract 1**<br>Owner-Sam Brown<br>Rental-Crop Share<br>Operator-Brown and Black Partnership | **Farm 10**<br>**Tract 2**<br>Owner-Brown and Black Partnership<br>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**<br>**Tract 5**<br>Operator-Sam Brown<br>Owner-Sam Brown<br>Rental-N/A | **Farm 18**<br>**Tract 6**<br>Subleased to Bill Jones for cash<br>Owner-Pete Smith<br>Rental-Cash lease to Sam Brown |
| **Farm 18**<br>**Tract 7**<br>Subleased to Richard Alexander for cash<br>Owner-Henry Black<br>Rental-Cash lease to Sam Brown | **Farm 19**<br><br>Operator-Sam Brown<br>Owner-Two Buddies Partnership<br>Partners: • Pete Smith<br>• Henry Black<br>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 | *****--Adding a family member to a farming operation, according to the adult family member provision as specified in paragraph 138, allows recognizing the added family member.--*****<br><br>*** * *** |
| 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:<br><br>• **must** be at least 20 percent or more of the total base acres involved in the farming operation<br><br>• will be applicable for the increase of **only** 1 person or legal entity to the farming operation.<br><br>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:<br><br>• the transferred amount is commensurate with the new person's or legal entity's share of the farming operation<br><br>• the sale or gift of land or equipment was based on fair market value of the land or equipment<br><br>• the former owner has no control over the sold or gifted land or equipment<br><br>• the transaction was **not** financed by the former owner<br><br>• 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.

### *--I 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.**--***

## *--55 Applying the Substantive Change Rule

### A Determining Whether Substantive Change Rule Applies

Substantive change rule applies when both are present:

- increase in the number of limitations for payment
- commonality between the new farming operation in the current year and a farming operation in the previous year.

### B Commonality Between Farming Operations

Elements of commonality include:

- interest in legal entities
- land
- legal entities
- persons/individuals.**--***

## 55 Applying the Substantive Change Rule

### C When Substantive Change Rule Applies

This table illustrates when a substantive change is **required**.

| **Substantive change rule only applies for…** | **if…** |
|---|---|
| a new person beginning to farm as an individual or as a member of a joint operation | the person was part of a legal entity that farmed in the previous year **and** the individual will farm some of the same land the entity farmed in the previous year. |
| a new joint operation | some, but **not** all, of the members of the new joint operation farmed in the previous year. |
| an existing joint operation | ***--**1 or more new members of the existing joint operation**--*** did **not** farm in the previous year and there is an overall increase in the number of limits.<br><br>**Note:** If there is no overall increase within the joint operation, substantive change is still required if **any** of the departing members continue to farm on the same land farmed by the joint operation in the previous year. |
| a new legal entity | 1 or more members of the legal entity farmed in the previous year and the legal entity will farm some of the land farmed by its members in the previous year. |

### D When Substantive Change Rule Does Not Apply

This table illustrates when substantive change rule does **not** apply.

| **Substantive change rule does not apply for…** | **and…** |
|---|---|
| the new person beginning to farm as an individual | the person was **not** part of any farming operation in the previous year. |
| a new joint operation | none of the members farmed or were associated with any farming operation in the previous year. |
| a new legal entity | none of the shareholders farmed or were associated with any farming operation in the previous year. |
| an existing legal entity | 1 or more shareholders were added.<br><br>**Note:** The legal entity remains restricted to 1 limitation **regardless** of the number of shareholders. |
| *** * *** | *** * *** |

***--Note:** The substantive change rule does not apply to spouses.**--***

## *--56 Substantive Change Rule for Persons

### A Example 1

**Situation:** In the previous year, Corporation AB, comprised of Person A and Person B, each with an equal share, produced program crops and participated in program subject to payment limitation.

For the current year, Corporation AB and Person A will each operate part of the land that was in the previous year's farming operation of Corporation AB. Both Corporation AB and Person A will be participating on programs subject to payment limitation in the current year.

**Determination:** Substantive change will be **required** for the current year because:

- Person A represents an additional payment limitation as compared to the previous year
- Person A has an interest in Corporation AB that produced program crops and participated in programs subject to payment limitation in the previous year
- Person A will operate land that was part of the farming operation if Corporation AB in the previous year.

### B Example 2

Same as in Example 1, except Person A, as an individual, will operate all of the land that was farmed by Corporation AB in the previous year. Person A will participate in programs subject to payment limitation. Corporation AB will no longer be farming and has dissolved.

**Determination:** Substantive change will not be required for the current year because:

- Person A does not represent an additional payment limitation as compared to the previous year
- Corporation AB is no longer farming in the current year.--*

* * *

## *--57 Substantive Change Rule for Joint Operations

### A Example 1, Joint Operation Existed in the Previous Year

**Situation:** In the previous year, General Partnership ABC, comprised of Persons A, B, and C, each with an equal share, participated in programs subject to payment limitation. Person D conducted a separate farming operation and participated in programs subject to payment limitation.

For the current year, Person D became a member and the partnership that is now Partnership ABCD; all with equal shares. Partnership ABCD will operate all of the land operated in the previous year by all of the current members. Partnership ABCD will participate in programs subject to payment limitation in the current year.

**Determination:** Substantive change is **not** required for the current year because:

- Person D participated in programs subject to payment limitation in the previous year
- Person D, by joining the existing partnership, does **not** represent an additional payment limitation for the current year.

### B Example 2, Joint Operation Existed in the Previous Year

**Situation:** Same as Example 1, except Person D did **not** farm and was **not** part of a farming operation in the previous year. Person D became a member of Partnership ABCD, all with equal shares. Partnership ABCD will operate part of all the land operated in the previous year and participated in programs subject to payment limitation in the current year.

**Determination:** Substantive change is **required** for the current year because:

- Person D represents an additional payment limitation as compared to the previous year
- Person D neither farmed nor was part of a farming operation in the previous year.**--***

***--57 Substantive Change Rule for Joint Operations (Continued)**

**C Example 1, New Joint Operation**

**Situation:**

**Situation:** In the previous year, Dad participated in programs subject to payment limitation on his own individual farming operation.

In the current year, Dad and adult Son form a 70/30 general partnership named DS Farms. Son did **not** have any farming interest in the previous year. DS Farms will farm all of the land that Dad farmed individually in the previous year and participate in programs subject to payment limitation.

**Determination:** Substantive change is **required** for the current year because:

- DS Farms is a new farming operation
- DS Farms will operate all of the land farmed by 1 of the members in the previous year
- forming DS Farms represents an increase in the number of limitations from the previous year.

**D Example 2, New Joint Operation**

**Situation:** In the previous year, JT Farms Inc., comprised of brothers Jake and Tim with equal shares, conducted a farming operation and participated in programs subject to payment limitation.

In the current year, JT Farms Inc. stopped farming. Jake and Tim formed a 50/50 general partnership named Switch Grass Farms and will lease all the farm equipment need from JT Farms Inc. Switch Grass Farms will operate all of the land farmed in the previous year by JT Farms and will participate in programs subject to payment limitation.

**Determination:** Substantive change is **required** for the current year because:

- Switch Grass Farms is a new joint operation
- Switch Grass Farms will operate all of the land operated in the previous year by a farming operation in which both members were associated
- forming Switch Grass Farms represents an increase in the number of payment limitations from the previous year.

**Note:** Substantive change is **required** to recognize an increase in limitations. If substantive change is **not** met, only 1 limitation will be recognized.**--***

*** * ***

## *--58 Substantive Change Rule for Legal Entities

### A Example 1, New Legal Entity

**Situation:** In the previous year, Persons A and B participated in programs subject to payment limitation on their respective, individual farming operations. Person C did **not** have any farming interests.

For the current year, Persons A, B, and C formed corporation ABC Inc. ABC Inc. will operate part of the land operated in the previous year by Person A and will participate in programs subject to payment limitation.

**Determination:** Substantive change is **required** for the current year because:

- ABC Inc. represents an additional payment limitation as compared to the previous year
- Persons A and B, both interest holders in ABC Inc., participated in programs subject to payment limitation in the previous year
- ABC Inc. will operate part of the land farmed by Person A in the previous year.

### B Example 2, New Legal Entity

**Situation:** In the previous year, Persons A and B participated in a programs subject to payment limitation on their respective, individual farming operations. Person C did **not** have any farming interests.

For the current year, Persons A, B, and C form corporation ABC Inc. ABC Inc. will operate only the land operated in the previous year by Person Z and will participate in programs subject to payment limitation. Person Z retired from farming.

**Determination:** Substantive change is **not** required for the current year because:

- ABC Inc. did **not** participate in programs subject to payment limitation in the previous year
- ABC Inc. will **not** operate any land that was part of the farming operations of Persons A or B in the previous year.**--***

***--58 Substantive Change Rule for Legal Entities (Continued)**

**C Example 3, Existing Legal Entity**

**Situation:** Smith Family Farms Inc., comprised of all family members, participated in programs subject to payment limitation the previous year.

In the current year, 2 additional family members become stockholders in Smith Family Farms Inc. The additional stockholders did **not** have any farming interest in the previous year. Smith Family Farms Inc. will farm all of the land it operated in the previous year and will participate in programs subject to payment limitation.

**Determination:** Substantive change is **not** required because the addition of 1 or more stockholders to Smith Family Farms Inc. does **not** represent an increase in the number of payment limitations from the previous year.**--***

**59-60 (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:<br><br>• capital<br>• equipment<br>• land.<br><br>**Note:** See paragraph 127 for exception. |
| 2 | Significant "right-hand" contributions to the farming operation of 1 or a combination of the following:<br><br>• active personal labor<br>• active personal management.<br><br>**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 functions 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

*** * ***

- 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 cropland factor **only** applies to programs subject to the actively engaged in farming requirements and the cash-rent rule.**--***

## 64 Percent of Cropland Factor (Continued)

### *--D Determining the 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 those farms and total the acres.<br><br>**Note:** Also include cropland acres that are **not** cash-rented and 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.<br><br>**Note:** This adjusted payment may also represent the ownership percentage of the partners, stockholders, or members of a corporation or similar entity, that met the requirements of actively engaged in farming if total contributions of active personal labor and/or active personal management to the farming operation are considered significant. |

--*

## 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**<br>**Tract 1 - 100 acres**<br>Operator - Sam Brown<br>Owner - Sam Brown<br>Rental - N/A |
| **Farm 20**<br>**Tract 2 - 100 acres**<br>Operator - Sam Brown<br>Owner - Pete Smith<br>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**<br>**100 acres**<br>Operator - Sam Brown<br>Owner - Sam Brown<br>Rental - N/A |

| |
|---|
| **Farm 22**<br>**100 acres**<br>Operator - Sam Brown<br>Owner - Pete Smith<br>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**<br>**100 acres**<br>Operator - Sam Brown<br>Owners - Sam Brown and Pete Smith (undivided joint interest)<br>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**<br>**Tract 1 - 100 acres**<br>Operator - Brown and Smith, a general partnership<br>Owner - Sam Brown<br>Rental - .3333 crop share |
| **Farm 24**<br>**Tract 2 - 100 acres**<br>Owner - Brown and Smith, a general partnership<br>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**<br>**100 acres**<br>Operator - Brown and Smith, a general partnership<br>Owner - Sam Brown<br>Rental - .3333 crop share |
|---|

| **Farm 26**<br>**100 acres**<br>Operator - Brown and Smith, a general partnership<br>Owner - Brown and Smith, a general partnership<br>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**<br>**100 acres**<br>Operator - Brown, Smith, Black, and Jones, a general partnership<br>Owner - Sam Brown<br>Rental - N/A |

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

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

| |
|---|
| **Farm 30**<br>**100 acres**<br>Operator - Brown, Smith, Black, and Jones, a general partnership<br>Owner - Bill Jones<br>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.<br><br>**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 either of the following... | THEN borrowed capital must... |
|---|---|
| • a person<br><br>• a joint operation, *--in which the--* capital is contributed by a member of the joint operation rather than by the joint operation itself | • be contributed directly to the farming operation by the applicable person or member<br><br>• **not** have been acquired as a result of a loan made to, guaranteed by, co-signed by, or secured by any other person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation<br><br>  • in whose farming operation this person or joint operation has an interest. |
| * * *<br><br>• a legal entity<br><br>• a joint operation, *--in which the capital is contributed by the joint operation rather than by a member--* | • be contributed directly to the farming operation by the legal entity or joint operation<br><br>• **not** have been acquired as a result of a loan made to, guaranteed by, co-signed by, or secured by any person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation, **except** all members of the joint operation , or all shareholders of the legal entity, to which the loan is made<br><br>  • in whose farming operation this legal entity or joint operation has an interest.<br><br>  **Note:** See example in subparagraph 139 C. |

## 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**:<br>• be able to prove to COC that the equipment was leased at a fair market value<br>• 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 either of the following... | THEN the equipment must... |
|---|---|
| • a person<br><br>•*--a joint operation, in which the equipment--* is contributed by a member of the joint operation rather than by the joint operation itself | • be contributed directly to the farming operation by the applicable person or member<br><br>• **not** have been acquired as a result of a loan made to, guaranteed by, co-signed by, or secured by any other person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation<br><br>  • in whose farming operation this person or joint operation has an interest. |
| * * *<br><br>• a legal entity<br><br>•*--a joint operation, in which the equipment is contributed by the joint operation rather than by a member--* | • be contributed directly to the farming operation by the legal entity or joint operation<br><br>• **not** have been acquired as a result of a loan made to, guaranteed by, co-signed by, or secured by any person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation, **except** members of the joint operation, or all the shareholders of the legal entity, to which the loan is made<br><br>  • in whose farming operation this legal entity or joint operation has an interest.<br><br>**Note:** See example in subparagraph 139 C. |

## 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 farming operation is conducted by either of the following... | THEN the land must... |
|---|---|
| • a person<br><br>•*--a joint operation, in which the land is--contributed by a member of the joint operation rather than by the joint operation itself | • be contributed directly to the farming operation by the applicable person or member<br><br>• **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, co-signed by, or secured by any other person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation<br><br>  • in whose farming operation this person or joint operation has an interest. |
| * * *<br><br>• a legal entity<br><br>•*--a joint operation, in which the land is contributed by the joint operation rather than by a member--* | • be contributed directly to the farming operation by the legal entity or joint operation<br><br>• **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, co-signed by, or secured by any person, legal entity, or joint operation:<br><br>  • that has an interest in the farming operation, **except** members of the joint operation, or all the shareholders of the legal entity, to which the loan is made<br><br>  • in whose farming operation this legal entity or joint operation has an interest.<br><br>  **Note:** See example in subparagraph 139 C. |

## 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
- *****--CCC-902I Short Form, 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:<br>• 1,000 hours per either FY or crop year<br>• 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<br>• Equipment<br>• 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<br>• person, legal entity, or farming operation:<br>  • by the farming operation or any of its members, beneficiaries, or related entities<br>  • that was guaranteed or secured by the farming operation or any of its members, beneficiaries, or related entities | • bear the prevailing interest rate<br>• have a repayment schedule normal for the area. |
| • Labor<br>• 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.<br><br>**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?<br><br>• If yes, consider the person or legal entity as providing that percentage of the farming inputs required to conduct the farming operation.<br><br>• 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 | Review and Determination |
|---|---|
| 1 | Review the person's or legal entity's claimed share of the profits or losses of the farming operation.<br><br>For a joint operation, review the member's claimed share of the profits or losses of the farming operation. |
| 2 | Are the person's or legal entity's total contributions to the farming operation commensurate with the claimed share of the profits or losses of the farming operation?<br><br>For a joint operation, are the member's total contributions to the farming operation commensurate with the claimed share of the profits or losses of the farming operation? If:<br><br>• yes, go to step 5<br>• no, go to step 3. |
| 3 | Are the contributions by the person or legal entity that COC considers pertinent to the farming operation commensurate with the claimed share of the profits or losses of the farming operation?<br><br>For a joint operation, are the contributions of the member that COC considers pertinent to the farming operation commensurate with the claimed share of the profits or losses of the farming operation? If:<br><br>• yes, go to step 5<br>• no, go to step 4. |
| 4 | Determine the person or legal entity to be not actively engaged in farming.<br><br>If a member of a joint operation, then determine the member of the joint operation to be not actively engaged in farming. |
| 5 | Determine the person or legal entity to be actively engaged in farming if all other provisions have been satisfied.<br><br>If a member of a joint operation, then determine the member to be actively engaged in farming if all other provisions have been 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 Definition of Cash-Rent Tenant

Cash-rent tenant means a producer who rents land from another producer or landowner under either of the following conditions:

- for a fixed cash amount
- guaranteed crop share as the amount of the commodity to be paid in rent.

#### B Other Situations of Applicability

Cash-rent tenant provisions also apply to:

- tenants who rent land for zero dollars or farm the land in exchange for compensation other than cash, such as:
  - controlling weeds on land **not** owned
  - barter arrangements
- producers who have use of the land and there is **not** a lease agreement in place, such as:
  - individual operating land owned by his or her revocable trust
  - 1 spouse operating land owned by the other spouse.

**Note:** In husband and wife operations only, cash-rent tenant provisions will be considered to be met if both benefit from the land.

For these situations:

- record the arrangement in farm records as land leased for cash
- COC must determine whether the cash-rent tenant provisions have been met by the producer.**--***

## 91 Cash-Rent Tenant Rule (Continued)

### *--C Payment Eligibility Requirements

**[7 CFR 1400.301(a)]** In addition to meeting the requirements to be considered actively engaged in farming, a cash-rent tenant will be eligible to receive payments on cash-rented land if the cash-rent tenant makes either of the following:

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

**Note:** The spousal provision in subparagraph 116 A for determining actively engaged in farming can also be used by spouses in meeting these requirements.

### D Partial Eligibility

If a producer meets all requirements to be considered actively engaged in farming, but fails to meet the cash-rent tenant provisions in subparagraph C, the producer will be:

- eligible to receive payments on land in the farming operation that is **not** cash-rented
- subject to a reduction in payments with the application of a cropland factor according to paragraph 64.**--***

## 91 Cash-Rent Tenant Rule (Continued)

### E 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 whether a significant contribution of equipment is met. |
| meets **both** of the following requirements:<br><br>• custom harvesting is used in the cash-rent tenant's farming operation<br><br>• the custom harvester has no interest in the farming operation | the rental value of harvesting equipment is **not** included when determining whether a significant contribution of equipment is met.<br><br>**Note:** The rental value of harvesting equipment would still be considered in making actively engaged in farming determinations.<br><br>**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.<br><br>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 landlord | the lease and payment **must** meet the requirements of subparagraph 73 B. |
| leases the equipment from the landlord, or the same person or legal entity that is providing hired labor to the farming operation | **both** of the following conditions **must** be met:<br><br>• 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<br><br>• cash-rent tenant **must** exercise complete control over using a significant amount of the equipment during the current crop year.<br><br>**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).**--***

**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 1400.107]--*

Each legal entity that submits a contract for a program or an application for payment **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 a program or an application for payment **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's for 2009 and Subsequent Years

Complete the CCC-901 according to this table.

| Item | Instruction |
|---|---|
| 1 and 2 | Enter name of the county and State 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. |
| 3 | Enter current program year, or the year for which this information is applicable. |
| **Part A** | Enter name of the legal entity earning the payment. |
| 1 | Enter the names of the members making up the legal entity listed in part A; this could be a person or a legal entity. |
| 2 | Enter TIN's of the members. |
| 3 | Enter address of each member of the legal entity. |
| 4 | Enter percent share of the legal entity that each member owns. |
| 5 | Check:<br><br>• "Yes", if member has signature authority for this entity<br>• "No", if member does **not** have signature authority for this entity. |
| **Part B** | If any member listed in Part A, item 1 is a legal entity; that is, part of another partnership, corporation, etc., enter name of the embedded legal entity. If more than 1 member is a legal entity, use a separate, supplemental sheet to provide the requested information for each embedded legal entity. |
| 1 | Enter names of the members making up the legal entity listed in Part B. (This could be a person or a legal entity.) |
| 2 | Enter TIN's of the members. |
| 3 | Enter address of each member of the entity. |
| 4 | Enter percent share of the legal entity that each member owns. |
| 5 | CHECK (✓):<br><br>• "Yes", if member has signature authority for this entity<br>• "No", if member does **not** have signature authority for this entity. |

--*

## 99 Completing CCC-901's (Continued)

### *--E Completing CCC-901's for 2009 and Subsequent Years (Continued)

| Item | Instruction |
|---|---|
| **Part C** | If any member listed in Part B, item 1 is a legal entity; that is, part of another partnership, corporation, etc., enter name of the embedded legal entity. If more than 1 member is a legal entity, use a separate, supplemental sheet to provide the requested information for **each** embedded legal entity. |
| 1 | Enter names of the members making up the legal entity listed in Part C; this could be a person or legal entity. |
| 2 | Enter TIN's of the members. |
| 3 | Enter address of each member. |
| 4 | Enter percent share of the legal entity that each member owns. |
| 5 | Check:<br><br>• "Yes", if member has signature authority for this entity<br>• "No", if member does **not** have signature authority for this entity. |
| **Part D** | If any member listed in Part C, item 1 is a legal entity; that is, part of another partnership, corporation, etc., enter name of the embedded legal entity. If more than 1 member is a legal entity, use a separate, supplemental sheet to provide the requested information for each embedded legal entity. |
| 1 | Enter names of the members making up the legal entity listed in Part D. (This could be a person or legal entity.) |
| 2 | Enter TIN's of the members. |
| 3 | Enter address of each member. |
| 4 | Enter percent share of the legal entity that each member owns. |
| 5 | Check:<br><br>• "Yes", if member has signature authority for this entity<br>• "No", if member does **not** have signature authority for this entity. |

**--***

## 99 Completing CCC-901's (Continued)

### *--E Completing CCC-901's for 2009 and Subsequent Years (Continued)

| Item | Instruction | |
|---|---|---|
| **Part E** | If **none** of the members listed Parts A through D is a minor, check "N/A" (**not** applicable), then **go to** Part F. | |
| 1 through 5 | If any member listed in Parts A through D is a minor, provide the following information about that member:<br><br>• minor's name<br>• minor's date of birth<br>• name of the minor's parent or guardian<br>• address of the parent or guardian<br>• TIN of the parent or guardian.<br><br>**Note:** If complete TIN is already on file, only the last 4 digits are required. | |
| 6 | **IF any minor listed in Part E…** | **THEN CHECK (✓)…** |
| (a) | is a producer on a farm and the parent or guardian has **no** interest | "**Yes**". |
| | a producer on a farm and the parent or guardian has an interest in the farming operation | "**No**". |
| (b) | maintains a separate household from the parent or guardian and personally carries out **all** farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**Yes**". |
| | does **not** maintain a separate household from the parent or guardian and does **not** personally carry out **all** farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**No**". |
| (c) | who is represented by a court-appointed guardian or conservator, lives in a household other than the parents' households, and has a vested ownership in the farm | "**Yes**". |
| | who is represented by a court-appointed guardian or conservator, does **not** live in a separate household other than the parents' households, and does **not** have a vested ownership in the farm | "**No**". |
| (d) | If "Yes" is checked for all items (a) through (c), write the name of the minor in the space provided. | |

**--***

## 99 Completing CCC-901's (Continued)

### *--E Completing CCC-901's for 2009 and Subsequent Years (Continued)

| Item | Instruction |
|---|---|
| **Part F** | |
| 1 | An individual member, or an authorized representative of the entity in Part A, shall sign the certification. |
| 2 | If an authorized representative for the entity in Part A signs this document, use this field to show the individual's representative capacity. (For example, "agent" or "attorney-in-fact.") |
| 3 | Enter date CCC-901 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 (04-01-09) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation | 1. County: Erath |
|---|---|
| **MEMBER'S INFORMATION** **2009 and Subsequent Years** | 2. State: TX |
| | 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 1400. 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, privacy, and other 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.

| 1. Member's Name | 2. SSN or Tax ID Number *(Last 4 digits if already on file)* | 3. Address | 4. Percent Share | 5. Does this member have signature authority for the legal entity? *(Yes or No)* |
|---|---|---|---|---|
| Curtis Ludlow | 3875 | 85 Ludlow Lane Glen Rose, TX 74444 | 45 % | ☒ YES ☐ NO |
| Christi Ludlow | 3877 | 12716 Main Apt. 47 Dallas, TX 71111 | 45 % | ☒ YES ☐ NO |
| Charles Ludlow | 1532 | 2342 Burke Rd Glen Rose, TX 74444 | 9 % | ☒ YES ☐ NO |
| Ludlow Enterprise Co. | 4433 | 2342 Burke Rd Glen Rose, TX 74444 | 1 % | ☐ YES ☒ NO |
| | | | % | ☐ YES ☐ NO |

**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.

| 1. Member's Name | 2. SSN or Tax ID Number *(Last 4 digits if already on file)* | 3. Address | 4. Percent Share | 5. Does this member have signature authority for the legal entity? *(Yes or No)* |
|---|---|---|---|---|
| Curtis Ludlow | 3875 | 85 Ludlow Ln Glen Rose, TX 74444 | 20 % | ☒ YES ☐ NO |
| Christi Ludlow | 3877 | 12716 Main Apt. 47 Dallas, TX 71111 | 20 % | ☒ YES ☐ NO |
| Charles Ludlow | 1532 | 2343 Burke Rd Glen Rose, TX 74444 | 50 % | ☒ YES ☐ NO |
| CH Ludlow LLC | 4434 | 2343 Burke Rd Glen Rose, TX 74444 | 10 % | ☐ YES ☒ NO |
| | | | % | ☐ YES ☐ NO |

*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.*

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# 99 Completing CCC-901's (Continued)

## F Example CCC-901 (Continued)

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CCC-901 (04-01-09) 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 **CH Ludlow LLC**

| 1. Member's Name | 2. SSN or Tax ID Number. *(Last 4 digits if already on file)* | 3. Address | 4. Percent Share | 5. Does this member have signature authority for the legal entity? *(Yes or No)* |
|---|---|---|---|---|
| **Charles Ludlow** | **1532** | **2343 Burke Rd Glen Rose, TX 74444** | **100** % | ☒ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |

**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** _____

| 1. Member's Name | 2. SSN or Tax ID Number. *(Last 4 digits if already on file)* | 3. Address | 4. Percent Share | 5. Does this member have signature authority for the legal entity? *(Yes or No)* |
|---|---|---|---|---|
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |
| | | | % | ☐ YES ☐ NO |

**Part E. Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| 1. Minor's Name | 2. Date of Birth | 3. Parent's or Guardian's Name | 4. Parent's or Guardian's Address | 5. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

6. Separate Status of Minors

(a) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(b) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(c) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor 1) live in a household other than the parents' household(s), and 2) have a vested ownership in the farm? ☐ YES ☐ NO

(d) If any minor with an interest in this farming operation can answer "YES" to Items 6(a)-6(c), list that minor's name:

**PART F- CERTIFICATION - By Signing:**

*- I certify that I have signature authority for the entity identified in Part A and 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.*

| 1. Representative's Signature (By) | 2. Title/Relationship of Individual Signing in the Representative | 3. Date (MM-DD-YYYY) |
|---|---|---|
| *Charles Ludlow* | *President, Ludlow Ltd.* | *4/07/2009* |

--*

## 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.

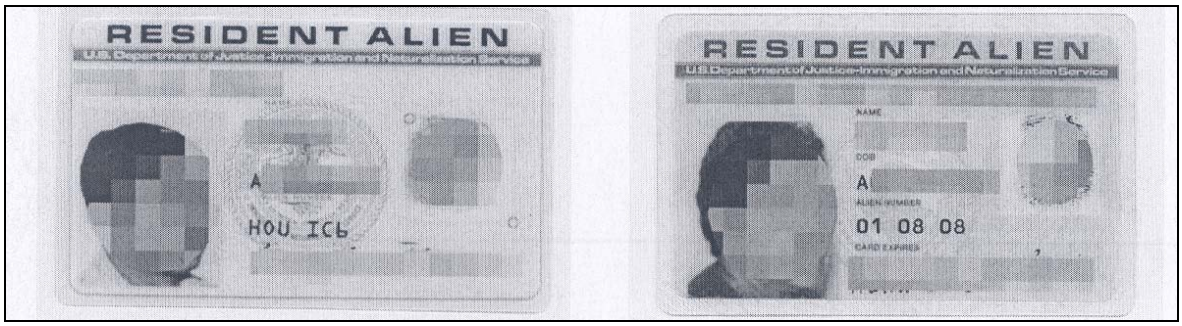
## 107 Foreign Person Identification (Continued)

### 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.<br><br>**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 any other applicable requirements, 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. | ***--All** of the following:**--***<br><br>• active personal labor<br>• capital<br>• 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).

***--Note:** CCC-902E and CCC-901 are considered acceptable written requests for the eligible portion of payments, loans, or benefits representative of the percentage of interest that is owned by U.S. citizens or lawful aliens.**--***

## 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:<br><br>• in a joint operation<br>• 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.<br><br>***--Note:** This also includes the spouse's estate.**--*** |
| 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.

***--Effective beginning with the 2010 crop, program, and FY's, June 1 of the applicable--* year shall be the date used for the determination of minor child.**

**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 program payments.

If a revocable trust, program payments will be attributed **only** to the grantor of the revocable trust.

## 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 Indians.

### B Rule

***--**Indian tribes are not included under the person or legal entity definitions for applying the payment eligibility and payment limitation provisions. Therefore, no limitations or restrictions are imposed on Federally-recognized Indian tribes for receiving program payments or benefits.

**Note:** This exemption only applies to Indian tribes.**--***

## 118 Indian Tribes (Continued)

### *--C Applying the Rule

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

| IF the farming operation is conducted by... | THEN... |
|---|---|
| the tribe on land the tribe owns, rents, or otherwise acquires | • payments are **not** subject to limitation<br>• AGI limitations do **not** apply<br>• earnings and payments will **not** be attributed to each individual member of the tribe.<br>**Note:** CCC-902E is required to collect land information for the farming operation. |
| individual Native Americans or groups of Native Americans represented by BIA on allotted land | • a BIA official **must** certify that no 1 member, directly or indirectly, will receive more than the limitation in CCC-902E, item 18, "Remarks" or statement attached to CCC-902E<br>• individual members are considered actively engaged in farming because of land ownership<br>• a BIA official **must** provide a statement to certify that all members are in compliance with AGI limitations. |
| individual Native American | • actively engaged in farming requirements, cash-rent tenant rules, and AGI limitations apply<br>• payments are subject to limitation<br>• earnings and payments will be attributed to the individual. |
| a legal entity comprised of members that are Native Americans | • actively engaged in farming requirements, cash-rent tenant rules, and AGI limitations apply<br>• payments to the legal entity are subject to limitation<br>• earnings and payments will be attributed to each partner, stockholder, or member with an ownership interest.<br>**Note:** Not applicable to Alaska Native village or regional corporation established under the Alaska Native Claims Settlement Act. |

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* * *

## 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 using the most recent U.S. Census Bureau data.

**Note:** For 2009, States that met the criteria were Alaska, Delaware, Hawaii, Idaho,**--*** Maine, Montana, North Dakota, New Hampshire, Rhode Island, South Dakota, Vermont, and Wyoming.

***--**For 2010 and future years, or until further notice, the States that meet the criteria are Alaska, Delaware, Hawaii, 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:<br><br>• State producers may agree to a method of disbursing program payments<br><br>• 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<br><br>• 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<br><br>• 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:<br><br>• CCC-509's<br>• CCC-902E's<br>•***--**CCC-926's or CCC-931'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.<br><br>**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.<br><br>**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.<br><br>**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.<br><br>**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.<br><br>• Subsequent final payments subject to the applicable limitations shall be made in the order listed.<br><br>• Total payments for direct, counter-cyclical, and ACRE payments shall **not** exceed $500,000 for program payment limitation amount. |

## *--120 Completing CCC-902E's for Public Schools

### A Completing CCC-902E's

Complete CCC-902E according to this table.

| Item | Instruction |
|---|---|
| 1 – 2 | Enter name of the control county and State for this farming operation. The control county most often is the administrative county for the entity's or joint operation's farming operation. |
| 3 | Enter crop year for which this certification applies. |
| **Part A** | |
| 1 | Enter name of the general partnership, joint venture, Indian Tribe, corporation, LP, LLC, trust, estate, charitable/tax-exempt organization, public school, city/county/State-owned entity, or other similar entity. |
| 2 | Enter TIN of the entity or joint operation in Item 1.<br><br>**Note:** If complete TIN is already on file, only last 4 digits are **required**. |
| 3 | Enter month and year the entity or joint operation was formed. This is **not** applicable to public schools, city/county/State-owned entities, or Indian Tribes. |
| **Part B** | |
| 1 | CHECK (✓) box that defines the type of entity or joint operation in Part A. If "Other" is checked (✓), specify or describe. |
| 2 | **Note:** Supporting documentation, such as articles of incorporation, trust papers for an irrevocable trust, partnership agreement, and evidence of heirship, are **required** for **each** type of operation represented, **except** for public schools, States, State entities, and counties. |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction | |
|---|---|---|
| **Part C** | If additional space is needed for any information in Part C, complete and attach for CCC-902E Continuation. | |
| 1 | Enter the following for each member of the entity or joint operation. | |
| A | Member's name. | |
| B | Last 4 digits of member's TIN.<br><br>**Note:** If complete TIN is already on file, only last 4 digits are **required**. | |
| C | Percent share of or interest in the operation. | |
| D | Member's position in and salary or bonus from the operation. | |
| E | Member's family relationship to the first member listed in 1A. | |
| | **IF entity is…** | **THEN show…** |
| | an estate | member's relationship to the deceased individual. |
| | a trust | beneficiary's relationship to the grantor. |
| F | CHECK (✓) either of the following, as applicable:<br><br>• "**Yes**", if the member has signature authority for entity in Part A<br>• "**No**", if the member does **not** have signature authority for entity in Part A.<br><br>**Note:** For joint operations, joint ventures, and general partnerships, **each member must initial the response in Column F**. | |
| G<br>1 and 2 | If individual completing CCC-902E has signature authority for entity in Part A, and **all** information in Part C is true and correct, enter initials in item G1 and the date in item G2. | |
| 2<br>A and B | If entity in Part A is an estate or trust, or if any member in Part C is an estate or trust, enter the name of estate or trust in item 2A and enter the name of the executors, administrators, or grantors in item 2B. If there is more than 1 executor, administrator, or grantor, provide the additional information in the space provided or attach additional sheets. | |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction |
|---|---|
| 3 | If any member in item 1A is an entity or joint operation:<br><br>• complete CCC-901 and attach a copy<br><br>• CHECK (✓) box, if CCC-901 has been completed and attached<br><br>• complete CCC-902E for each embedded entity or joint operation<br><br>• CHECK (✓) box if, CCC-902E's are attached for members who are entities and joint operations. |
| 4 | If any of the member in Part C has interest in other farming operations conducted under a name other than the name listed in Part A, provide the following information. |
| A | Member's name. |
| B | Name of farming interests. |
| C | TIN of the other farming operation.<br><br>**Note:** If complete TIN is already on file FSA, only last 4 digits are **required**. |
| D | County/State where the interest is located. |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction | |
|---|---|---|
| Entity's Name | Enter name of the entity or joint operation in Part A at the top of the page. | |
| 5 | **IF…** | **THEN…** |
| | none of the members listed in Part C, item 1, is a minor | CHECK (✓) "**N/A**" (not applicable), and go to item 6. |
| | any member listed in Part C, item 1, is a minor | provide the following information about that member. |
| A | Minor's name. | |
| B | Minor's date of birth. | |
| C | Name of the minor's parent or guardian. | |
| D | Address of the parent or guardian. | |
| E | Parent or guardian's TIN.<br><br>**Note:** If complete TIN is already on file FSA, only last 4 digits are **required**. | |
| F | CHECK (✓) the following, as applicable. | |
| | **IF any minor in item 5A…** | **THEN CHECK (✓)…** |
| 1 | is a producer on a farm and the parent or guardian has **no** interest | "**Yes**". |
| | is a producer on a farm and the parent or guardian has an interest in the farming operation | "**No**". |
| 2 | maintains a separate household from the parent or guardian and personally carries out all farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**Yes**". |
| | does **not** maintain a separate household from the parent or guardian and does not personally carry out all farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**No**". |
| 3 | who is represented by a court-appointed guardian or conservator, lives in a household other than the parents' households, and have a vested ownership in the farm | "**Yes**". |
| | who is represented by a court-appointed guardian or conservator, does **not** live in a separate household other than the parents' household, and does **not** have a vested ownership in the farm | "**No**". |
| 4 | If "**Yes**" is checked for all items F1 through F3, for the minor that has an interest in the farming operation of the entity or joint operation in Part A, enter the name of the minor in the space provided. | |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction |
|---|---|
| 6A | CHECK (✓) either of the following, as applicable:<br><br>• "**Yes**", if all individual members and shareholders in embedded entities and joint operations listed in Part C are U.S. citizens; go to Part D<br><br>• "**No**", if any individual members and shareholders in embedded entities and joint operations listed in Part C is **not** a U.S. citizen; go to 6B. |
| 6B | For each member or shareholder who is an alien lawfully admitted into the U.S., list that member's name and indicate whether this person possesses a valid I-551.<br><br>CHECK (✓) "**No**" for any non-U.S. citizen who does **not** possess I-551. |
| **FSA Only** | FSA shall CHECK (✓) "**Yes**" or "**No**", indicating that I-551 was presented, and initial CCC-902E. |
| **Part D** | If additional space is needed for this Part, complete and attach CCC-902E Continuation. |
| 1<br>A through E | Enter percentages of capital (money), land, equipment, hired labor, and hired management that is provided by the joint operation or entity in Part A (**not** by the members or shareholders directly).<br><br>If all labor and management is provided by the members and no labor or management is hired, enter "**0%**". |
| 2<br>A through H | If any member provides capital, land, or equipment to the farming operation in Part A, enter the member's name and the percentage contributed.<br><br>Use Items 2D and 2F to indicate if a member contributes owned land or equipment to the entity or joint operation's farming operation.<br><br>If any member provides hired labor, labor they do themselves, hired management or management they do themselves, enter the member's name and percentage of each contribution in Items 2G and 2H.<br><br>CHECK (✓) applicable box, if a member provides 1000 or more hours of active personal labor to the farming operation in Part A. |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction |
|---|---|
| Entity's Name | Enter name of the entity or joint operation in Part A at the top of the page. |
| **Part E** | If additional space is needed for this Part, complete and attach CCC-902E Continuation. |
| 1 | Enter the following information for **all** land that is operated by the farming operation in Part A. |
| A | Farm number, State, and county where located. |
| B | Name of the entity, joint operation or member who contributes the land. |
| C | CHECK (✓) applicable box to show whether land is owned, leased to someone, or leased from someone. |
| D | Name of the individual, entity, or joint operation to whom or from whom the land is leased. |
| E | Acres owned or rented on the farm. |
| F | Per acre amount of cash-rent or percentage of the crop shared with the landlord.<br><br>**Note:** If land is cash leased from an:<br><br>• unrelated individual or entity, enter "**cash**"<br><br>• individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $ per acre. |
| G | CHECK (✓) box if the farming operation in Part A had this same land interest in the prior crop year. |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction | |
|---|---|---|
| **Part F** | | |
| 1 | CHECK (✓) all sources of capital for the farming operation in Part A that apply. If "Other" is checked (✓), specify. | |
| 2 | **IF farming operation in Part A…** | **THEN CHECK (✓)…** |
| | acquired any contributions of capital, equipment, or land through loans or credit arrangement | "**Yes**" and go to item 3. |
| | did **not** acquire any contributions of capital, equipment, or land through loans or credit arrangement | "**No**" and go to Part G. |
| 3 | used loans or credit to finance this farming operation, or to acquire/purchase land or equipment, and such financing was acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation, or entity with an interest in the farming operation | "**Yes**" and complete items 3A through 3E. |
| 4 | used loans or credit to finance this farming operation, or to acquire/purchase land or equipment, and such financing was **not** acquired from, guaranteed by, co-signed by, or secured by any other individual, joint operation, or entity | "**No**" and go to Part G. |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction | |
|---|---|---|
| **Part G** | All percentages are based on annual rental values. | |
| 1 | Enter percent of **all** equipment used in this farming operation that is owned by the entity or joint operation in Part A.<br><br>If no equipment used in this farming operation is owned by the entity or joint operation in Part A, enter "**0%**". | |
| 2A through 2C | Enter information for **all** equipment used in the farming operation that is leased by the joint operation or entity in Part A. For **each** type of equipment leased, enter the following:<br><br>A percent of total equipment used in the farming operation<br>B name of the party or entity from whom equipment is leased<br>C type of equipment leased.<br><br>If leased equipment is **not** used in this farming operation, enter "**0%**" and go to Part H. | |
| 2D | If joint operation or entity in Part A leased equipment, indicate whether the equipment was leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A. | |
| | **IF the equipment was…** | **THEN CHECK (✓)…** |
| | leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**Yes**" and go to item 3. |
| | **not** leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**No**" and go to Part H. |
| 3 | If joint operation or entity in Part A leased equipment from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A, copies of lease agreements may be required for compliance purposes. Go to Part H. | |

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction | |
|---|---|---|
| Entity's Name | Enter name of the entity or joint operation in Part A at the top of the page. | |
| **Part H** | | |
| 1 | Using custom services by the farming operation in Part A does **not** apply:<br><br>• to services for chemical and fertilizer application<br>• to harvesting crops<br>• if all the land in the farming operation is owned. | |
| | **IF custom farming services will…** | **THEN CHECK (✓)…** |
| | **not** be used in this operation | "**No**" and complete all items in Part H. |
| | be used in the farming operation | "**Yes**" and complete items 1A through 1D. |
| 1A | Type of custom service, including but **not** limited to, tillage, planting, cultivating, chemical application, insect/pest scouting, etc. | |
| 1B | Farm numbers the service will be applied. | |
| 1C | Total number of acres for which custom services will be used. | |
| 1D | Name of the custom farming service provider. Go to Part I. | |
| **Part I** | | |
| 1 | Enter percent or number of hours of active personal labor donated to the farming operation in Part A by family members or neighbors for which payment is **not** issued and is **not** owed. | |
| | **IF…** | **THEN CHECK (✓)…** |
| 2A | **none** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part G | "**No**". |
| | **any** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part G<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**". |
| 2B | **none** of the hired labor for the farming operation in Part A was included in the custom services shown in Part H | "**No**" and go to Part J. |
| | **any** of the hired labor for the farming operation in Part A was included in the custom services shown in Part H<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**" and go to Part J. |

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## 120 Completing CCC-902E's for Public Schools (Continued)

### A Completing CCC-902E's (Continued)

| Item | Instruction |
|---|---|
| **Part J** | |
| 1 | For each member or shareholder of the farming operation in Part A that is contributing active personal management, list the person's name and identify the type of management duties provided to the farming operation in Part A.<br><br>The duties/activities **must** be performed on a regular basis, **must** be identifiable and documentable, and **must** be separate and distinct from the management activities performed by any other members or shareholders.<br><br>**Note:** These specific requirements are **not** applicable to heirs of estates or to the beneficiaries of trusts. |
| 2 | Enter name of any person, other than a member or shareholder, that will be providing hired management and briefly describe the types of management duties hired for the farming operation in Part A, including management by an administrator or trustee who receives compensation for this service or activity. |
| 3 | Enter name of any person, other than a member or shareholder, that will be providing other management and briefly describe the types of management duties provided for the farming operation in Part A, including management by an administrator or trustee who does not receive compensation for this activity..<br><br>If entity is an estate or trust, list management provided by the executor, administrator, or trustees. Go to Part K. |
| **Part K** | Enter any additional and relevant information about this farming operation and/or the members and shareholders that could **not** be entered in any other part.<br><br>Include references to any and the number of CCC-902E Continuation pages completed and attached. Go to Part L. |
| **Part L** | |
| 1 | ***--**An individual member, or an authorized representative of the legal entity identified in Part A, must sign the certification. If a joint operation, each member of the joint operation indentified in Part A must sign the certification.**--*** |
| 2 | If the individual members sign the document, this field should be left blank.<br><br>***--**If an authorized representative for the legal entity in Part A signs**--*** CCC-902E, use this field to show the individual's representative capacity. (For example, "agent" or "attorney-in-fact.") |
| 3 | Enter date CCC-902E was signed. |

## *--120 Completing CCC-902E's for Public Schools (Continued)

### B 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 (03-26-09) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation | 1. County **Brazos** | 3. Program Year **2009** |
|---|---|---|
| FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years | 2. State **TX** | |
| 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. Farming 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)* **01-10-1973**

**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
- ☐ Sole Proprietorship/DBA
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☒ Public School
- ☐ City, County or State-owned Entity
- ☐ Indian Tribe
- ☐ 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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| **Public School No members** | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*G. I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.* 1. Initials DW 2. Date 4/07/200

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

| A. Name of Estate or Trust | B. Name of Executor/Administrator/Grantor |
|---|---|
| | |

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.
☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| | | | |
| | | | |

*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.*

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## *--120 Completing CCC-902E's for Public Schools (Continued)

### B Example CCC-902E (Continued)

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **Wixon Valley USD#427** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status** - Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☐ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital % | B. Land 100 % | C. Equipment % | D. Hired Labor % | E. Hired Management 100 % |
|---|---|---|---|---|

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

***For additional space, use and attach CCC-902E Continuation***

--*

## *--120 Completing CCC-902E's for Public Schools (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable: 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 Owned or Leased | 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 | ☒ | ☒ | ☐ | George Jones | 15.0 | 25% | ☒ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |

**PART F - CAPITAL SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☒ Non-borrowed capital ☐ Private loans/credit ☐ FSA program payments from this crop year
☐ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☐ YES go to Item 3 ☒ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☒ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C 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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| 0 % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

--*

## *--120 Completing CCC-902E's for Public Schools (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **Name of Entity (as identified in Part A):** **Wixon Valley USD#427** Page 4 of 6

**PART H - CUSTOM SERVICES**

1. Will custom services 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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** % |
| | hrs |

2. **Hired labor:**

   A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

   ☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

   B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

   ☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

   List the specific managerial duties/activities that will be performed personally by each member or shareholder.

   ***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

   *(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
   Describe any hired 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 service or activity):*

   School Superintendent, Daniel Wicks, manages the land owned by the school district and rented to George Jones. Daniel Wicks has full responsibility and authority for all decisions for cropping; marketing of the district's share of the crops; conducting all business at FSA; and paying all expenses associated with this property.

3. **Other management:**
   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's for Public Schools (Continued)

### B Example CCC-902E (Continued)

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **Wixon Valley USD#427** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☐ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| Daniel Wicks | Superintendent, USD #427 | 4/07/2009 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**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, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

--*

# *--120 Completing CCC-902E's for Public Schools (Continued)

## B Example CCC-902E (Continued)

CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

17. 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's for Charitable/Tax-Exempt Organizations

### A Completing CCC-902E's

For detailed instructions on completing CCC-902E's, see subparagraph 120 A.

### B Example CCC-902E

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

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

**CCC-902E** (03-26-09) **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: **Dallas**
2. State: **TX**
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. Farming Entity's Name and Address *(Include Zip Code)*
**Dallas Wildlife Preservation Society**
**89797 I-20 E**
**Dallas, TX 75555**

2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*: **5300**

3. Date of Formation *(MM-DD-YYYY)*: **04-10-1956**

**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
- ☐ Sole Proprietorship/DBA
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☒ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Indian Tribe
- ☐ 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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| **501(c)(3) Tax Exempt Entity No members** | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*G. I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.*

1. Initials: *XS*
2. Date: *4/09/2009*

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

A. Name of Estate or Trust

B. Name of Executor/Administrator/Grantor

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.

☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| | | | |
| | | | |

*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.*

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## *--122 Completing CCC-902E's for Charitable/Tax-Exempt Organizations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **Dallas Wildlife Preservation Society** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status** - Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☐ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital | B. Land | C. Equipment | D. Hired Labor | E. Hired Management |
|---|---|---|---|---|
| % | 100 % | % | % | 100 % |

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

***For additional space, use and attach CCC-902E Continuation***

--*

## *--122 Completing CCC-902E's for Charitable/Tax-Exempt Organizations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable: 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 Owned or Leased | 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 SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☒ Non-borrowed capital ☐ Private loans/credit ☐ FSA program payments from this crop year
☐ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☐ YES go to Item 3 ☒ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☒ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C 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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| **0** % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

--*

## *--122 Completing CCC-902E's for Charitable/Tax-Exempt Organizations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **Name of Entity (as identified in Part A):** **Dallas Wildlife Preservation Society** Page 4 of 6

**PART H - CUSTOM SERVICES**

1. Will custom services 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| Mowing established cover - CRP | 1589 | 400.0 | Elmo Rice |
| Mowing established cover - CRP | 623 | 318.9 | Bill Evant |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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 % |
| | hrs |

2. **Hired labor:**

A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

List the specific managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

*(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
Describe any hired 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 service or activity):*

Executive Director, Xavier Salas, manages the land owned by the Society which is participating in the Conservation Reserve Program. Xavier Salas is authorized by the Society to conduct all business related to these farms and to make all arrangements as needed for mowing, weed control, and other maintenance as deemed necessary.

3. **Other management:**
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's for Charitable/Tax-Exempt Organizations (Continued)

### B Example CCC-902E (Continued)

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **Dallas Wildlife Preservation Society** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☐ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| *Xavier Salas* | *Executive Director* | *4/09/2009* |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**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, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

--*

## *--122 Completing CCC-902E's for Charitable/Tax-Exempt Organizations (Continued)

### B Example CCC-902E (Continued)

CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

17. 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:<br><br>• capital, equipment, land, or a combination thereof<br>• 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 Instructions for Completing CCC-902I--*

Complete CCC-902I according to this table.

| Item | Instruction | |
|---|---|---|
| 1 | Enter name of the control county for the individual. | |
| 2 | Enter name of the State where this individual conducts their farming operation. | |
| 3 | Enter program/crop year for which the information for this farming operation is being provided. Go to Part A. | |
| **Part A** | | |
| 1 | Enter name and address, including ZIP Code, of the individual.<br><br>If the individual conducts business using an assumed name, include the assumed name. (Example: John Doe, dba John Doe Grain Farms.) | |
| 2 | Enter TIN of the individual. Go to Part B.<br><br>**Note:** If complete TIN is on file, only the last 4 digits are **required**. | |
| **Part B** | | |
| 1 | **IF the individual in Part A is…** | **THEN CHECK (✓)…** |
| | a U.S. citizen | "**Yes**" and go to item 4A. |
| | **not** a U.S. citizen | "**No**" and go to item 2. |
| 2 | an alien lawfully admitted to the U.S. and I-551 was presented | "**Yes**". |
| | **not** a U.S. citizen and 1-551 was **not** presented | "**No**". |
| **FSA Only** | FSA shall CHECK (✓) "**Yes**" or "**No**", indicating that I-551 was presented.<br><br>**Note:** If the individual in Part A in **not** a U.S. citizen and I-551 was **not** presented, the individual will be considered a foreign person for payment eligibility and payment limitation purposes. | |
| 4A | **IF the individual in Part A was…** | **THEN CHECK (✓)…** |
| | ***--**18 years of age or older on June 1 | "**No**" and go to item 7. |
| | younger than 18 year of age on June 1 | "**Yes**" and go to item 4 B. |
| 4B | If individual in Part A was younger than 18 years of age on June 1 of the**--*** program year, enter date of birth. | |

## *--130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)--*

| Item | Instruction | |
|---|---|---|
| 5 | If individual in Part A was a minor, provide the following information about the individual's parent or legal guardian. | |
| A | Parent's or guardian's name. | |
| B | Parent's or guardian's address. | |
| C | Last 4 digits of the parent's or guardian's TIN.<br><br>**Note:** If complete TIN is on file, only the last 4 digits are **required**. | |
| D | If individual in Part A is a minor, CHECK (✓) "**Yes**" or "**No**" to indicate whether the individual in Part A maintains a separate household from their parent or guardian. | |
| 6 A through D | If individual in Part A is a minor, provide the following information about the parent or guardian's interest in farming operations:<br><br>A parent's or guardian's name<br><br>B name of parent's or guardian's farming interest<br><br>C last 4 digits of the parent's or guardian's TIN<br><br>**Note:** If complete TIN is on file, only the last 4 digits are **required**.<br><br>D county/State where the farming interest is located. | |
| 7 | **IF…** | **THEN…** |
| | neither the individual in Part A, the individual's spouse, or the individual's minor children have interest in a farming operation conducted under another name | CHECK (✓) "N/A" and go to Part C. |
| | individual in Part A, the individual's spouse, or the individual's minor children have interest in a farming operation conducted under a name other than the name listed in Part A | provide the following information. |
| A | Name of the farming interest. | |
| B | Indicate if the interest is the individual, the individual's spouse or the individual's minor children. | |
| C | Last 4 digits of the parent's or guardian's TIN<br><br>**Note:** If complete TIN is on file, only the last 4 digits are **required**. | |
| D | County/State where the farming interest is located; go to Part C. | |

## 130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)

| Item | Instruction | |
|---|---|---|
| Individual's Name | Enter name of the individual in Part A at the top of the page. | |
| **Part C** | | |
| 1 | Enter the following information for **all** land that is operated by the individual in Part A. | |
| A | Farm number. | |
| B | State and county where located. | |
| C | CHECK (✓) applicable box to show whether land is owned, leased to someone, or leased from someone. | |
| D | Name of the individual, entity, or joint operation to whom or from whom the land is leased. | |
| E | Acres owned or rented on the farm. | |
| F | If the land is:<br><br>•***--**share leased, enter "share" (optional to enter the percentage that represents the share of the individual identified in Part A)<br><br>• cash leased, enter the following:<br><br>  • "cash" if the land is cash leased from an unrelated individual or entity<br><br>  • the rental rate in $ per acre if the land is cash leased from an individual or entity that has an interest in the crop or crop proceeds (optional).**--***  | |
| G | CHECK (✓) box if same land interest was held last year. | |
| **Part D** | If individual in Part A owns all of the land in this farming operation as listed in Part C, then proceed directly to Part I. | |
| 1 | CHECK (✓) all sources of capital for the individual in Part A that apply. If "Other" is checked (✓), specify. | |
| 2 | **IF individual in Part A…** | **THEN CHECK (✓)…** |
| | acquired any contributions of capital, equipment, or land through loans or credit arrangement | "**Yes**" and go to item 3. |
| | did **not** acquire any contributions of capital, equipment, or land through loans or credit arrangement | "**No**" and go to Part E. |
| 3 | used loans or credit to finance this farming operation, or to acquire/purchase land or equipment, and such financing was acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation, or entity with an interest in the farming operation | "**Yes**" and complete items 3A through 3E. |
| 4 | used loans or credit to finance this farming operation, or to acquire/purchase land or equipment, and such financing was **not** acquired from, guaranteed by, co-signed by, or secured by any other individual, joint operation, or entity | "**No**" and go to Part E. |

## *--130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)--*

| Item | Instruction | |
|---|---|---|
| **Part E** | All percentages are based on annual rental values. | |
| 1 | Enter percent of **all** equipment used in this farming operation that is owned by the individual in Part A.<br><br>If no equipment used in this farming operation is owned by the entity or joint operation in Part A, enter "**0%**". | |
| 2A through 2C | Enter information for **all** equipment used in the farming operation that is leased by the individual in Part A. For **each** type of equipment leased, enter the following:<br><br>A percent of total equipment used in the farming operation<br>B name of the party or entity from whom equipment is leased<br>C type of equipment leased.<br><br>If leased equipment is **not** used in this farming operation, enter "**0%**" and go to Part F. | |
| 2D | If individual in Part A leased equipment, indicate whether the equipment was leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A. | |
| | **IF the equipment was…** | **THEN CHECK (✓)…** |
| | leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**Yes**" and go to item 3. |
| | **not** leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**No**" and go to Part F. |
| 3 | If individual in Part A leased equipment from an individual or entity that has an interest in the farming operation of the individual in Part A, copies of lease agreements may be required for compliance purposes. Go to Part F. | |

## *--130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)--*

| Item | Instruction | |
|---|---|---|
| Individual's Name | Enter name of the individual in Part A at the top of the page. | |
| **Part F** | | |
| 1 | Using custom services by the individual in Part A does **not** apply:<br><br>• to services for chemical and fertilizer application<br>• to harvesting crops<br>• if all the land in the farming operation is owned. | |
| | **IF custom farming services will…** | **THEN CHECK (✓)…** |
| | **not** be used in this operation | ***--"No"** and go to Part G. |
| | be used in the farming operation | "**Yes**" and complete items 1A through 1D.**--*** |
| 1A | Type of custom service, including but **not** limited to: tillage, planting, cultivating, chemical application, insect/pest scouting, etc. | |
| 1B | Farm numbers the service will be applied. | |
| 1C | Total number of acres for which custom services will be used. | |
| 1D | Name of the custom farming service provider. Go to Part I. | |
| **Part I** | | |
| 1 | Enter percentage or number of hours of active personal labor donated to the farming operation in Part A by family members or neighbors for which payment is **not** issued and is **not** owed. | |
| 2A | **IF…** | **THEN CHECK (✓)…** |
| | **none** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part G | "**No**". |
| | **any** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part G<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**". |
| 2B | **none** of the hired labor for the farming operation in Part A was included in the custom services shown in Part H | "**No**". |
| | **any** of the hired labor for the farming operation in Part A was included in the custom services shown in Part H<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**". |

## *--130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)--*

| Item | Instruction | |
|---|---|---|
| Individual's Name | Enter name of the individual in Part A at the top of the page. | |
| **Part G** | | |
| 1 | Enter percentage or number of hours of active personal labor the individual in Part A will personally provide to the farming operation of the individual in Part A. If the individual in Part A will provide 1,000 hours or more, enter "**1,000**" hours. | |
| | **IF…** | **THEN CHECK (✓)…** |
| 2A | **none** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part E | "**No**". |
| | **any** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part E<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**". |
| 2B | **none** of the hired labor for the farming operation in Part A was included in the custom services shown in Part F | "**No**" and go to Part H. |
| | **any** of the hired labor for the farming operation in Part A was included in the custom services shown in Part F<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**" and go to Part H. |

## *--130 Completing CCC-902I (Continued)

### A Instructions for Completing CCC-902I (Continued)--*

| Item | Instruction |
|---|---|
| **Part H** | The total percentage shown in items 1A, 2A, and 3A **must** equal 100%. |
| 1A | Enter estimated percent of active personal management the individual in Part A personally provides to the farming operation. |
| 1B | Provide a brief description of the type of management duties the individual in Part A performs. |
| 2A | Enter estimated percent of hired management used by the farming operation of the individual in Part A. |
| 2B | Briefly describe the type of management duties someone else is hired to perform for the farming operation of the individual in Part A. |
| 3A | Enter estimated percent of other management used by the farming operation of the individual in Part A. |
| 3B | List any other person providing management without compensation for the farming operation of the individual in Part A. Briefly describe the management provided. |
| **Part I** | |
| 1 | The individual in Part A, or an authorized representative of the individual in Part A, shall sign the certification. |
| 2 | If individual in Part A signs the document, this field should be left blank.<br><br>If an authorized representative for the individual in Part A signs this document, use this field to show the individual's representative capacity. (For example, "agent" or "attorney-in-fact.") |
| 3 | Enter date CCC-902I was signed. |

## *--130 Completing CCC-902I (Continued)--*

### B Example CCC-902I

Following is an example of a completed CCC-902I.

*--

This form is available electronically. (See Page 4 for Privacy Act Statement)

**CCC-902I** (02-01-10) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation

**FARM OPERATING PLAN FOR AN INDIVIDUAL 2009 and Subsequent Program Years**

For "actively engaged in farming" and other payment eligibility and limitation determinations.

1. County: Coahoma
2. State: Mississippi
3. Program Year: 2011

*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)*
Ima Farmer
437 Levee Lane
Stephenville, MS 72222

2. Social Security Number *(If the social security number or taxpayer ID number is on file, only the last 4 digits are required)*
1X1X

**PART B - ADDITIONAL INFORMATION**

1. Is this individual a U.S. citizen?
☒ YES. Go to Item 4A
☐ NO. Go to Item 2

2. Is this individual an alien lawfully admitted into the U.S.?
☐ YES, must present a Resident Alien Card (I-551).
☐ NO

3. FOR COUNTY FSA USE ONLY *(Was a Resident Alien Card, I-551 shown?)*
☐ YES ☐ NO

**MINORS**

4A. Is this individual under 18 years of age as of June 1 of the program year that is 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 last 4 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. Tax ID Number of Farming Interest *(If the social security number or taxpayer ID number is on file, only the last 4 digits are required)* | D. 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. 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)* | D. County and State Where Farming Interest is Located |
|---|---|---|---|---|---|
| | Self | Spouse | Minor Child | | |
| | | | | | |
| | | | | | |

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

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## *--130 Completing CCC-902I (Continued)--*

### B Example CCC-902I (Continued)

*--

**CCC-902I** (02-01-10) **Name of Individual (as identified in Part A):** Ima Farmer 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 farming interests 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. ***If land is cash leased from an individual or entity with an interest in the crop or crop proceeds, include the rental rate in $/acre Column F; otherwise enter "cash."***

| A. Farm No. | B. Location *(County and State)* | C. Check As Applicable | | | D. Name of Individual or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)* | E. Acres Owned or Leased | F. Rental Rate $ per Acre or % of Crop Share | G. Check here if same land interest was held last year |
|---|---|---|---|---|---|---|---|---|
| | | Owned | Leased To | Leased From | | | | |
| 1147 | Coahoma, MS | ☒ | ☐ | ☐ | | 304.2 | | ☒ |
| 4213 | Coahoma, MS | ☒ | ☐ | ☐ | | 166.2 | | ☒ |
| 3975 | Coahoma, MS | ☐ | ☐ | ☒ | Farmer Trust | 60.0 | share | ☒ |
| 4212 | Coahoma, MS | ☐ | ☐ | ☒ | Ima Farmer Sr. | 33.0 | cash | ☒ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |

For additional space for land, complete CCC-902 Continuation and attach to this form. Check here ☐ if attached.

**PART D – CAPITAL SOURCES and USES**

1. Indicate the source of all farming capital for the individual identified in Part A for the farms listed in Part C. *(Check all that apply.)*

☒ Non-borrowed capital ☐ Private loans/credit ☒ FSA program payments
☐ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☐ YES go to Item 3 ☒ NO go to Part E

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by another individual or entity that has an interest in the farming operation identified in Part A? *(Such interest may be as a landowner or another tenant.)*

☐ YES. Complete Items 3A through 3E ☒ NO. Go to Part E.

| A. Type of Contribution | 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 |
|---|---|---|---|---|
| | | | | % |
| | | | | % |

***If all land listed in Part C is owned by the individual identified in Part A, then proceed directly to Part I.***

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

1. **Owned Equipment**: Enter the percent of ALL equipment owned by the individual identified in Part A that will be used on the farms listed in Part C? If the individual specified in Part A does not own any of the equipment used in the farming operation, enter 0%. 100 %

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. If leased equipment is not used in this farming operation, enter 0%.

| A. Percent of Total Equipment Used by the Individual | B. Name of Party/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Party/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part F.

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## *--130 Completing CCC-902I (Continued)--*

### B Example CCC-902I (Continued)

*--

**CCC-902I** (02-01-10) **Name of Individual (as identified in Part A):** Ima Farmer Page 3 of 4

**PART F - CUSTOM SERVICES**

1. Will custom services be utilized by the individual identified 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 | 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 active personal labor 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 by the individual identified in Part A. If the individual identified in Part A performs 1,000 or more hours of labor for this farming operation, enter "1,000" hours. | 100 % |
| | hrs |
| 2. **Hired labor**. Enter the percentage or hours of labor that will be hired. | 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", acceptable documentation to prove such relationship may be required for compliance purposes.* | |
| B. Will any of the hired labor be included in the custom farming services shown in Part F? ☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.* | |
| 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:
   Make all planting, harvesting, marketing, business and financial decisions.

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 understand all definitions and requirements on Page 4.*
- *all information contained on this form 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)* |
|---|---|---|
| | | 4/26/2011 |

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# *--130 Completing CCC-902I (Continued)--*

## B Example CCC-902I (Continued)

**CCC-902I** (02-01-10) 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 following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

*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 appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

## *--130.5 Business File Equivalent of CCC-902I

### A Business File Data Entry Process

For the automated CCC-902, load information about a producer's farming operation in the web-based system according to 3-PL (Rev. 1), Part 10.

The following table illustrates the data entry process for the information on the manual CCC-902I example in subparagraph 130 B.

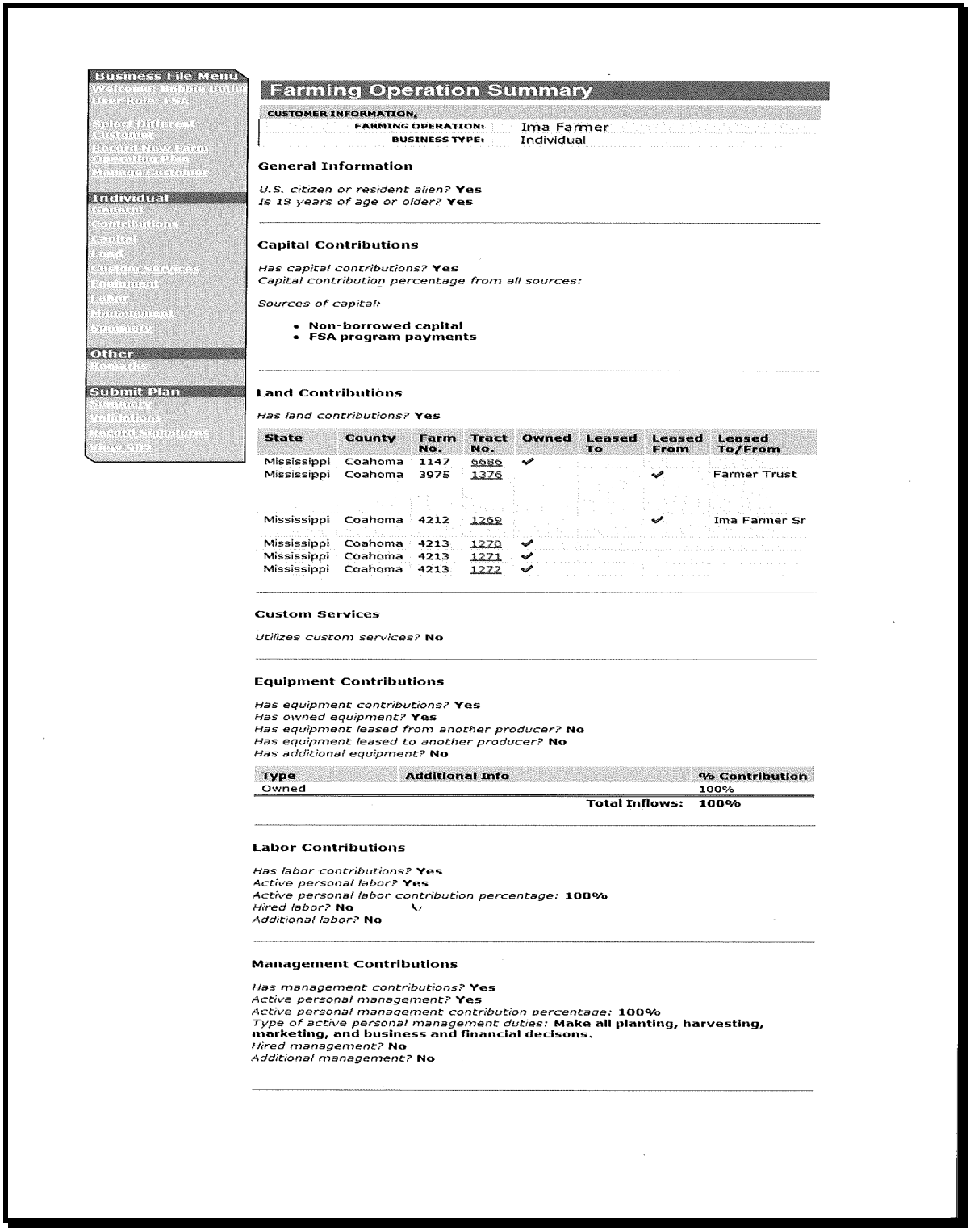
| Web Page | Data Recorded in System |
|---|---|
| Contributions | • Capital – Yes<br>• Land – Yes<br>• Equipment – Yes<br>• Labor – Yes<br>• Management – Yes<br>• Custom Services – No. |
| Land | Recorded the following leases:<br><br>• FSN 3975 – tract 1376 share (75%) lease from owner (percentage of division not needed)<br><br>• FSN 4212 – tract 1269 - cash lease from owner.<br><br>**Note:** Did not record lease on FSN 1147 and 4213. This producer is the owner and owner-operator on these farms and the example presumes there are no leases on these farms. But these leases are listed in the "owned" section of the automated form. |
| Equipment | • Owned – Yes<br>• Leased From – No<br>• Leased To – No<br>• Other – No. |
| Owned Equipment | • 100 percent<br>• No additional information recorded. |
| Labor Types | • Active Personal – Yes<br>• Hired – No<br>• Other – No. |
| Labor Contributions | 100 percent active personal management. |
| Management Types | • Active Personal – Yes<br>• Hired – No<br>• Other – No. |
| Management Contributions | • 100 percent active personal management<br>• No duties performed were specified. |

--*

## *--130.5 Business File Equivalent of CCC-902I (Continued)

### B Farming Operation Summary Page

Following is an example of a Business File farming operation summary.



Business File Menu
Welcome: Bobbie Butler
User Role: FSA
Select Different Customer
Record New Farm Operation Plan
Manage Customer

Individual
General
Contributions
Capital
Land
Custom Services
Equipment
Labor
Management
Summary

Other
Remarks

Submit Plan
Summary
Validations
Record Signatures
View APP

**Farming Operation Summary**

CUSTOMER INFORMATION:
FARMING OPERATION: Ima Farmer
BUSINESS TYPE: Individual

**General Information**

*U.S. citizen or resident alien?* **Yes**
*Is 18 years of age or older?* **Yes**

**Capital Contributions**

*Has capital contributions?* **Yes**
*Capital contribution percentage from all sources:*

*Sources of capital:*

- **Non-borrowed capital**
- **FSA program payments**

**Land Contributions**

*Has land contributions?* **Yes**

| State | County | Farm No. | Tract No. | Owned | Leased To | Leased From | Leased To/From |
|---|---|---|---|---|---|---|---|
| Mississippi | Coahoma | 1147 | 6686 | ✔ | | | |
| Mississippi | Coahoma | 3975 | 1376 | | | ✔ | Farmer Trust |
| Mississippi | Coahoma | 4212 | 1269 | | | ✔ | Ima Farmer Sr |
| Mississippi | Coahoma | 4213 | 1270 | ✔ | | | |
| Mississippi | Coahoma | 4213 | 1271 | ✔ | | | |
| Mississippi | Coahoma | 4213 | 1272 | ✔ | | | |

**Custom Services**

*Utilizes custom services?* **No**

**Equipment Contributions**

*Has equipment contributions?* **Yes**
*Has owned equipment?* **Yes**
*Has equipment leased from another producer?* **No**
*Has equipment leased to another producer?* **No**
*Has additional equipment?* **No**

| Type | Additional Info | % Contribution |
|---|---|---|
| Owned | | 100% |
| | Total Inflows: | 100% |

**Labor Contributions**

*Has labor contributions?* **Yes**
*Active personal labor?* **Yes**
*Active personal labor contribution percentage:* **100%**
*Hired labor?* **No**
*Additional labor?* **No**

**Management Contributions**

*Has management contributions?* **Yes**
*Active personal management?* **Yes**
*Active personal management contribution percentage:* **100%**
*Type of active personal management duties:* **Make all planting, harvesting, marketing, and business and financial decisons.**
*Hired management?* **No**
*Additional management?* **No**

--*

## *--130.5 Business File Equivalent of CCC-902I (Continued)

### C Example of Automated CCC-902

Following is an example of the automated CCC-902.

Date Submitted: 07/19/2011 Version Number: 8

| CCC-902 (5-16-2011) | U.S. DEPARTMENT OF AGRICULTURE<br>Commodity Credit Corporation | Program Year |
|---|---|---|
| | **FARM OPERATING PLAN FOR PAYMENT ELIGIBILITY**<br>**2009 and Subsequent Program Years**<br>For "actively engaged in farming" and other payment eligibility and limitation determinations. | 2011 |

*This form is to be completed by, or on behalf of, the individual or legal entity identified in Part A 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 individual or legal entity that receives program benefits **directly** using the tax identification number identified in Part A. This form also collects information about the members of legal entities. Payment eligibility is based upon the contribution level of certain inputs to a farming operation such as land, capital, equipment, labor, and management. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

**Part A - General Farming Operation Information**

| Producer's Name | Tax ID Number and ID Type (last 4 digits) | Business Type |
|---|---|---|
| IMA FARMER | XXXX S | Individual |

**Part B - Capital Information** Note: Do not include capital contributed by ***members*** of general partnerships or joint ventures. (applicable for all business types)

| | |
|---|---|
| Does the producer provide capital to this farming operation? | Yes |
| What percent of capital is contributed by the producer to this farming operation from all sources? | % |

Indicate the source of all farming capital for the producer. *(Check all that apply)*

- ☒ Non-borrowed capital
- ☐ Commercial loans/credit
- ☐ Other/Additional
- ☒ FSA program payments
- ☐ Private Loans/credit

**Part C - Land Information** (applicable for all business types)

| | |
|---|---|
| Does the producer contribute land to the farming operation? | Yes |
| Does this farming operation own ANY land? | Yes |

| State | Administrative County | Farm Serial Number | Tract Number | Farmland Acres | Cropland Acres | Farmland Acres Not Leased | Is any land leased to another producer? |
|---|---|---|---|---|---|---|---|
| MS | Coahoma | 1147 | 6686 | 320.0 | 304.2 | 320.0 | No |
| MS | Coahoma | 4213 | 1270 | 59.0 | 49.2 | 59.0 | No |
| MS | Coahoma | | 1271 | 58.0 | 53.0 | 58.0 | No |
| MS | Coahoma | | 1272 | 78.0 | 64.0 | 78.0 | No |

Does this farming operation lease land from another producer? Yes

| State | Administrative County | Farm Serial Number | Tract Number | Name of Person Land is Leased From | Leased Acres | Type of Acres | Type of Lease | Crop Share | Interest in the Land is same as last year? |
|---|---|---|---|---|---|---|---|---|---|
| MS | Coahoma | 3975 | 1376 | FARMER TRUST | 60.0 | Cropland | Share | | Yes |
| MS | Coahoma | 4212 | 1269 | IMA FARMER SR | 33.0 | Cropland | Cash | | Yes |

Does this farming operation lease land to another producer? No

**Part D - Custom Services** (applicable for all business types)

| | |
|---|---|
| Will custom services, such as harvesting, spraying, fertilization, tillage, seeding, etc., be utilized for this farming operation? | No |

**Part E - Equipment Information** Note: Do not include equipment contributed by ***members*** of general partnerships or joint ventures. (applicable for all business types)

| | |
|---|---|
| Does the producer provide equipment to this farming operation? | Yes |
| What percent of the equipment does the producer contribute to this farming operation? | 100 % |
| Does the producer own any equipment contributed to this farming operation? | Yes |
| What percentage of owned equipment does the producer contribute to this farming operation? | 100 % |

Additional Information for Owned Equipment

| | |
|---|---|
| Does the producer lease any equipment contributed to this farming operation from another producer? | No |
| Is any of the equipment contributed to this farming operation leased to another producer? | No |
| Is there any additional equipment contributed to the farming operation? | No |

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*To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

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## *--130.5 Business File Equivalent of CCC-902I (Continued)

### C Example of Automated CCC-902 (Continued)

**CCC-902** (Page 2) Date Submitted: 07/19/2011 Version Number: 8

| | |
|---|---|
| **Producer Name** IMA FARMER | |
| **Part F - Labor Information** (applicable for all business types) | |
| Does the producer provide labor to this farming operation? | Yes |
| Does the producer contribute active personal labor to the farming operation? | Yes |
| What is the estimated percentage of active personal labor? | 100 % |
| Is any of the labor contributed to the farming operation hired? | No |
| Is there any additional labor contributed to the farming operation? | No |
| **Part G - Management Information** (applicable for all business types) | |
| Does the producer provide management to this farming operation? | Yes |
| Does the producer contribute active personal management to the farming operation? | Yes |
| What is the estimated percent of active personal management contributed to the farming operation? | 100 % |
| Types of Management Duties Performed<br>Make all planting, harvesting, marketing, and business and financial decisons. | |
| Is any of the management contributed to the farming operation hired? | No |
| Is there any additional management duties/activities contributed to the farming operation? | No |
| **Part H - Minor Information** (only applicable for individuals) | |
| Will the producer be 18 years of age by June 1 of the current program year? | Yes |
| **Part I - Citizenship Information** (only applicable for individuals) | |
| Is the producer a United States citizen or an alien lawfully admitted into the United States? | Yes |
| **Part J - Remarks** | |

**Part K - Certification** (applicable for individuals and entities)

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 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 understand all definitions and requirements
- all information contained on this form 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.

| **Signature of Producer** (by) | **Title/Relationship of the Individual Signing in Representative Capacity** | **Date** (MM-DD-YYYY) |
|---|---|---|
| | | |

*The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Food Security Act of 1985 (Pub. L. 99-198 - as amended), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

*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, privacy, and other statutes may be applicable to the information provided.*

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***--130.5 Business File Equivalent of CCC-902I (Continued)**

**D Comparison of Manual CCC-902I and Automated CCC-902**

The following table compares the parts and features of the manual CCC-902I and automated CCC-902.

| Item or Contribution | CCC-902I | Automated CCC-902 | Explanation of Differences |
|---|---|---|---|
| Name, Address, TIN | Part A | Part A | CCC-902I - manual entries.<br><br>Automated CCC-902 - SCIMS records. |
| Citizenship status | Part B | Part I | |
| Minor child status | Part B | Part H | |
| Other farming interests | Part B | | CCC-902I - manual entries.<br><br>Automated CCC-902 - this information will not be recorded in the collection process. |
| Land | Part C | Part C | CCC-902I - manual entries by farm number, cropland acres only.<br><br>Automated CCC-902 - sourced from farm records; entries by farm number, tract number, cropland and farmland acres; percentage of division not needed for share leases. |
| Capital | Part D | Part B | Both forms - manual entries.<br><br>Automated CCC-902 - entry for percentage of total contribution. |
| Equipment | Part E | Part E | Both forms - manual entries.<br><br>Automated CCC-902 - entry about leasing to another producer. |
| Labor | Part G | Part F | Both forms - entries for percentage contribution.<br><br>Automated CCC-902 - no entry for hours provided. |
| Management | Part H | Part G | Both forms - entries for percentage contribution. |
| Custom Services | Part F | Part D | Both forms - same or similar entries. |
| Certification | Part K | Part K | Both forms - same entries and requirements. |

**--***

## *--131 Completing CCC-902I Short Form

### A Instructions for Completing CCC-902I Short Form--*

Complete CCC-902I Short Form according to this table.

| Item | Instruction |
|---|---|
| 1 | Enter name of the county. If in more than 1 county, enter the name of the county that has been designated the control county. |
| 2 | Enter name of the State. |
| 3 | Enter crop year for which this certification applies. |
| **Part A** | |
| 1 | Enter name and address, including ZIP Code, of the individual.<br>If the individual conducts business using an assumed name, include the assumed name. (**Example**: John Doe, dba John Doe Grain Farms) |
| 2 | Enter TIN of the individual. |
| **Part B** | |
| 1 | CHECK (✓) either of the following, as applicable:<br><br>• "**Yes**", if the individual in Part A is a U.S. citizen; go to item 4<br>• "**No**", if the individual in Part A is **not** a U.S. citizen; go to item 2. |
| 2 | CHECK (✓):<br><br>• "**Yes**", if the individual in Part A is an alien lawfully admitted to the U.S.; the individual **must** present I-551<br><br>• "**No**", if the individual in Part A is **not** a U.S. citizen and the individual did **not** present 1-551. |
| 3<br>**County Only** | County Office shall CHECK (✓) "**Yes**" or "**No**", indicating that I-551 was presented. |
| 4 | CHECK (✓):<br><br>•*--"**No**", if the individual in Part A was 18 or older on June 1; go to item 5<br><br>• "**Yes**", if the individual in Part A was younger than 18 on June 1; **Stop**.--* CCC-902I **must** be completed instead of CCC-902I Short Form. |
| 5 | CHECK (✓):<br><br>• "**No**", if the individual in Part A and any minor children of the individual in Part A have no other farming interests; go to Part C<br><br>• "**Yes**", if the individual in Part A and/or if any minor children of the individual in Part A have other farming interests in any joint operation or legal entities; **Stop**. CCC-902I **must** be completed instead of CCC-902I Short Form. |

## *--131 Completing CCC-902I Short Form (Continued)

### A Instructions for Completing CCC-902I Short Form (Continued)--*

| Item | Instruction |
|---|---|
| **Part C** | |
| 1 | CHECK (✓):<br><br>• "**No**", if the contributions of land, capital or equipment of the individual in Part A will be **not** acquired as the result of a loan or credit arrangement from an individual or entity with an interest in the farming operation; go to item 2.<br><br>• "**Yes**", if the contributions of land, capital, and equipment of the individual in Part A will be acquired as the result of a loan or credit arrangement from an individual or entity with an interest in the farming operation.<br><br>**Stop**. CCC-902I **must** be completed instead of CCC-902I Short Form. |
| 2 | Using custom services by the farming operation in Part A does **not** apply:<br><br>• to services for chemical and fertilizer application<br>• to the harvesting of crops<br>• if all the land in the farming operation is owned.<br><br>CHECK (✓):<br><br>• "**No**", if custom services will **not** be used by the farming operation in Part A; go to item 3<br><br>• "**Yes**", if custom services will be used by the farming operation in Part A.<br><br>**Stop**. CCC-902I **must** be completed instead of CCC-902I Short Form. |

## 131 Completing CCC-902I Short Form (Continued)

### A Instructions for Completing CCC-902I Short Form (Continued)

| Item | Instruction |
|---|---|
| 3 | Enter the following information for **all** land that is operated by the individual in Part A. |
| A | Farm number. |
| B | State and county where located. |
| C | CHECK (✓) applicable box to show whether land is owned, leased to someone, or leased from someone. |
| D | Name of the individual, entity, or joint operation to whom or from whom the land is leased. |
| E | Acres owned or rented on the farm. |
| F | If the land is:<br><br>•*--share leased, enter "share" (optional to enter the percentage that represents the share of the individual identified in Part A)<br><br>• cash leased, enter the following:<br><br>• "cash" if the land is cash leased from an unrelated individual or entity<br><br>• the rental rate in $ per acre if the land is cash leased from an individual or entity that has an interest in the crop or crop proceeds (optional).--* |
| G | CHECK (✓) box if same land interest was held last year.<br><br>If additional space is needed for land, complete and attach form CCC-902 Continuation |
| 4 | CHECK (✓) all sources of capital for the individual in Part A that apply. If "Other" is checked (✓), specify. |

## *--131 Completing CCC-902I Short Form (Continued)

### A Instructions for Completing CCC-902I Short Form (Continued)--*

| Item | Instruction | |
|---|---|---|
| 5 A and B | Of the total equipment to be used in the farming operation of the individual in Part A, enter the following for the individual in Part A:<br><br>• percentage of the equipment that is owned in item A<br>• percentage of the equipment that is leased in item B. | |
| 5C | If individual in Part A leased equipment, indicate whether the equipment was leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A. | |
| | **IF the equipment was…** | **THEN CHECK (✓)…** |
| | leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**Yes**". |
| | **not** leased from an individual or entity that has an interest in the farming operation of the joint operation or entity | "**No**". |
| **Part D** | | |
| 1 | Enter percentage or number of hours of active personal labor the individual in Part A personally provides to the farming operation. | |
| 2 | Enter percentage or number of hours of hired labor used in the farming operation of the individual in Part A. | |
| 3 | **IF…** | **THEN CHECK (✓)…** |
| | **none** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part E | "**No**". |
| | **any** of the hired labor for the farming operation in Part A originated from the source of leased equipment in Part E<br><br>**Note:** Acceptable documentation of equipment lease and hired labor agreements may be **required** for compliance purposes. | "**Yes**". |
| **Part E** | The total percentage shown in items 1 and 2 **must** equal 100 percent. | |
| 1 | Enter estimated percent of active personal management the individual in Part A personally provides to the farming operation. | |
| 2 | Enter estimated percent of hired management to be used in the farming operation of the individual in Part A. | |
| **Part F** | | |
| 1 | The individual in Part A, or an authorized representative of the individual in Part A, shall sign the certification. | |
| 2 | If individual in Part A signs the document, this field should be left blank.<br><br>If an authorized representative for the individual in Part A signs CCC-902I Short Form, use this field to show the individual's representative capacity. (For example, "agent" or "attorney-in-fact.") | |
| 3 | Enter date CCC-902I Short Form was signed. | |

## *--131 Completing CCC-902I Short Form (Continued)--*

### B Example CCC-902I Short Form

*--

**This form is available electronically.** *(See Page 2 for Privacy Act Statement)*

**CCC-902I Short Form** (02-01-10)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**FARM OPERATING PLAN FOR AN INDIVIDUAL**
**2009 and Subsequent Program Years**

For "actively engaged in farming" and other payment eligibility and limitation determinations.

1. County: Coahoma
2. State: Mississippi
3. Program Year: 2011

*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 or joint operation) 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 - Producer Information**

1. Individual 's Name and Address *(Include Zip Code)*
Ima Farmer
437 Levee Lane
Stephenville, MS 72222

2. Social Security Number *(If the social security number or taxpayer ID number is on file, only the last 4 digits are required)*
1X1X

**Part B - Additional Information** — **FOR COUNTY OFFICE USE ONLY**

1. Is this individual a U.S. citizen?
☒ YES. Go to Item 4
☐ NO. Go to Item 2

2. Is this individual an alien lawfully admitted into the U.S.?
☐ YES, must present a Resident Alien Card (I-551).
☐ NO

3. *(Was a Resident Alien Card, I-551 shown?)*
☐ YES ☐ NO

**Minors**

4. Is this individual under 18 years of age as of June 1 of the program year that is specified in Item 3?
☒ NO. Go to Item 5 ☐ YES. Stop - Use CCC-902I

**Other Farming Interests**

5. Does this individual, individual's spouse or minor child have interests in other farming operations including joint operations and entities?
☒ NO. Go to Part C ☐ YES. Stop - Use CCC-902I

**Part C - Land, Capital & Equipment** ***(attach form CCC-902 Continuation for additional land interests)***

1. Will the contributions of land, capital, or equipment for the farming operation identified in Part A be acquired as the result of a loan or credit arrangement from an individual or entity that has an interest in the farming operation identified in Part A?
☒ NO. Go to Item 2 ☐ YES. Stop - Use CCC-902I

2. Will custom services be utilized in the farming operation identified in Part A? ☒ NO. Go to Item 3 ☐ YES. Stop - Use CCC-902I

3. Enter the following information for ALL land farmed by the individual identified in Part A and not as part of an entity.
***If land is cash leased from an individual or entity with an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***

| A. Farm No. | B. Location *(County and State)* | C. Check As Applicable: 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 Owned or Leased | F. Rental Rate $ per Acre/ % of Crop Share | G. Check here if same land interest was held last year |
|---|---|---|---|---|---|---|---|---|
| 1147 | Coahoma, MS | ☒ | ☒ | ☐ | Farmer LLC | 304.2 | 25% | ☒ |
| 4213 | Coahama, MS | ☒ | ☒ | ☐ | Farmer Farms | 49.2 | cash | ☒ |
| 4213 | Coahama, MS | ☒ | ☐ | ☐ | | 117.0 | | ☒ |

4. **Capital** - Indicate the source(s) of farming capital for the farming operation identified in Part A. *(Check all that apply.)*
☒ Non-borrowed ☐ Commercial loans/credit ☐ Private loans/credit ☐ FSA program payments ☐ Other: ____

5. **Equipment** - Enter the percentages owned and/or leased to be used by the farming operation identified in Part A.
C. If leased, does the party/entity the equipment is leased from have an interest in the farming operation identified in Part A? ☐ YES ☐ NO

A. Owned: 0%
B. Leased: ____%

**PART D- Labor**

1. **Active personal labor**. Enter the percentage or hours to be provided by the individual identified in Part A: 0 % ____ hours
2. **Hired labor**. Enter the percentage or hours of labor that will be hired by the individual identified in Part A: 0 % ____ hours
3. Will any of the hired labor originate from the same source as the leased equipment in Part C ☐ YES ☐ NO.

**PART E - Management**

1. **Active personal management.** Enter the estimated percent of active personal management to be provided by the individual identified in Part A: 100%
2. **Hired management:** Enter the estimated percent of management hired by the individual identified in Part A: 0 %

**PART F - 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.*

| 1. Signature of Producer (By) | 2. Title/Relationship if Signing as Representative | 3. Date (MM-DD-YYYY) |
|---|---|---|
| | | 4/26/2011 |

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# *--131 Completing CCC-902I Short Form (Continued)--*

## B Example CCC-902I Short Form

**CCC-902I Short Form** (02-01-10) Page 2 of 2

### DEFINITIONS

The following definitions apply to Form CCC-902I Short Form.

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 following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

*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 appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

## *--132 Business File Equivalent of CCC-902I Short Form

### A Business File Data Entry Process

For the automated CCC-902, load information about a producer's farming operation in the web-based system according to instructions in 3-PL (Rev. 1) Part 10, Business File Web-based Application.

The following table illustrates the data entry process for the information contained on the manual CCC-902I Short Form shown in subparagraph 131 B.

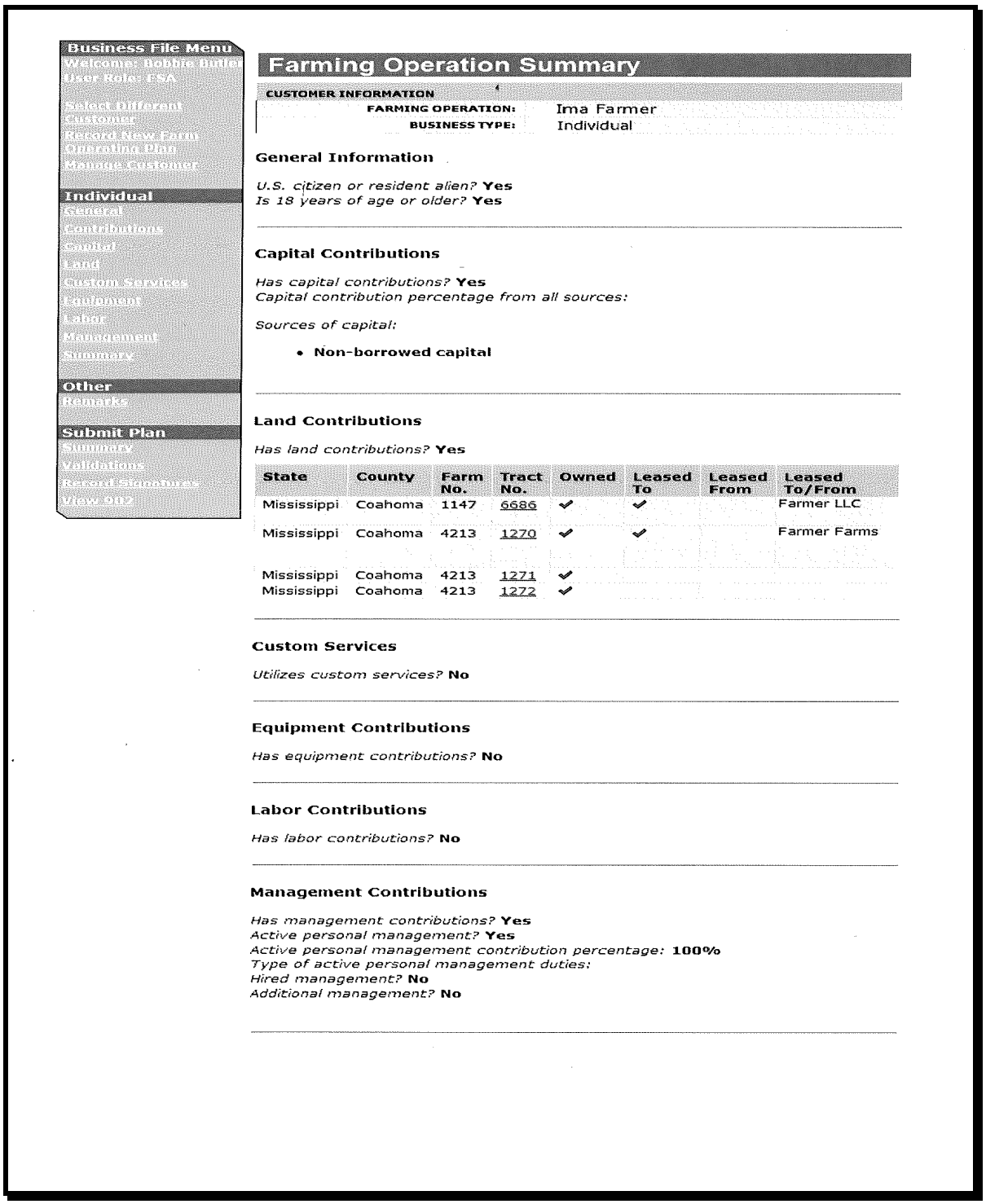
| Web Page | Data Recorded in System |
|---|---|
| Contributions | • Capital – Yes<br>• Land – Yes<br>• Equipment – No<br>• Labor – No<br>• Management – Yes<br>• Custom Services – No. |
| Capital | Selected "Non-borrowed capital". |
| Land | Recorded the following leases:<br><br>• FSN 1147 – tract 6686 share (25 percent) lease to operator (percentage of division not needed for share leases)<br><br>• FSN 4213 – tract 1270 - cash lease to other tenant.<br><br>**Note:** Did not record lease on FSN 4213 for tracts 1271 and 1272. This producer is the owner-operator on that farm and the example presumes there are no leases on those tracts. But they are listed in the owned section of the automated form. |
| Management Types | • Active Personal – Yes<br>• Hired – No<br>• Other – No. |
| Management Contributions | • 100 percent active personal management<br>• No duties performed were specified. |

**--***

## *--132 Business File Equivalent of CCC-902I Short Form (Continued)

### B Farming Operation Summary Page

Following is an example of a Business File farming operation summary.



Business File Menu
Welcome: Bobbie Butler
User Role: ESA
Select Different Customer
Record New Farm Operating Plan
Manage Customer
Individual
General
Contributions
Capital
Land
Custom Services
Equipment
Labor
Management
Summary
Other
Remarks
Submit Plan
Summary
Validations
Record Signatures
View 902

Farming Operation Summary

CUSTOMER INFORMATION
FARMING OPERATION: Ima Farmer
BUSINESS TYPE: Individual

General Information

*U.S. citizen or resident alien?* **Yes**
*Is 18 years of age or older?* **Yes**

Capital Contributions

*Has capital contributions?* **Yes**
*Capital contribution percentage from all sources:*

*Sources of capital:*

- **Non-borrowed capital**

Land Contributions

*Has land contributions?* **Yes**

| State | County | Farm No. | Tract No. | Owned | Leased To | Leased From | Leased To/From |
|---|---|---|---|---|---|---|---|
| Mississippi | Coahoma | 1147 | 6686 | ✔ | ✔ | | Farmer LLC |
| Mississippi | Coahoma | 4213 | 1270 | ✔ | ✔ | | Farmer Farms |
| Mississippi | Coahoma | 4213 | 1271 | ✔ | | | |
| Mississippi | Coahoma | 4213 | 1272 | ✔ | | | |

Custom Services

*Utilizes custom services?* **No**

Equipment Contributions

*Has equipment contributions?* **No**

Labor Contributions

*Has labor contributions?* **No**

Management Contributions

*Has management contributions?* **Yes**
*Active personal management?* **Yes**
*Active personal management contribution percentage:* **100%**
*Type of active personal management duties:*
*Hired management?* **No**
*Additional management?* **No**

--*

## *--132 Business File Equivalent of CCC-902I Short Form (Continued)

### C Example of Automated CCC-902

Following is an example of the automated CCC-902.

Date Submitted: Version Number: 9

| CCC-902 (5-16-2011) | U.S. DEPARTMENT OF AGRICULTURE<br>Commodity Credit Corporation | Program Year |
|---|---|---|
| | **FARM OPERATING PLAN FOR PAYMENT ELIGIBILITY**<br>**2009 and Subsequent Program Years**<br>For "actively engaged in farming" and other payment eligibility and limitation determinations. | 2011 |

*This form is to be completed by, or on behalf of, the individual or legal entity identified in Part A 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 individual or legal entity that receives program benefits **directly** using the tax identification number identified in Part A. This form also collects information about the members of legal entities. Payment eligibility is based upon the contribution level of certain inputs to a farming operation such as land, capital, equipment, labor, and management. The information on this form will be used by FSA to determine payment eligibility and limitation of payments by direct attribution.*

**Part A - General Farming Operation Information**

| Producer's Name | Tax ID Number and ID Type (last 4 digits) | Business Type |
|---|---|---|
| IMA FARMER | XXXX S | Individual |

**Part B - Capital Information** (applicable for all business types) Note: Do not include capital contributed by ***members*** of general partnerships or joint ventures.

| | |
|---|---|
| Does the producer provide capital to this farming operation? | Yes |
| What percent of capital is contributed by the producer to this farming operation from all sources? | % |

Indicate the source of all farming capital for the producer. *(Check all that apply)*

- [x] Non-borrowed capital
- [ ] Commercial loans/credit
- [ ] Other/Additional
- [ ] FSA program payments
- [ ] Private Loans/credit

**Part C - Land Information** (applicable for all business types)

| | |
|---|---|
| Does the producer contribute land to the farming operation? | Yes |
| Does this farming operation own ANY land? | Yes |

| State | Administrative County | Farm Serial Number | Tract Number | Farmland Acres | Cropland Acres | Farmland Acres Not Leased | Is any land leased to another producer? |
|---|---|---|---|---|---|---|---|
| MS | Coahoma | 1147 | 6686 | 320.0 | 304.2 | 15.8 | Yes |
| MS | Coahoma | 4213 | 1270 | 59.0 | 49.2 | 9.8 | Yes |
| MS | Coahoma | | 1271 | 58.0 | 53.0 | 58.0 | No |
| MS | Coahoma | | 1272 | 78.0 | 64.0 | 78.0 | No |

| | |
|---|---|
| Does this farming operation lease land from another producer? | No |
| Does this farming operation lease land to another producer? | Yes |

| State | Administrative County | Farm Serial Number | Tract Number | Name of Person Land is Leased To | Leased Acres | Type of Acres | Type of Lease | Crop Share | Interest in the Land is same as last year? |
|---|---|---|---|---|---|---|---|---|---|
| MS | Coahoma | 1147 | 6686 | FARMER LLC | 304.2 | Cropland | Share | 25% | Yes |
| MS | Coahoma | 4213 | 1270 | FARMER FARMS | 49.2 | Cropland | Cash | | Yes |

**Part D - Custom Services** (applicable for all business types)

| | |
|---|---|
| Will custom services, such as harvesting, spraying, fertilization, tillage, seeding, etc., be utilized for this farming operation? | No |

**Part E - Equipment Information** (applicable for all business types) Note: Do not include equipment contributed by ***members*** of general partnerships or joint ventures.

| | |
|---|---|
| Does the producer provide equipment to this farming operation? | No |

**Part F - Labor Information** (applicable for all business types)

| | |
|---|---|
| Does the producer provide labor to this farming operation? | No |

**Part G - Management Information** (applicable for all business types)

| | |
|---|---|
| Does the producer provide management to this farming operation? | Yes |
| Does the producer contribute active personal management to the farming operation? | Yes |
| What is the estimated percent of active personal management contributed to the farming operation? | 100 % |

Types of Management Duties Performed

| | |
|---|---|
| Is any of the management contributed to the farming operation hired? | No |
| Is there any additional management duties/activities contributed to the farming operation? | No |

*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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

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## *--132 Business File Equivalent of CCC-902I Short Form (Continued)

### C Example of Automated CCC-902 (Continued)

**CCC-902** (Page 2) Date Submitted: Version Number: 9

| | |
|---|---|
| **Producer Name** IMA FARMER | |
| **Part H - Minor Information** (only applicable for individuals) | |
| Will the producer be 18 years of age by June 1 of the current program year? | Yes |
| **Part I - Citizenship Information** (only applicable for individuals) | |
| Is the producer a United States citizen or an alien lawfully admitted into the United States? | Yes |
| **Part J - Remarks** | |
| | |

**Part K - Certification** (applicable for individuals and entities)

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 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 understand all definitions and requirements
- all information contained on this form 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.

| **Signature of Producer** (by) | **Title/Relationship of the Individual Signing in Representative Capacity** | **Date** (MM-DD-YYYY) |
|---|---|---|
| | | |

*The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Food Security Act of 1985 (Pub. L. 99-198 - as amended), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

*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, privacy, and other statutes may be applicable to the information provided.*

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## *--132 Business File Equivalent of CCC-902I Short Form (Continued)

### D Comparison of Manual CCC-902I Short Form and Automated CCC-902

This table compares the parts and features of the manual CCC-902I Short Form and the automated CCC-902.

| Item or Contribution | CCC-902I Short Form | CCC-902 Automated | Explanation of Differences |
|---|---|---|---|
| Name, Address, TIN | Part A | Part A | CCC-902I Short Form - manual entries.<br><br>Automated CCC-902 - SCIMS records. |
| Citizenship status | Part B | Part I | |
| Minor child status | Part B | Part H | |
| Other farming interests | Part B | | CCC-902I Short Form - manual entries.<br><br>Automated CCC-902 - this information will not be recorded in the collection process. |
| Land | Part C | Part C | CCC-902I Short Form - manual entries by farm number, cropland acres only.<br><br>Automated CCC-902 - information sourced from farm records; entries by farm number, tract number, cropland and farmland acres; percentage of division not needed for share leases. |
| Capital | Part C | Part B | Both forms - manual entries.<br><br>Automated CCC-902 - entry for percentage of total contribution. |
| Equipment | Part C | Part E | Both forms - manual entries.<br><br>Automated CCC-902 - entry about leasing to another producer. |
| Labor | Part D | Part F | Both forms - entries for percentage contribution.<br><br>Automated CCC-902 - no entry for hours provided. |
| Management | Part E | Part G | Both forms - entries for percentage contribution. |
| Custom Services | Part C | Part D | Both forms - same or similar entries. |
| Certification | Part F | Part K | Both forms - same entries and requirements. |

--*

**133-135 (Reserved)**

## Section 3 Joint Operations

### *--136 General Partnerships, Joint Operations, and Joint Ventures

#### A Definition of General Partnership

General partnership means:

- comprised of 2 or more persons or legal entities
- formed under State law
- subject to the terms of a formalized agreement
- identified with EIN.

In a general partnership:

- the members combine assets or the partnership may acquire property and assets
- single or multiple business enterprises are conducted by the partnership that are separate and apart from any business enterprises of the individual members
- all members are held jointly and severally liable for obligations incurred by the partnership
- each member shares in the profits and losses.

#### B Definition of Joint Operation [7 CFR 1400.3]

Joint operation means a general partnership or joint venture, whose members are jointly and severally liable for the obligations of the organization, in which 2 or more individuals or entities pool their resources, such as land, labor, capital, management, and equipment, to conduct the farming operation for a common purpose, sharing the profits and losses.

#### C Definition of Joint Venture

Joint venture means a short-term association of persons or legal entities, where the association exists without an actual partnership or corporate designation.

In a joint venture:

- the members combine their property, money, effects, skills, and knowledge
- a single business enterprise is conducted
- each member intends to derive a share or benefit
- each member sustains a mutual responsibility.**--***

## *--136 General Partnerships, Joint Operations, and Joint Ventures (Continued)

### D Comparison of General Partnerships and Joint Ventures

The following table provides a comparison of general partnerships and joint ventures.

| Inputs and Characteristics | General Partnership | Joint Venture |
|---|---|---|
| Capital | Contributed by the partnership. | Contributed by each member. |
| Land | | |
| Equipment | | |
| Labor (Both active personal and hired labor.) | Contributed by the members or the partnership. | |
| Management | Contributed by the members. | |
| EIN | Yes. | Optional. |
| Separate Bank Account | Yes. | No. |
| Risk and Liability | Joint and several liability. | Joint and several liability. |
| Members Share in the Profits and Losses | Yes. | Yes. |
| Longevity | Long term. | Short term. |
| Written Agreement | Yes. | Optional. |
| Business Activities | Wide range of projects and purposes with a common goal of the members. | Limited to a specific project or purpose and common goal of the members. |

--*

***--136 General Partnerships, Joint Operations, and Joint Ventures (Continued)**

**E Examples of Individual Operations and Joint Operations**

**Example 1:** Tom cash leases 400 acres and his brother John has all of the equipment used in the operation. Tom pays the cash lease, but they share in all other input costs. The crop is shared 60/40 percent. Both have a risk and share in the profits and losses in the farming operation.

The joint venture of Tom and John is recorded on CCC-902E.

**Example 2:** Jill cash leases 160 acres and plants the crop. Her brother Jack does all the spraying and harvesting in exchange for planting and trucking that Jill performs on land that Jack owns. Jack has no investment, interest, or risk in the growing crop and will **not** share in the profits or losses on the 160 acres that Jill leases.

Jack and Jill each have their own separate farming operations. Jack and Jill each complete CCC-902I.

**Example 3:** AB Corporation and CD Corporation cash rent 500 acres of land. AB Inc. pays the rent on 200 acres (40 percent of the land) and CD Inc. pays the rent on the balance (60 percent or 300 acres). Each corporation has separate financing and a separate line of equipment. Each corporation keeps track of the equipment use and the expenses on this property. The crop production from the 500 acres is shared 60/40 percent. Both corporations are at risk and share in the profits and losses from the operation of this rented land.

The joint venture of these 2 corporations is recorded on CCC-902E.

**Example 4:** Larry and Daryl each have their own farming operations and occasionally perform field work for the other. Although they also own a tractor and cotton stripper together, each has their own accounts, equipment, and financing. Each is at risk, but crops and expenses are **not** shared on any land operated by either of them.

Larry and Daryl each have their own separate farming operations. Larry and Daryl each complete CCC-902I.

**Example 5:** Joe is the tenant on Dave's farm with each sharing in the crop production. Joe provides the equipment, performs all of the labor and fieldwork necessary, and delivers Dave's share of the crop production to a local grain elevator. Dave's share of the crop is in exchange for the rent of the land. While Joe and Dave share in the crop production and each has a risk, their risk is **not** mutually shared.

Joe and Dave each have their own separate farming operations. Joe completes CCC-902I and Dave completes CCC-902I Short Form.**--***

## *--137 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.**--***

Members of a joint operation can be determined actively engaged in farming by meeting **all** of the requirements in the following table.

| Item | Requirement |
|---|---|
| 1 | Contributions to the farming operation of **both** of the following are made:<br><br>• the member **or** joint operation makes a significant contribution of capital, equipment, or land, or a combination thereof<br><br>• each member makes a significant contribution of active personal labor or active personal management, or a combination thereof, that are:<br><br>  • performed on a regular basis<br>  • identifiable and documentable<br>  • separate and distinct from contributions of any other member.<br><br>**Note:** See subparagraph 116 A for exceptions for spouses. |
| 2 | The member must provide satisfactory evidence that the 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 E, F, and G 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's for Joint Operations

## A Completing CCC-902E's

For detailed instructions on completing CCC-902E's, see subparagraph 120 A.

## B 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 (03-26-09) 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 **TX** | |
| 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. Farming 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)* |
|---|---|
| **Beringer Partners**<br>**205 Southland Rd**<br>**Claburne, TX 73333** | **1263** |
| | 3. Date of Formation *(MM-DD-YYYY)* **10-30-2008** |

**PART B - TYPE OF OPERATION** ***(Select only one)***

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

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

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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| **Jack Beringer** | **0457** | **25** | **partner** / **$0** | **self** | ☒ YES ☐ NO |
| **Ana Beringer** | **8328** | **25** | **partner** / **$0** | **Wife of Jack** | ☒ YES ☐ NO |
| **Bobby Beringer** | **6101** | **25** | **partner** / **$0** | **Brother to Jack** | ☒ YES ☐ NO |
| **Ida Beringer** | **4377** | **25** | **partner** / **$0** | **Wife of Bobby** | ☒ YES ☐ NO |
| | | | / $ | | ☐ YES ☐ NO |
| | | | / $ | | ☐ YES ☐ NO |

| G. *I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.* BB; IB | 1. Initials JB; ALB | 2. Date 4/15/2009 |
|---|---|---|

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

| A. Name of Estate or Trust | B. Name of Executor/Administrator/Grantor |
|---|---|
| | |

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.
☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| | | | |
| | | | |

*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's for Joint Operations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **Beringer Partners** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status** - Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☐ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital | B. Land | C. Equipment | D. Hired Labor | E. Hired Management |
|---|---|---|---|---|
| 100 % | 90 % | 100 % | 70 % | 0 % |

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

*For additional space, use and attach CCC-902E Continuation*

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## *--140 Completing CCC-902E's for Joint Operations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable: 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 Owned or Leased | 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 | cash | ☒ |
| 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: Mesquite/TX | Beringer Partners | ☐ | ☐ | ☒ | Jackson Ranch | 15,000 | cash | ☒ |

**PART F - CAPITAL SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☒ Non-borrowed capital ☐ Private loans/credit ☒ FSA program payments from this crop year
☒ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☒ YES go to Item 3 ☐ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☒ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C by the entity: 90 %

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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| 10 % | Rogers Implement Co. | Loader | ☐ YES ☒ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

--*

## *--140 Completing CCC-902E's for Joint Operations (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **Name of Entity (as identified in Part A):** **Beringer Partners** Page 4 of 6

**PART H - CUSTOM SERVICES**

1. Will custom services 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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** % |
| | hrs |

2. **Hired labor:**

A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

☒ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

List the specific managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

*(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| **Jack Beringer** | **Crops, equipment, irrigation, financing, pasture cattle** |
| **Ana Beringer** | **Bookkeeping, financing, marketing, FSA business** |
| **Bobby Beringer** | **Crops, feeder cattle/feedyard, financing, hired labor** |
| **Ida Beringer** | **Financing , marketing of commodities and livestock** |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
Describe any hired 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 service or activity):*

3. **Other management:**
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's for Joint Operations (Continued)

### B Example CCC-902E (Continued)

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **Beringer Partners** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☒ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| Jack Beringer | Partner | 4/15/2009 |
| Ana Beringer | Partner | 4/15/2009 |
| Bobby Beringer | Partner | 4/15/2009 |
| Ida Beringer | Partner | 4/15/2009 |
| | | |
| | | |
| | | |

**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, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

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# *--140 Completing CCC-902E's for Joint Operations (Continued)

## B Example CCC-902E (Continued)

CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

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

--*

## *--140 Completing CCC-902E's for Joint Operations (Continued)--*

### C Example CCC-902 Continuation

Following is an example 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** | ☒ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |
| | | ☐ | ☐ | ☐ | | | | ☐ |

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 Completing CCC-902E Continuations

### A Completing CCC-902E Continuations for 2009 and Subsequent Years

Complete the CCC-902E Continuation according the following table.

Attach CCC-902E Continuation pages, as needed, to CCC-902E that was completed for the farming operation. Submit the completed CCC-902E's and CCC-902E Continuation pages in hard copy or FAX to the appropriate USDA servicing office.

**Note:** CCC-902E Continuation pages completed and attached **will be under the same signatures and certifications** contained in CCC-902E, Part L.

| Item | Instruction | |
|---|---|---|
| 1 and 2 | Enter name of the control county and State for this farming operation. The control county most often is the administrative county for the entity's or joint operation's farming operation. | |
| 3 | Enter crop year for which this certification applies. | |
| | In the space provided on the top of **each** page, enter the following:<br><br>• name of the legal entity filing CCC-902E<br>• number of additional CCC-902E Continuation pages completed. | |
| **Part C** | | |
| 1 | Enter the following for each member of the entity or joint operation. | |
| A | Member's name. | |
| B | Last 4 digits of member's TIN.<br><br>**Note:** If complete TIN is already on file, only last 4 digits are **required**. | |
| C | Percent share of or interest in the operation. | |
| D | Member's position in and salary or bonus from the operation. | |
| E | Member's family relationship to the first member listed in 1A. | |
| | **IF entity is…** | **THEN show…** |
| | an estate | member's relationship to the deceased individual. |
| | a trust | beneficiary's relationship to the grantor. |
| F | CHECK (✓) either of the following, as applicable:<br><br>• "**Yes**", if the member has signature authority for entity in Part A<br>• "**No**", if the member does **not** have signature authority for entity in Part A.<br><br>**Note:** For joint operations, joint ventures, and general partnerships, **each member must initial the response in Column F**. | |

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## *--141 Completing CCC-902E Continuations (Continued)

### A Completing CCC-902E Continuations for 2009 and Subsequent Years (Continued)

| Item | Instruction |
|---|---|
| 2 A and B | If entity in Part A is an estate or trust, or if any member in Part C is an estate or trust, enter name of the executors, administrators, or grantors. If there is more than 1 executor, administrator, or grantor, provide the additional information in the space provided or attach additional sheets. |
| 3 | If any member in item 1A is an entity or joint operation, complete CCC-901 and attach a copy. |
| 4 | If any of the members in Part C has interest in other farming operations conducted under a name other than the name listed in Part A, provide the following information. |
| A | Member's name. |
| B | Name of farming interests. |
| C | TIN of the other farming operation.<br><br>**Note:** If complete TIN is already on file FSA, only last 4 digits are **required**. |
| D | County/State where the interest is located. |
| **Part D** | |
| 1 A through H | If any member provides capital, land or equipment to the farming operation in Part A, enter the member's name and the percentage contributed.<br><br>Use columns D and F to indicate if a member contributes owned land or equipment to the entity or joint operation's farming operation.<br><br>If any member provides hired labor, labor they do themselves, hired management or management they do themselves, enter the member's name and percentage of each contribution in columns G and H.<br><br>Check the applicable box if a member provides 1000 or more hours of active personal labor to the farming operation in Part A. |
| **Part F** | |
| 1 | If loans or credit used to finance the farming operation in Part A, or to acquire/purchase land or equipment, and such financing was acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity with an interest in the farming operation in Part A, complete Items 1 A through E. |

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## *--141 Completing CCC-902E Continuations (Continued)

### A Completing CCC-902E Continuations for 2009 and Subsequent Years (Continued)

| Item | Instruction | |
|---|---|---|
| **Part G** | | |
| 1 A – C | Enter information for **all** equipment used in the farming operation which is leased by the joint operation or entity in Part A. For each type of equipment leased, enter the following:<br><br>A Percent of total equipment used in the farming operation<br>B name of the party or entity from whom equipment is leased<br>C type of equipment leased. | |
| 1 D | If joint operation or entity in Part A leased equipment, indicate whether the equipment was leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A. | |
| | **IF the equipment was…** | **THEN CHECK (✓)…** |
| | leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**Yes**" and go to item 3. |
| | **not** leased from an individual or entity that has an interest in the farming operation of the joint operation or entity in Part A | "**No**" and go to Part H. |
| 2 | If 1D is "**Yes**", copies of lease agreements may be required for compliance purposes. | |
| **Part H** | | |
| 1A | Enter type of custom service, including but **not** limited to, tillage, planting, cultivating, chemical application, insect/pest scouting, etc. | |
| 1B | Enter farm numbers the service will be applied. | |
| 1C | Enter total number of acres for which custom services will be used. | |
| 1D | Enter name of the custom farming service provider. | |
| **Part J** | | |
| 1 | For each member or shareholder of the farming operation in Part A that is contributing active personal management, list the person's name and identify the type of management duties provided to the farming operation in Part A. The duties/activities **must** be:<br><br>• performed on a regular basis<br><br>• identifiable and documentable<br><br>• separate and distinct from the management activities performed by any other members or shareholders.<br><br>These specific requirements are **not** applicable to heirs of estates or to the beneficiaries of trusts. | |

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## *--141 Completing CCC-902E Continuations (Continued)

### A Completing CCC-902E Continuations for 2009 and Subsequent Years (Continued)

| Item | Instruction | |
|---|---|---|
| **Part C** | | |
| 5 | **IF…** | **THEN…** |
| | none of the members listed in Part C, item 1, is a minor | CHECK (✓) "**N/A**" (not applicable). |
| | any member listed in Part C, item 1, is a minor | provide the following information about that member. |
| A | Minor's name. | |
| B | Minor's date of birth. | |
| C | Name of the minor's parent or guardian. | |
| D | Address of the parent or guardian. | |
| E | Parent or guardian's TIN.<br><br>**Note:** If complete TIN is already on file FSA, only last 4 digits are **required**. | |
| F | CHECK (✓) the following, as applicable. | |
| | **IF any minor in item 5A…** | **THEN CHECK (✓)…** |
| 1 | is a producer on a farm and the parent or guardian has **no** interest | "**Yes**". |
| | is a producer on a farm and the parent or guardian has an interest in the farming operation | "**No**". |
| 2 | maintains a separate household from the parent or guardian and personally carries out all farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**Yes**". |
| | does **not** maintain a separate household from the parent or guardian and does not personally carry out all farming activities with respect to the minor's own farming operation, including maintaining separate accounting | "**No**". |
| 3 | who is represented by a court-appointed guardian or conservator, lives in a household other than the parents' households, and have a vested ownership in the farm | "**Yes**". |
| | who is represented by a court-appointed guardian or conservator, does **not** live in a separate household other than the parents' household, and does **not** have a vested ownership in the farm | "**No**". |
| 4 | If "**Yes**" is checked for all items F1 through F3, for the minor that has an interest in the farming operation of the entity or joint operation in Part A, enter the name of the minor in the space provided. | |

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## *--141 Completing CCC-902E Continuations (Continued)

### A Completing CCC-902E Continuations for 2009 and Subsequent Years (Continued)

| Item | Instruction |
|---|---|
| 6 | CHECK (✓) either of the following, as applicable:<br><br>• "**Yes**", if all individual members and shareholders in embedded entities and joint operations listed in Part C are U.S. citizens<br><br>• "**No**", if any individual members and shareholders in embedded entities and joint operations listed in Part C is **not** a U.S. citizen. |
| 6A | For each member or shareholder who is an alien lawfully admitted into the U.S., list that member's name and indicate whether this person possesses a valid I-551.<br><br>CHECK (✓) "**No**" for any non-U.S. citizen who does **not** possess I-551. |
| **FSA Only** | FSA shall CHECK (✓) "**Yes**" or "**No**", indicating that I-551 was presented, and initial CCC-902E Continuation. |

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## *--141 Completing CCC-902E Continuations (Continued)

### B Example CCC-902E Continuation

Following is an example CCC-902E Continuation.

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

| | | |
|---|---|---|
| **CCC-902E** Continuation (03-26-09) — **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation | 1. County **Rio Lobo** | 3. Program Year **2009** |
| **CONTINUATION SHEET FOR FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years** | 2. State **New Mexico** | |
| 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.*

This form provides additional space for specific items on the CCC-902E.

**Name of Legal Entity filing CCC-902E: Parker Organics Inc.**

**4 # Additional CCC-902E Continuations are used to record all information for this entity**

**PART C - MEMBER/SHAREHOLDER INFORMATION *(Continued from CCC-902E)***

1. **Members** - List all Members/Shareholders of the entity identified in Part A of this form.

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(if applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? *(Yes or No)* |
|---|---|---|---|---|---|
| June Parker | 2351 | 5 | $ | sister | ☐ YES ☒ NO |
| Jeb Parker | 2352 | 5 | $ | brother | ☐ YES ☒ NO |
| Jason Parker | 2353 | 5 | $ | brother | ☐ YES ☒ NO |
| John Parker Jr. | 2355 | 5 | $ | uncle | ☐ YES ☒ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*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 Adjudication and Compliance, 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.*

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## *--141 Completing CCC-902E Continuations (Continued)

### B Example CCC-902E Continuation (Continued)

**CCC-902E Continuation** (03-26-09) Page 2

**Name of Legal Entity filing CCC-902E:** Parker Organics Inc.
4 **# Additional CCC-902E Continuations are used to record all information for this entity**

**PART C - MEMBER/SHAREHOLDER INFORMATION** ***(Continued from CCC-902E)***

2. If any member listed above is an Estate or Trust, list the Executor, Administrator or Grantor.

| A. Name of Estate or Trust | B. Name of Executor/Administrator/Grantor(s) |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

3. **Embedded Entities -** if any member or shareholder listed in item 1 is a legal entity, a CCC-901, Member's Information, must also be completed and submitted concurrent with this CCC-902E. Additionally, CCC-902E must be completed and submitted for each embedded entity.
☐ Check if CCC-901 is attached. ☐ Check if CCC-902Es for embedded entities are attached.

4. **Other Farming Interests** – Members of the entity shown in Part A have interest in the following farming operations conducted under other names.

| A. Member Name | B. Name of Farming Interest(s) | C. Tax ID Number of Farming Interest (Last 4 digits if already on file) | D. Count(ies) and State(s) where Farming Interest(s) are Located |
|---|---|---|---|
| June Parker | Parker Enterprises | 3777 | Yuma, Colorado |
| Jason Parker | Parker Holding Co. | 4221 | Denver, Colorado |
| John Parker Jr. | Parker Enterprises | 3777 | Yuma, Colorado |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

**PART D – SUMMARY OF MEMBER/SHAREHOLDER CONTRIBUTIONS TO THE FARMING OPERATION** ***(Continued from CCC-902E)***

1. **What contributions to the farming operation identified in Part A will be made by the Members listed in PART I?**
Enter the following information for the contributions to be made by the members/shareholders.

| 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 |
| June Parker | | | | | | | 5 | ☐ | | 5 |
| Jeb Parker | | | | | | | 5 | ☐ | | 5 |
| Jason Parker | | | | | | | 5 | ☐ | | 5 |
| John Parker Jr. | | | | | | | 5 | ☐ | | 5 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

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## *--141 Completing CCC-902E Continuations (Continued)

### B Example CCC-902E Continuation (Continued)

**CCC-902E Continuation** (03-26-09) Page 3

**Name of Legal Entity filing CCC-902E:** Parker Organics Inc.
**4 # Additional CCC-902E Continuations are used to record all information for this entity**

**PART F - CAPITAL SOURCES and USES** *(Continued from CCC-902E)*

| A. Type of Capital Contribution | 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. % of Total Capital |
|---|---|---|---|---|
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |
| | | | | % |

**PART G - LEASED EQUIPMENT** *(All percentages are based on annual rental values.)* **(Continued from CCC-902E)**

1. **Leased Equipment**: Enter the following information for ALL leased equipment to used by the farming operation identified in Part A:

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does Individual/Entity the equipment is leased from have an interest in this farming operation? | |
|---|---|---|---|---|
| 10% | Southwestern Implement Inc. | peanut harvester | ☐Yes | ☒No |
| % | | | ☐Yes | ☐No |
| % | | | ☐Yes | ☐No |
| % | | | ☐Yes | ☐No |
| % | | | ☐Yes | ☐No |
| % | | | ☐Yes | ☐No |
| % | | | ☐Yes | ☐No |

2. **Lease Agreements:** If 1D is "YES" acceptable documentation for this relationship may be required for compliance purposes.

**PART H - CUSTOM SERVICES** *(Continued from CCC-902E)*

1. Custom Services to be used in the farming operation.

| A. Type of Service(s) | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| Insect scouting | 580, 692, 1559 | 528 | Field Pest Control Services Inc. |
| Weed removal | 322 and 756 | 1200 | Weeders Inc. |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

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## *--141 Completing CCC-902E Continuations (Continued)

### B Example CCC-902E Continuation (Continued)

**CCC-902E Continuation** (03-26-09) Page 4

**Name of Legal Entity filing CCC-902E:** Parker Organics Inc.
**4 # Additional CCC-902E Continuations are used to record all information for this entity**

**PART J – MANAGEMENT** *(Continued from CCC-902E)*

Enter the managerial duties required for this farming operation which are provided personally by member(s) or shareholders of the entity or joint operation identified in Part A.

1. **Active personal management:**

List the managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; identifiable and documentable; and separate and distinct from that of any other member(s) or shareholder(s).*** *(This requirement is not applicable to heirs of an Estate or beneficiaries of a Trust)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| **June Parker** | **Promotion and Marketing** |
| **Jeb Parker** | **Promotion and Marketing** |
| **Jason Parker** | **Irrigation, field operations and marketing** |
| **John Parker Jr.** | **Recordkeeping, promotion and direct sales of commodities** |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

**PART C – INFORMATION ABOUT MINORS** *(Continued from CCC-902E)*

5. **Minor Members or Interest Holders** – For any Member or Interest Holder who is minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C. Parent of Guardian's Name | D. Parent or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |

| F. Separate Status of Minors: | |
|---|---|
| (1) Is any minor a producer on a farm in which the parent or guardian has no interest? | ☐ YES ☐ NO |
| (2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming activities with respect to the minor's farming operation, including maintaining separate accounting? | ☐ YES ☐ NO |
| (3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor, a) live in a household other than the parents' household(s), and b) have a vested ownership interest in the farm? | ☐ YES ☐ NO |
| (4) If any minor with interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name: | |

**PART C – INFORMATION ABOUT CITIZENSHIP** *(Continued from CCC-902E)*

6. **Citizenship Status** – Is each member and interest holder of the entity identified in Part A, and any embedded entity identified in Item I, a US Citizen?
☒ YES, all members/interest holders are US Citizens ☐ NO, one or more members is not a US Citizen – Complete Item 2A

A. For each member or interest holder (direct or embedded) who is not a US Citizen provide the following:

| 1. Name of Individual | 2. This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

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## *--141 Completing CCC-902E Continuations (Continued)

### B Example CCC-902E Continuation (Continued)

**CCC-902E Continuation** (03-26-09) Page 5

**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, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

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## 142-145 (Reserved)

## *--146 Determination of Ownership Interest--*

### A Ownership in Legal Entities

Ownership interest in a legal entity that receives payment subject to limitation for the program year will be determined according to the following table.

| IF the legal entity… | THEN the date for the determination of ownership interest is…. |
|---|---|
| existed on June 1 of the year for which program benefits were requested | June 1. |
| did **not** exist on June 1 of the year for which program benefits were requested | the date the legal entity was formed. |

Voluntary acquisition of interest after June 1, or date legal entity was formed, 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 Determination of Ownership Interest (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.

*** * ***

## *--147 Eligibility Determinations

### A Actively Engaged in Farming--*

**[7 CFR 1400.204]** A corporation, LLC, LLP, or LP shall be considered to be actively engaged in farming, if **all** of the requirements in the following table are met.

| Item | Requirement |
|---|---|
| 1 | The legal entity independently and separately makes a significant contribution of capital, equipment, land, or combination thereof. |
| 2 | Partners, stockholders, or members with an ownership interest in the legal entity make contributions, 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. *** * *** |
| 3 | The collective contribution of active personal labor or active personal management by partners, stockholders, or members is a significant contribution to the farming operation. |
| 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. |

### *--B Member Contribution Requirements

In addition to the requirements of actively engaged in farming, all partners, stockholders, or members with an ownership interest in the legal entity **must** make contributions of active personal labor and/or active personal management to the farming operation of the legal entity that are:

- performed on a regular basis
- identifiable and documentable
- separate and distinct from contributions of any other partner, stockholder, or member.

**Note:** If a partner, stockholder, member fails to meet this requirement, payments subject to the actively engaged in farming determination will be reduced by the share held by that partner, stock, or member.**--***

***--147 Eligibility Determinations (Continued)**

**C Exceptions to Member Contribution Requirements**

The following are exceptions to the requirements of subparagraph B.**--***

**Payments less than 1 limitation –** If the total of direct payments under DCP received, both directly and indirectly, for the program year by the partners, stockholders, and members does **not** exceed $40,000, the requirement of a significant contribution of active personal labor or active personal management may be met by partners, stockholders, or members who collectively hold at least 50 percent of the ownership interest in the 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.

**Landowner –** If all land in the legal entity's farming operation is owned by the legal entity, the requirements of subparagraph A do **not** apply to the interest holders of the legal entity.

**D 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 Eligibility Determinations (Continued)--***

**E 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.

**F 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 Eligibility Determinations (Continued)--***

**G Verification of Recorded Activities**

COC may request verification from an interest holder if:

- the records provided for these activities seem unreasonable for the type and size of farming operation
- performance of these activities is questionable as claimed
- the farming operation is selected for an end-of-year review for payment eligibility and payment limitation compliance purposes.

**H 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.

***--I Member Contribution Requirements and Joint Operations**

The following table provides guidance for the applicability of member contribution requirements when the payment entity is a joint operation.

| **IF the member is….** | **THEN the member contribution provisions…** |
|---|---|
| individual | do not apply, unless the individual is a member of an embedded entity in the organizational structure. |
| legal entity without members | are not applied. |
| revocable trust | do not apply, unless the trust/estate is a member of an embedded entity in the organizational structure. |
| irrevocable trust | |
| estate | |
| LLC using a Social Security number | do not apply, unless the LLC is a member of an embedded entity in the organizational structure. |
| legal entity including:<br>• corporation<br>• limited partnership<br>• individual operating as a small business<br>• LLC using an employer identification number | apply to any members of the legal entity that are:<br>• individuals down to the lowest level member<br>• revocable trusts<br>• irrevocable trusts<br>• estates.<br>**Exception:** Member contribution provisions do not apply to individual members of an embedded trust or estate. |

**--***

***--147 Eligibility Determinations (Continued)**

**I Member Contribution Requirements and Joint Operations (Continued)**

| IF the member is…. | THEN the member contribution provisions… |
|---|---|
| joint operation | do **not** apply to any members unless 1 of the members is a legal entity.<br><br>If 1 member of the embedded joint operation is a legal entity, follow the provision for the members that are legal entities. |

**J Member Contribution Requirements for Estates and Trusts**

Member contribution requirements do not apply to an estate, revocable trust, or irrevocable trust, unless the estate/trust is a member of a legal entity with members such as:

- corporation
- limited partnership
- individual operating as a small business
- LLC using an employer identification number.

The following table provides guidance for the applicability of member contribution requirements for estates and trusts.

| IF the payment entity is… | AND the member is… | THEN member contribution requirements… |
|---|---|---|
| • revocable trust<br>• irrevocable trust<br>• estate | | do not apply to any member of the organizational structure. |
| a legal entity with members, including:<br><br>• corporation<br><br>• limited partnership<br><br>• individual operating as small business<br><br>• LLC using an employer identification number | revocable trust<br>irrevocable trust<br>estate | • apply to the trust/estate<br><br>• do not apply to the individual members of the embedded trust/estate. |
| a joint operation | | see subparagraph I. |

**--***

## 148 Corporation, LLC, LLP, and LP 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 meet 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 every day 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 made a significant contribution of capital. All 3 stockholders collectively made a significant contribution of active personal management to the farming operation. Corporation XYZ is; therefore, 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 contribution was separate and distinct from contributions made by the other stockholder. No payment reduction will be applied to the program payments received by Corporation XYZ.**--***

## 148 Corporation, LLC, LLP, and LP 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:** Corporation AB provides significant contribution of capital and equipment, and Son B makes a significant contribution of active personal labor and active personal management to the farming operation. Corporation AB is considered actively engaged in farming; however, because Father A who holds a 50 percent ownership interest failed to make a contribution of active personal labor and/or active personal management to the farming operation that met the requirement of subparagraph 147 B, Corporation AB will be subject to a 50 percent reduction in program payments received.**--***

### 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 provides 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 C applies. **No** payment reduction will be**--*** applied to Corporation GH.

## 148 Corporation, LLC, LLP, and LP Case Examples (Continued)

### D Example 4

***--Situation:** Revocable Trust E is a stockholder in Corporation D with 2 other individuals. Member contribution requirements of subparagraph 147 B apply to Corporation D.**--***

- The 2 individuals provide significant contributions of active personal labor and/or active personal management to qualify the corporation as actively engaged in farming.

- The revocable trust's grantor makes no contributions.

*** * ***

***--Determination:** Corporation D is considered actively engaged in farming because of the significant contribution of active personal labor and active personal management to the farming operation by the 2 individuals who are stockholders. However, because the remaining stockholder, Trust E, failed to make a contribution of active personal labor and/or active personal management to the farming operation that met the requirement of subparagraph 147 B, Corporation D will be subject to a reduction in program payments receive commensurate with the ownership interest held by Trust E.

If the grantor of Trust E were making contributions of active personal labor and/or active personal management to the farming operation on behalf of Trust E that met the requirement of subparagraph 147 B, a payment reduction would **not** apply for Corporation D.

### E Example 5

**Situation:** Irrevocable Trust E is a stockholder in Corporation D with 2 other individuals. Member contribution requirements of subparagraph 147 B apply to Corporation D.**--***

- The 2 individuals provide significant contributions of active personal labor and/or active personal management to qualify the corporation as actively engaged in farming.

- The irrevocable trust's beneficiaries make no contributions.

*** * ***

## 148 Corporation, LLC, LLP, and LP Case Examples (Continued)

### E Example 5 (Continued)

***--Determination:** Corporation D is considered actively engaged in farming because of the significant contribution of active personal labor and active personal management to the farming operation by the 2 individuals who are stockholders. However, because the remaining stockholder, Trust E, failed to make a contribution of active personal labor and/or active personal management to the farming operation that met the requirement of subparagraph 147 B, Corporation D will be subject to a reduction in program payments receive commensurate with the ownership interest held by Trust E.

If the beneficiaries of Trust E were making collective contributions of active personal labor and/or active personal management to the farming operation on behalf of Trust E that met the requirement of subparagraph 147 B, a payment reduction would **not** apply for Corporation D.

### F Example 6

**Situation:** Estate E is a stockholder in Corporation D with 2 other individuals. Member contribution requirements of subparagraph 147 B apply to Corporation D.**--***

- The 2 individuals provide significant contributions of active personal labor and/or active personal management to qualify the corporation as actively engaged in farming.

- The estate's representative or heirs make no contributions.

*** * ***

***--Determination:** Corporation D is considered actively engaged in farming because of the significant contribution of active personal labor and active personal management to the farming operation by the 2 individuals who are stockholders. However, because the remaining stockholder, Estate E, failed to make a contribution of active personal labor and/or active personal management to the farming operation that met the requirement of subparagraph 147 B, Corporation D will be subject to a reduction in program payments receive commensurate with the ownership interest held by Estate E.

If the heirs or personal representative of Estate E were making collective contributions of active personal labor and/or active personal management to the farming operation on behalf of Estate E that met the requirement of subparagraph 147 B, a payment reduction would **not** apply for Corporation D.**--***

## 148 Corporation, LLC, LLP, and LP Case Examples (Continued)

### G Example 7

***--Situation:** LLC E is a stockholder in Corporation D with 2 other individuals. Member contribution requirements of subparagraph 147 B apply to Corporation D.**--***

- The 2 individuals provide significant contributions of active personal labor and/or active personal management to qualify the corporation (payment entity) as actively engaged in farming.

- LLC's interest holders make no contributions.

*** * ***

***--Determination:** Corporation D is considered actively engaged in farming because of the significant contribution of active personal labor and active personal management to the farming operation by the 2 individuals who are stockholders. However, because the remaining stockholder, LLC E, failed to make a contribution of active personal labor and/or active personal management to the farming operation that met the requirement of subparagraph 147 B, Corporation D will be subject to a reduction in program payments receive commensurate with the ownership interest held by LLC E.

If the interest holders of LLC E were making contributions of active personal labor and/or active personal management to the farming operation on behalf of LLC E that met the requirement of subparagraph 147 B, a payment reduction would **not** apply for Corporation D.**--***

## 148.5 Member Contribution Share

### A Determining Member Contribution Share

A member contribution share for a member of a legal entity is necessary only when **both** of the following apply:

- part of the land in the farming operation is owned by the legal entity
- ***--**member fails to make contributions according to subparagraph 147 B.**--***

### B Calculating Member Contribution Share

Calculate the member contribution share as follows:

- total acres of cropland owned by the legal entity, **divided by**
- total acres of cropland operated/included in the legal entity's farming operation.

**Example:** Big Farms LLC has 2 interest holders, Jed and Jared. Neither make any ***--**contributions to the farming operation according to subparagraph 147 B.**--***

Big Farms LLC operates a total of 500 acres. Of that total, 100 acres are owned by Big Farms LLC.

100 acres owned divided by 500 acres total in the farming operation equals a member contribution share of .2000 for Jed and Jared.

### C Calculating Member Contribution Share When a Cropland Factor Is Applicable to the Payment Entity

Calculate the member contribution share when a cropland factor is involved as follows:

- total cropland owned by the legal entity, **divided by**

- total acres of cropland operated **less** the acres of cropland responsible for the cropland factor applied to the payment entity.

**148.5 Member Contribution Share (Continued)**

**C Calculating Member Contribution Share When a Cropland Factor Is Applicable to the Payment Entity (Continued)**

**Example:** Hawkeye Ag LLC has 2 interest holders, John and Jake, with equal shares. Hawkeye Ag LLC operates a total of 1,500 acres of land comprised of 500 acres owned, 500 acres share-rented, and 500 acres cash-rented.

John meets member contribution provisions. Jake does **not** meet member
***--**contribution provisions according to subparagraph 147 B and is only eligible for share of payments on the owned land.

Hawkeye Ag LLC earned $30,000, but failed to meet the cash-rent tenant provisions according to subparagraph 147 B.**--***

Both a cropland factor for Hawkeye Ag LLC and a member contribution share for Jake must be calculated and applied.

Calculate the cropland factor according to subparagraph 64 D as follows:

- total cropland acres owned plus acres not cash-rented, divided by
- total cropland acres in the farming operation.

500 acres owned plus 500 acres share-rented divided by 1,500 acres in the farming operation of Hawkeye Ag LLC equals a factor of .6666. This factor will be applied to the total payments earned of $30,000 for a payment reduction of $10,000 (30,000 x .6666 = 20,000; 30,000 - 20,000 = 10,000).

The failure of Hawkeye Ag LLC in meeting the cash-rent tenant provision will result in a payment reduction of $10,000 applied to the entity.

**The acres of cropland responsible for the cropland factor applied at the entity level will not be included in the calculation of the member contribution share.**

Calculate the member share contribution for Jake as follows: 500 acres owned by Hawkeye Ag divided by 1,000 acres (1,500 acres total minus 500 acres cash-rented) equals a member contribution share of .5000.

- For John, the member contribution flag will be set to “Y”.

- ***--**For Jake, the member contribution flag will be set to “P” and the member**--*** contribution factor of .5000 will be entered.

# 149 Completing CCC-902E's for Corporations, LLC's, LLP's, and LP's * * *

## A Completing CCC-902E's

For detailed instructions on completing CCC-902E's, see subparagraph 120 A.

## B 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** (03-26-09) **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: **Texas**
2. State: **OK**
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. Farming Entity's Name and Address *(Include Zip Code)*
**J & J Inc.**
**N 1020 Rd**
**Panhandle, OK 73999**

2. Tax Identification Number *(If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)*: **3333**

3. Date of Formation *(MM-DD-YYYY)*: **1-30-2008**

**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
- ☐ Sole Proprietorship/DBA
- ☒ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Indian Tribe
- ☐ 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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| John Hardesty | 8989 | 60 | President $0 | father | ☒ YES ☐ NO |
| Jimmy Hardesty | 7272 | 40 | V. president $0 | son | ☒ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $0 | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*G. I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.*

1. Initials: JH; JH
2. Date: 4/16/2009

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

A. Name of Estate or Trust

B. Name of Executor/Administrator/Grantor

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.

☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| | | | |
| | | | |

*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, and LP's * * * (Continued)

## B Example CCC-902E (Continued)

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **J & J Inc.** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status** - Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☒ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital | B. Land | C. Equipment | D. Hired Labor | E. Hired Management |
|---|---|---|---|---|
| 100 % | 100 % | 100 % | 80 % | 0 % |

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

***For additional space, use and attach CCC-902E Continuation***

# 149 Completing CCC-902E's for Corporations, LLC's, LLP's, and LP's * * * (Continued)

## B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable | | | D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)* | E. Acres Owned or Leased | F. Rental Rate $ per Acre/ % or Crop Share | G. Check here if same land interest was held last year |
|---|---|---|---|---|---|---|---|---|
| | | Owned | Leased To | Leased From | | | | |
| Farm No.: 273 Location: Texas/OK | J & J Inc. | ☐ | ☐ | ☒ | Guymon Investors Inc. | 1239.0 | cash | ☒ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |

**PART F - CAPITAL SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☒ Non-borrowed capital ☐ Private loans/credit ☒ FSA program payments from this crop year
☒ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☒ YES go to Item 3 ☐ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☒ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C 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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| 0 % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

# 149 Completing CCC-902E's for Corporations, LLC's, LLP's, and LP's * * * (Continued)

## B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **Name of Entity (as identified in Part A):** **J & J Inc.** Page 4 of 6

**PART H - CUSTOM SERVICES**

1. Will custom services 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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 % |
| | hrs |

2. **Hired labor:**

A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

List the specific managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

*(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| John Hardesty | Responsible for planting, marketing, financing, FSA business and bookkeeping |
| Jimmy Hardesty | Responsible for financing, planting, harvesting, equipment and hired labor |
| | |
| | |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
Describe any hired 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 service or activity):*

3. **Other management:**
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, and LP's * * * (Continued)

## B Example CCC-902E (Continued)

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **J & J Inc.** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☐ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| John Hardesty | President, J & J Inc. | 4/16/2009 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**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, privacy, and other 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, and LP's * * * (Continued)

## B Example CCC-902E (Continued)

CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

17. 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, paragraph 121 and Exhibit 10 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 Completing CCC-902E's

For detailed instructions on completing CCC-902E's, see subparagraph 120 A.

## B Example CCC-902E

Following is an example of CCC-902E for an estate.

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

**CCC-902E** (03-26-09) **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: **TX**
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. Farming 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)*: **8-30-2008**

**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
- ☐ Sole Proprietorship/DBA
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☐ Irrevocable Trust
- ☒ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Indian Tribe
- ☐ 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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| Martha Beckham | 6555 | 100 | Heir<br>$0 | Wife | ☒ YES ☐ NO |
| | | | $0 | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $0 | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*G. I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.*

1. Initials: **JB**
2. Date: **4/20/2009**

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

A. Name of Estate or Trust: **Rob Beckham Estate**

B. Name of Executor/Administrator/Grantor: **Joe Beckham**

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.
☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| Martha Beckham | Martha Beckham Trust No. 1 | 6549 | Johnson, TX |
| | | | |

*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.*

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# 158 Completing CCC-902E's for Estates (Continued)

## B Example CCC-902E (Continued)

*--

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **Rob Beckham Estate** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status -** Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☒ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital | B. Land | C. Equipment | D. Hired Labor | E. Hired Management |
|---|---|---|---|---|
| 0 % | 100 % | % | 0 % | 0 % |

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

***For additional space, use and attach CCC-902E Continuation***

--*

# 158 Completing CCC-902E's for Estates (Continued)

## B Example CCC-902E (Continued)

*--

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable | | | D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)* | E. Acres Owned or Leased | F. Rental Rate $ per Acre/ % or Crop Share | G. Check here if same land interest was held last year |
|---|---|---|---|---|---|---|---|---|
| | | Owned | Leased To | Leased From | | | | |
| 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 SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☐ Non-borrowed capital ☐ Private loans/credit ☐ FSA program payments from this crop year
☐ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☐ YES go to Item 3 ☐ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C 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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| 0 % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

--*

# 158 Completing CCC-902E's for Estates (Continued)

## B Example CCC-902E (Continued)

*--

**CCC-902E** (03-26-09) **Name of Entity (as identified in Part A):** **Rob Beckham Estate** Page 4 of 6

**PART H - CUSTOM SERVICES**

1. Will custom services 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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** % |
| | hrs |

2. **Hired labor:**

A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

List the specific managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

*(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
Describe any hired 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 service or activity):*

3. **Other management:**
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):*

Joe Beckham, Executor, makes all decision and manages all business affairs for the Estate.

--*

# 158 Completing CCC-902E's for Estates (Continued)

## B Example CCC-902E (Continued)

*--

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **Rob Beckham Estate** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☐ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| Joe Beckham | Executor | 4/16/2009 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**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, privacy, and other 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)

## B Example CCC-902E (Continued)

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CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

17. 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.<br><br>• Does **not** meet the criteria for an irrevocable trust. |
| Irrevocable | • May **not** be modified or terminated by the grantor.<br><br>• The grantor does **not** have any future, contingent, or remainder interest in the corpus of the trust.<br><br>• 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.<br><br>**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

  *** * ***

- 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

Program payments will be attributed **only** to the grantor of the revocable trust.

For revocable trusts with 1 or more minor children as beneficiaries, payments earned by the minor children's interest will be **not** be attributed to the parent's or court-appointed person's interest, if they are **not** grantors of the trust.

### 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 and Employee Profit-Sharing Plans

An IRA or employee profit-sharing plan 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.

*** * ***

***--**The minimum information submitted for an IRA or Profit Share Plan **must** include documentation that:

- discloses the full trust agreement, naming the trust and the trustee who will function for the trust regarding all FSA programs

- proves the land as an asset of the trust and properly deeded to the trust as evidenced by a deed or other document that FSA can review.

**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 either of the following applies:<br>• the grantor is the sole income beneficiary<br>• TIN for the trust is TIN for the co-granter and co-income beneficiary and the other grantor and income beneficiary is their spouse who is **not** requesting benefits under his/her TIN. |
| 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, paragraph 121 and Exhibit 10 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 Completing CCC-902E's for Trusts

### A Completing CCC-902E's

For detailed instructions on completing CCC-902E's, see subparagraph 120 A.--*

## *--170 Completing CCC-902E's for Trusts (Continued)

### B Example CCC-902E

Following is an example of CCC-902E for a trust.

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

| CCC-902E (03-26-09) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation | 1. County | 3. Program Year |
|---|---|---|
| FARM OPERATING PLAN FOR AN ENTITY 2009 and Subsequent Program Years | Johnson | 2009 |
| For "actively engaged in farming" and other payment eligibility/limitation determinations. | 2. State TX | |

*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. Farming Entity's Name and Address *(Include Zip Code)*
**Martha Beckham Trust No. 1**
**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)*
**6549**

3. Date of Formation *(MM-DD-YYYY)*
**1-10-2009**

**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
- ☐ Sole Proprietorship/DBA
- ☐ Corporation
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Revocable/Living Trust
- ☒ Irrevocable Trust
- ☐ Estate
- ☐ Charitable/Tax-exempt Organization
- ☐ Public School
- ☐ City, County or State-owned Entity
- ☐ Indian Tribe
- ☐ 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** ***(Use CCC-902E Continuation if additional space is needed for any information in Part C)***

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

| A. Name | B. Tax ID Number *(Last 4 digits if already on file)* | C. % Share | D. Position and Salary *(If applicable)* | E. Family Member Relationship *(if applicable)* | F. Does this member have signature authority for the legal entity? (Yes or No) |
|---|---|---|---|---|---|
| Curtis Ludlow | 3875 | 33 | trustee / $0 | grandson | ☒ YES ☐ NO |
| Christi Ludlow | 3877 | 34 | beneficiary / $0 | granddaughter | ☐ YES ☒ NO |
| Charles Ludlow Jr. | 4434 | 33 | beneficiary / $0 | grandson | ☐ YES ☒ NO |
| | | | $0 | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |
| | | | $ | | ☐ YES ☐ NO |

*G. I certify that I have signature authority for the entity identified in Part A and that all information in Part C is true and correct.* 1. Initials: CL 2. Date: 4/22/2009

2. If the entity in Part A is an Estate or Trust, or if any member/shareholder is listed above is an Estate or Trust, list the Executor, Administrator, or Grantor:

| A. Name of Estate or Trust | B. Name of Executor/Administrator/Grantor |
|---|---|
| Martha Beckham Trust No. 1 | Curtis Ludlow, Trustee |

3. Embedded Entities – If any member/shareholder of the entity identified in Part A is an entity, a **CCC-901, Member's Information**, must also be completed and submitted concurrent with this CCC-902E. Additionally, a CCC-902E must be completed and submitted for each embedded entity.
☐ Check if CCC-901 is attached. ☐ Check if CCC-902E is attached for an embedded entity.

4. Other farming interests: Complete this item for any member/shareholder identified in Part C that has an interest in other farming operations.

| A. Member's name | B. Name of Farming interest(s) | C. Tax ID Number of farming interest *(Last 4 digits if already on file)* | D. County(ies) and State(s) where farming interest(s) are located |
|---|---|---|---|
| Curtis, Christi, Charles Ludlow | Ludlow Ltd. | 3876 | Johnson, TX |
| Curtis, Christi, Charles Ludlow | Ludlow Enterprise Co. | 4433 | Johnson, TX |

*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.*

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## *--170 Completing CCC-902E's for Trusts (Continued)

### B Example CCC-902E (Continued)

**CCC-902E**(03-26-09) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 2 of 6

5. **Minor Members or Shareholders** – For any Member or Shareholder who is a minor, provide the following: ☒ N/A

| A. Minor's Name | B. Date of Birth | C Parent's or Guardian's Name | D. Parent's or Guardian's Address | E. Parent or Guardian's SSN or Tax ID Number *(Last 4 digits if already on file)* |
|---|---|---|---|---|
| | | | | |
| | | | | |

F. Separate Status of Minors:

(1) Is any minor a producer on a farm in which the parent or guardian has no interest? ☐ YES ☐ NO

(2) Does any minor maintain a separate household from the parent or guardian and personally carry out farming Activities with respect to the minor's farming operation, including maintaining separate accounting? ☐ YES ☐ NO

(3) Does any minor who is represented by a court-appointed guardian or conservator responsible for the minor a) live in a household other than the parents' household(s), and b) have a vested ownership in the farm? ☐ YES ☐ NO

(4) If any minor with an interest in this farming operation can answer "YES" to Items F(1) through F(3), list that minor's name:

6A. **Citizenship Status** - Is each Member and Shareholder of the entity or joint operation identified in Part A, and any embedded entity identified in Part C a U.S. Citizen?

☒ YES, all members/shareholders are US Citizens - Go to Part D ☐ NO, one or more members/shareholders is not a US Citizen - Complete Item 6B

6B. For each member or shareholder (direct or embedded) who is not a US Citizen, provide the following:

| (1) Name of Individual | (2) This individual has a valid Form I-551 | FOR FSA USE ONLY Form I-551 Presented to FSA | CCC Initials |
|---|---|---|---|
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |
| | ☐ YES ☐ NO | ☐ YES ☐ NO | |

**PART D - SUMMARY OF CONTRIBUTIONS TO THE FARMING OPERATION**

1. **For the farming operation of the entity identified in Part A, what percentages of the overall inputs will be contributed directly by the Entity?** Enter the following information for contributions to be made by the entity identified in Part A. *These percentages should reflect the capital provided directly by the legal entity; land and equipment owned and/or cash leased by the legal entity and used in the farming operation; labor hired by the legal entity; and management hired by the legal entity. (Provide detailed information about these contributions in Items A through E.)*

| A. Capital | B. Land | C. Equipment | D. Hired Labor | E. Hired Management |
|---|---|---|---|---|
| 0 % | 100 % | % | 0 % | 0 % |

2. **For the farming operation of the entity identified in Part A, what percentages of the following farm inputs will be contributed by the Members listed in PART C?** Enter the following information for the contributions to be made by the members. *These percentages should reflect any capital originating from members' funds rather than from the entity; land and equipment owned or obtained by the member(s) and contributed to this farming operation without compensation to the member(s); labor and management hired by the members for the entity; and labor and management performed personally by the member(s) for the benefit of the farming operation identified in Part A. (Provide information about these contributions in Items B through H).*

| 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 |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |
| | | | | | | | | ☐ | | |

***For additional space, use and attach CCC-902E Continuation***

--*

## *--170 Completing CCC-902E's for Trusts (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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. ***If land is cash leased from an individual or entity that has an interest in the crop or crop proceeds, include the rental rate in $/acre in Column F; otherwise enter "cash."***
*(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 as applicable | | | D. Name of Person or Entity Whom Land is Leased to and/or From *(Includes names of landowners and landlords)* | E. Acres Owned or Leased | F. Rental Rate $ per Acre/ % or Crop Share | G. Check here if same land interest was held last year |
|---|---|---|---|---|---|---|---|---|
| | | Owned | Leased To | Leased From | | | | |
| Farm No.: 3945 Location: Johnson/TX | Martha Beckham Trust No. 1 | ☒ | ☒ | ☐ | Charles Ludlow Jr. | 160.0 | 25% | ☒ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |
| Farm No.: Location: | | ☐ | ☐ | ☐ | | | | ☐ |

**PART F - CAPITAL SOURCES and USES**

1. Indicate the source(s) of all farming capital for the entity identified in Part A? *(Check ALL that apply.)*

☐ Non-borrowed capital ☐ Private loans/credit ☐ FSA program payments from this crop year
☐ Commercial loans/credit ☐ Other: _____

2. Will contributions of capital, farming equipment or land be acquired as a result of a loan or credit arrangement?

☐ YES go to Item 3 ☐ NO go to Part G

3. Will such loan or credit be acquired from, guaranteed by, co-signed by, or secured by an individual, joint operation or entity that has an interest in the farming operation identified in Part A *(Such interest may be as a landowner or other tenant)*?

☐ YES. Complete Items 3(A) through 3(E) ☐ NO. Go to Part G.

| A Type of Contribution | 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**: Enter the percent of ALL equipment owned by the farming operation of the entity identified in Part A that will be used on the farms identified in Part C 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 leased equipment is not used in this farm operation, enter 0%.

| A. Percent of Total Equipment Used in the Farming Operation | B. Name of Individual/Entity Equipment is Leased From | C. Type of Equipment Leased | D. Does the Individual/Entity the equipment is leased from have an interest in this farming operation? |
|---|---|---|---|
| 0 % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |
| % | | | ☐ YES ☐ NO |

3. **Lease Agreements:** If Item 2D is "YES," copies of lease agreement and documentation may be required for compliance purposes. GO TO Part H.

--*

## *--170 Completing CCC-902E's for Trusts (Continued)

### B Example CCC-902E (Continued)

**CCC-902E** (03-26-09) **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 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 through 1D.

| A. Type of Services | B. Farm Number(s) | C. Number of Acres | D. Name of Provider |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART I - LABOR NOT PROVIDED BY MEMBERS/SHAREHOLDERS IDENTIFIED IN PART C**

For the farms listed in Part E, enter the information for contributions of labor to the farming operation that will not be provided by the members or shareholders listed in Part C:

| Type | Amount |
|---|---|
| 1. **Other 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** % |
| | hrs |

2. **Hired labor:**

A. Will any of the hired labor for the farming operation identified in Part A originate from the same source as the leased equipment in Part G?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

B. Will any of the hired labor for the farming operation identified in Part A be included in the custom services shown in Part H?

☐ NO ☐ YES *If "YES", acceptable documentation to prove such relationship may be required for compliance purposes.*

**PART J - MANAGEMENT**

Enter all managerial duties and/or activities required for the farming operation indentified in Part A which will be provided personally by member(s) or shareholder(s) of the entity or joint operation; or by hired management.

1. **Active personal management:**

List the specific managerial duties/activities that will be performed personally by each member or shareholder.

***The duties/activities must be performed on a regular basis; be identifiable and documentable; and be separate and distinct from the management activities performed by any other member(s) or shareholder(s).***

*(This requirement is not applicable to the heirs of Estate or the beneficiaries of Trusts.)*

| A. Member/Shareholder | B. Duties/Activities |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

**For additional space, use and attach CCC-902E Continuation**

2. **Hired management:**
Describe any hired 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 service or activity):*

3. **Other management:**
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):*

**Curtis Ludlow, Trustee, makes all decisions and manages all business affairs of the Trust.**

--*

## *--170 Completing CCC-902E's for Trusts (Continued)

### B Example CCC-902E (Continued)

**CCC-902 E** (03-26-09) **Name of Entity (as identified in Part A):** **Martha Beckham Trust No. 1** Page 5 of 6

**PART K - REMARKS**

Check all of the following that apply:

☐ CCC-902 Continuation attached for additional information for Part E - Land

☐ CCC-902E Continuation attached for additional information for the following Parts:

- ☐ Part C – Member information
- ☐ Part D – Summary of Contributions
- ☐ Part F – Capital
- ☐ Part G – Equipment
- ☐ Part H – Custom Services

**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 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 that may affect these representations, including, but not limited to: the composition of the entity identified in Part A; the farming, ranching or forestry operation of the entity identified in Part A; financial status of the entity identified 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 shareholder.*

| 1. Signature (By) | 2. Title/Relationship of Individual Signing in the Representative Capacity | 3. Date *(MM-DD-YYYY)* |
|---|---|---|
| **Curtis Ludlow** | **Trustee** | 4/22/2009 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**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, privacy, and other statutes may be applicable to the information provided.* ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

--*

# *--170 Completing CCC-902E's for Trusts (Continued)

## B Example CCC-902E (Continued)

CCC-902 E (03-26-09) 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 ENTITY** – is the entity, including a combination of entities, conducting a farming operation at one or more locations.

14. **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.

15. **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.

16. **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.

17. 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.

***--Note:** This provision also applies to an ownership interest in a legal entity received by inheritance if the legal entity was the owner of the land enrolled in an annual or multi-year program contract or agreement at the time of the shareholder's death.**--***

## 178 Exceptions for Inheritance and Estates (Continued)

### A Inheritance (Continued)

The new owner determined eligible **cannot** exceed the amount the previous owner was entitled to receive under the applicable program contracts at the time of death. If the new owner meets **all** program and payment eligibility requirements, this provision will apply as follows:

- for DCP and ACRE, 1 program year

  **Note:** The year of contract succession is the 1 program year.

- for CRP and multi-year agreements and contracts, the term of the contract or agreement including extension periods.

### 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 including extension periods.

**Note:** Estate heirs who succeed to the estate's contract may also exceed the applicable limitation if **all** program and payment eligibility requirements are met. If the first program year has already passed, heirs **cannot** exceed the DCP and ACRE limitation for an additional year.

## 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.

## 179 Payment Attribution (Continued)

### C Attribution Levels

Payment 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 interest 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 interest in the payment entity.<br><br>**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 interest 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 ownership interest of the fourth level entity in the payment entity.**--*** |

For illustrations of direct attribution, see Exhibit 4.

### D Common Attribution

Common attribution means crediting payments made to persons or legal entities collectively to 1 limitation, for the applicable program, based on a specific or unique relationship between the persons or legal entities.

Common attribution only applies to the following relationships:

- ***--**minor child and living parent or legal guardian (paragraph 117)
- revocable trust using Social Security number of grantor where grantor is the parent of a minor child (paragraph 167)
- individual person and another individual person when substantive change is **not** met (paragraph 55)
- parent organization and secondary organization with the parent organization exercises complete control over the secondary organization (paragraph 121)
- public schools in a State that does **not** meet population exception (paragraph 119)
- LLC using Social Security number when the sole interest holder is the parent of a minor child (paragraph 117).**--***

## 180 Ownership Interest for Direct Attribution Purposes

### A Determining Ownership Interest

*--Ownership interest that a person or legal entity holds in a legal entity that receives payment subject to limitation for the program year will be determined according to the following table.

| IF the legal entity… | THEN the date for the determination of ownership interest is…. |
|---|---|
| existed on June 1 of the year for which program benefits were requested | June 1. |
| did **not** exist on June 1 of the year for which program benefits are requested | the date the legal entity was formed. |

### B Changes in Ownership Interest

COC may determine that a change in ownership interest after June 1 is considered relevant or effective for the current year if:

- change of ownership interest is because of the death on an interest holder
- the legal entity did **not** exist on June 1 of the applicable year.--*

### C 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 * * * AGI Limitations

The AGI limitations are as follows. See Exhibit 9.

| IF average adjusted gross… | THEN the person or legal entity is ineligible for… |
|---|---|
| nonfarm income exceeds $500,000 | commodity (DCP and ACRE), price support, and disaster assistance program benefits listed in subparagraph D.<br><br>**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's. However, the person or legal entity is eligible for MAL's, but the loans **must** be repaid at principal plus interest, or commodity certificates may be exchanged for loan collateral. |
| farm income exceeds $750,000 | ***--**2009 through 2012 DCP direct payments. |
| income (both farm and nonfarm) exceeds $1 million | 2012 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**<br>*minus the*<br>**Average Adjusted Gross Farm Income**<br>*equals the*<br>**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 | Greater Than $1 Million Total 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 |
|---|---|---|---|---|---|---|
| ***--**Commodity Programs (including direct, counter-cyclical, and ACRE payments)**--*** | Eligible | | | | | |
| Direct Payments | Eligible | Ineligible | Ineligible | | | |
| ELAP, LFP, LIP, NAP, SURE, and TAP | Eligible | | | | | |
| CCC-580's, MLG's, and LDP's | Eligible | | | | | |
| CRP, ECP **1**/, EQIP, and all other Conservation | | | | Eligible | Eligible | Ineligible |
| All other. | As determined by regulation for each program. | | | | | |

**1**/ If applicable, see subparagraph 11 A.

## 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
- ***--**TAAF**--***
- 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

**[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.

### B Definition of 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 taxable income.

### C 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:<br><br>• cattle, sheep, goats, swine<br>• elk, reindeer, bison, deer<br>• horses<br>• poultry<br>• fish and other aquaculture products used for food<br>• 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:<br><br>• farmland, ranchland, or forestry land<br>• water or hunting<br>• 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)

### D 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.

### E 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 Compliance Certification

### A Required AGI Compliance Certifications for Payment Eligibility

AGI compliance certifications (CCC-931 or CCC-933, as applicable, items 1 through 4 and 9 through 11) 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, regardless of the number of members
- Indians and Native Americans represented by BIA.

### B Certifying Compliance

To comply with the AGI requirement for the applicable crop, program, or FY, a person or ***--**legal entity **must** provide the following:

- CCC-931 or CCC-933 applicable to the year that program benefits are requested

  **Note:** In all cases, CCC-931 or CCC-933, as applicable, items 1 through 4 and 9 through 11, **must** be completed and **signed by the person or legal entity subject to AGI compliance** for consent to disclosure of tax information. See paragraph 200.

- documentation showing the person or legal entity is in compliance or a statement for CPA or attorney that the average AGI does **not** exceed the applicable limitation and agreement with all requirements of information disclosure.**--***

## *--189 Average AGI Compliance Certification (Continued)

### C Statements From CPA or Attorney

Statements certifying AGI compliance on behalf of a person or legal entity will only be accepted from licensed CPA's or attorneys and **must** include the following:

- CPA's or attorney's license number
- explanation for the reasons for the statement (see subparagraph D)
- acknowledgement of having reviewed and agrees to:
  - average AGI limitations, definitions, programs involved, and compliance requirements in 7 CFR Part 1400 regulations
  - CPA or attorney has made inquiries and understands the tax years used to calculate the average AGI for applicable years
  - the representations made in the statement may be relied on by the Government to allow program benefits to be retained or received and that a false certification can result in sanctions including criminal sanctions for persons associated with the false representations
  - additional information may be requested by USDA, a review may by conducted by USDA, and further inquiry may be made to IRS to assure that all information filed with USDA by all parties is true, correct, and completed
- relevant information on the most recently filed tax returns for the period in question
- if applicable, a detailed explanation of how the applicable average AGI limitations were not exceeded even though the information on the tax returns indicates otherwise.

**Note:** Statement from an enrolled agent will **not** be accepted.**--***

## *--189 Average AGI Compliance Certification (Continued)

### D Example of CPA or Attorney Statement for AGI Compliance

The following is an example of CPA or attorney statement for AGI compliance certification and verification purposes.

[*insert name*]
[*insert street and/or mailing address*]
[*insert city, State ZIP Code*]

[*insert date*]

[*insert State Office name*]
[*insert street and/or mailing address*]
[*insert city, State ZIP Code*]

I, [*insert name*], am [*insert "a certified public accountant (CPA)" or "an attorney" as appropriate*] practicing in [*insert city, State*]. My license identification number is [*insert license number*] in [*State*].

I have been asked by [*insert name of producer*] to certify that [*insert name of producer*] is in compliance with the average adjusted gross income (AGI) limitations for the following [*insert the applicable program year(s) and limitations*], pursuant to section 1604 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. 1308-3a.

I understand that an inquiry by USDA with the Internal Revenue Service (IRS) has indicated that income tax returns filed with the IRS by [*insert name of producer*] reported income that may exceed the applicable AGI limits. For purposes of this letter and my representations below, my "certification" is limited only to my knowledge of [*insert name of producer*] federal income tax returns based upon either my preparation of such returns or my readings of those returns that I did not prepare. The preparation or review of these returns was based upon the information provided by [*insert name of producer*]. [*insert name of producer*] has represented to me that the information supplied to me is, to the best of [*his/her*] knowledge, true, correct, and complete. In accordance with Treasury Department Circular No. 230, section 10.34 (d), I relied in good faith without verification upon the information provided by [*insert name of producer*]; however, I did not ignore the implications of information furnished to, or actually known by me, and I made reasonable inquiries if the information as furnished appeared to be incorrect, inconsistent with an important fact or another factual assumption, or was incomplete. This "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in [*insert name of producer*] federal income tax returns or imply that I have performed procedures beyond those required under Circular No. 230. In addition, this "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in [*insert name of producer*] federal income tax returns that I did not prepare.

I acknowledge that I have read, understand, and agree to, the terms and conditions of the enclosure (AGI enclosure 1) received by [*insert name of producer*] with the following conditions.

- I am relying on the information made known to me as noted above. I take no responsibility for information outside of the tax return preparation process, unless I relied upon outside information as noted in the end of this prepared statement or attachment for the purposes of explanation that [*insert name of producer*] complies with the applicable average AGI limitations.

- I have not been engaged to continually monitor the tax law for this client or to continually monitor factors related to the client's AGI or other tax calculations for the relevant years. Therefore, I am not in a position to notify the government of changes to facts or circumstances (whether or not material) that would make this certification no longer accurate.

- Under Internal Revenue Code Section 7216 and other confidentiality standards, I may only provide client information upon specific written authorization from the client to release such information, including tax return information, to a third party.

The following are correct statements:

- Based on a representation provided by [*insert name of producer*], or the confirmations of [*his/her*] e-filed federal income tax returns [*insert the applicable tax return form number*], the [*2005, 2006, and 2007 (if for 2009) or 2006, 2007, and 2008 (if for 2010)*] federal income tax returns were timely filed.

- I am not aware of subsequently filed federal income tax returns, whether superseding or amended, other than those identified above related to the tax years identified above.

--*

## *--189 Average AGI Compliance Certification (Continued)

### D Example of CPA or Attorney Statement for AGI Compliance (Continued)

- I am not aware of any adjustments made by the Internal Revenue Service or any state taxing authority to the federal income tax returns identified above.

- I understand that, consistent with the definitions in 7 CFR Part 1400, "farm income" means income or benefits derived from or related to sources and activities listed at 7 CFR § 1400.501, and "nonfarm income" is the total adjusted gross income minus the total farm income."

- According to the most recent returns filed for the years identified above, [*insert name of producer*]:

  - reported average AGI was $_____ based on the following amounts from line 37:
    [*List the amount entered on line 37 for each tax year.*] (*Example is for the 2011 program year.*)

    Total Adjusted Gross Income reported on Line 37 in 2007 _____
    Total Adjusted Gross Income reported on Line 37 in 2008 _____
    Total Adjusted Gross Income reported on Line 37 in 2009 _____

  - reported farm average AGI was $ _____ based on the following amounts:
    *[List each tax year and farm AGI amounts for each year.]*

    **Note:** Farm income does not include wages earned from farming, dividends, oil & gas lease, oil & gas royalties or land damages. Report the **net farm income** and not the gross farm income.

    **Example:** Report the net amount shown on line 36 and not the gross amount shown on Schedule F, line 11.

    Farm Income reported in 2007 _____
    Farm Income reported in 2008 _____
    Farm Income reported in 2009 _____

  - reported farm average AGI includes amounts identified on the following line(s) and Schedule(s): *[List lines and Schedules where farm income was reported for each tax year.]*

    Lines and Schedules used to report Farm income in 2007 _____
    Lines and Schedules used to report Farm income in 2008 _____
    Lines and Schedules used to report Farm income in 2009 _____

  - reported nonfarm average AGI was $ _____ based on the following amounts:
    *[List each tax year and nonfarm AGI amounts for each year.]*

    Reported Nonfarm income in 2007 _____
    Reported Nonfarm income in 2008 _____
    Reported Nonfarm income in 2009 _____

[*Include the following, if applicable.*]

Although the calculated [*insert "average nonfarm AGI" or "average farm AGI", as applicable*] indicated in this letter exceeds the applicable AGI limitation, I believe that [*insert name of producer*] complies with the average AGI limitation requirements for the reasons that are set forth in detail in the space below or the attached document. [*insert name of producer*] has represented to me that the attached information is, to the best of [*his/her*] knowledge, true, correct, and complete. I am not aware of any discrepancies and do not have any reason to believe otherwise.

I declare that the statements made herein, to the best of my knowledge and belief, are true, correct, and complete.

Signed
[*insert name of CPA or attorney, as applicable*], [*insert title, "CPA" or "Attorney", as applicable*]

Dated: [*insert date*]

--*

## *--189 Average AGI Compliance Certification (Continued)

### E Option Available for Spouses for Joint Tax Return Filers

In addition to the Average AGI Compliance Certification requirements in subparagraph A, a person who filed joint tax returns may provide a certification statement from by a CPA or an attorney that includes **both** of the following:

- specifies the manner in which income would have been declared and reported had the persons filed 2 separate tax returns
- the total allocations of income are consistent with the information that supports the filed joint tax returns.

### F Example of CPA or Attorney Statement for AGI Compliance for Joint Tax Filers

The following is an example of CPA or attorney statement for AGI compliance certification and verification purposes with the allocation of income between the filers of a joint tax return.

**[*insert name*]**
[*insert street and/or mailing address*.]
[*insert City, State ZIP Code*]

[*insert date*]

[*insert State Office Name*]
[*insert street and/or mailing address*]
[*insert city, State ZIP Code*]

I, *[insert name]*, am *[insert "a certified public accountant (CPA)" or "an attorney" as appropriate]* practicing in *[insert city, State]*. My license identification number is *[insert license number]* in *[State]*.

I have been asked by *[insert name of producer]* to certify that *[insert name of producer]* is in compliance with the average adjusted gross income (AGI) limitations for the following *[insert the applicable program year(s) and limitations]*, pursuant to Section 1604 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. 1308-3a.

I understand that an inquiry by USDA with the Internal Revenue Service (IRS) has indicated that income tax returns filed with the IRS by *[insert name of producer]* reported income that may exceed the applicable AGI limits. For purposes of this letter and my representations below, my "certification" is limited only to my knowledge of *[insert name of producer]* federal income tax returns based upon either my preparation of such returns or my readings of those returns that I did not prepare. The preparation or review of these returns was based upon the information provided by *[insert name of producer]*. *[Insert name of producer]* has represented to me that the information supplied to me is, to the best of *[his/her]* knowledge, true, correct, and complete. In accordance with Treasury Department Circular No. 230, Section 10.34 (d), I relied in good faith without verification upon the information provided by [*insert name of producer*]; however, I did not ignore the implications of information furnished to, or actually known by me, and I made reasonable inquiries if the information as furnished appeared to be incorrect, inconsistent with an important fact or another factual assumption, or was incomplete. This "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in *[insert name of producer]* federal income tax returns or imply that I have performed procedures beyond those required under Circular No. 230. In addition, this "certification" does not include any representations or assurances as to the accuracy or completeness of the information contained in *[insert name of producer]* federal income tax returns that I did not prepare.

I acknowledge that I have read, understand, and agree to, the terms and conditions of the enclosure (AGI enclosure 1) received by *[insert name of producer]* with the following conditions:

- I am relying on the information made known to me as noted above. I take no responsibility for information outside of the tax return preparation process, unless I relied upon outside information as noted in the end of this prepared statement or attachment for the purposes of explanation that *[insert name of producer]* complies with the applicable average AGI limitations.
- I have not been engaged to continually monitor the tax law for this client or to continually monitor factors related to the client's AGI or other tax calculations for the relevant years. Therefore, I am not in a position to notify the government of changes to facts or circumstances (whether or not material) that would make this certification no longer accurate.
- Under Internal Revenue Code Section 7216 and other confidentiality standards, I may only provide client information upon specific written authorization from the client to release such information, including tax return information, to a third party.

--*

## *--189 Average AGI Compliance Certification (Continued)

### F Example of CPA or Attorney Statement for AGI Compliance for Joint Tax Filers (Continued)

The following are correct statements:

- Based on a representation provided by *Mr and Mrs. Farmer [insert name of producer],* or the confirmations of *[their]* e-filed federal income tax returns *[insert the applicable tax return form number]*, the [*2007, 2008, and 2009 (if for 2011) or 2008, 2009 and 2010 (if for 2012)*] federal income tax returns which are used to compute Adjusted Gross Income eligibility for Program Year [*insert the program year*] were timely filed.

- I am not aware of subsequently filed federal income tax returns, whether superseding or amended, other than those identified above related to the tax years identified above.

- I am not aware of any adjustments made by the Internal Revenue Service or any state taxing authority to the federal income tax returns identified above.

- I understand that, consistent with the definitions in 7 CFR Part 1400, "farm income" means income or benefits derived from or related to sources and activities listed at 7 CFR § 1400.501, and "nonfarm income" is the total adjusted gross income minus the total farm income".

  **Note:** Farm income does not include wages earned from farming, dividends, oil & gas lease, oil & gas royalties or land damages.

- According to the most recent **joint** returns filed for the years identified above*, Mr and Mrs. Farmer's [insert names of producers]:*

  - reported average AGI was $_____based on the following amounts from line 37:
    *[List the amount entered on line 37 for each tax year.]* ***(Example is for the 2011 program year)***

    Total Adjusted Gross Income reported on Line 37 in 2007 _____
    Total Adjusted Gross Income reported on Line 37 in 2008 _____
    Total Adjusted Gross Income reported on Line 37 in 2009 _____

  - reported farm average AGI was $ based on the following amounts:
    *[List each tax year and farm AGI amounts for each year.]*

    **Note:** Farm income does not include wages earned from farming, dividends, oil & gas lease, oil & gas royalties or land damages. Report the **net farm income** and not the gross farm income.

    **Example:** Report the net amount shown on line 36 and not the gross amount shown on line 11 of the Schedule F.

    Farm Income reported in 2007 _____
    Farm Income reported in 2008 _____
    Farm Income reported in 2009 _____

  - reported farm average AGI includes amounts identified on the following line(s) and Schedule(s):
    *[List lines and Schedules where farm income was reported for each tax year.]*

    Lines and Schedules used to report Farm income in 2007 _____
    Lines and Schedules used to report Farm income in 2008 _____
    Lines and Schedules used to report Farm income in 2009 _____

  - reported nonfarm average AGI was $ _____based on the following amounts:
    *[List each tax year and nonfarm AGI amounts for each year.]*

    Reported Nonfarm income for 2007 _____
    Reported Nonfarm income for 2008 _____
    Reported Nonfarm income for 2009 _____

--*

## *--189 Average AGI Compliance Certification (Continued)

### F Example of CPA or Attorney Statement for AGI Compliance for Joint Tax Filers (Continued)

- Although the calculated *[insert "average nonfarm AGI" or "average farm AGI", as applicable]* indicated in this letter exceeds the applicable AGI limitation, I believe that Jane Farmer *[insert name of producer]* complies with the average AGI limitation requirements for the reasons that are set forth in detail in the space below **and** the attached document. Jane Farmer *[insert name of producer]* has represented to me that the attached information is, to the best of *[his/her]* knowledge, true, correct, and complete. I am not aware of any discrepancies and do not have any reason to believe otherwise.

[*Include the following, if applicable*]

According to the most recent returns filed for the years identified above, *Jane Farmer's*:

- Reported average AGI would have been $_____ based on the following amounts had he/she and spouse filed separate tax returns for each of the applicable years:
  *[List the dollar amount of individual's share of total AGI from line 37 of tax return.]*
  **Note:** Salaries are **not** considered separate income in community property states.

  Individual's Share of AGI reported on Line 37 in 2007 _____
  Individual's Share of AGI reported on Line 37 in 2008 _____
  Individual's Share of AGI reported on Line 37 in 2009 _____

- reported farm average AGI would have been $ _____based on the following amounts had *[he/she and spouse]* filed separate tax returns for each of the applicable years:
  *[List each tax year and farm AGI amounts for each year.]*
  **Note:** Farm income does not include wages earned from farming, dividends, oil & gas lease, oil & gas royalties or land damages.

  Farm Income reported in 2007 _____
  Farm Income reported in 2008 _____
  Farm Income reported in 2009 _____

- reported farm average AGI includes amounts represented on the following line(s) and Schedule(s):
  *[List lines and Schedules where farm income was reported for each tax year.]*

  Lines and Schedules used to report Farm income in 2007 _____
  Lines and Schedules used to report Farm income in 2008 _____
  Lines and Schedules used to report Farm income in 2009 _____

- reported nonfarm average AGI was $ _____ based on the following amounts had he/she and spouse filed separate tax returns for each of the applicable years:
  *[List each tax year and nonfarm AGI amounts for each year.]*

  Reported Nonfarm income for 2007 _____
  Reported Nonfarm income for 2008 _____
  Reported Nonfarm income for 2009 _____

I declare that the statements made herein, to the best of my knowledge and belief, are true, correct, and complete.

*(Insert additional comments if needed.)*

Signed

*[insert name of CPA or attorney, as applicable], [insert title, "CPA" or "Attorney", as applicable]*

Dated: *[insert date]*

**Enclosure:** (**Attach documents or a spread sheet showing the method of how and why the income was divided between the individuals filing the joint return.**)

--*

***--189 Average AGI Compliance Certification (Continued)--***

**G Verifying AGI Certifications**

COC or reviewing authority may do the following:

- question all or part of an AGI certification provided by an individual or entity
- request documentation, such as tax records, from the individual or entity
- use requested information to verify certifications made by the individual or entity for AGI certification purposes.

COC or reviewing authority shall record the following in COC or STC minutes:

- individuals and entities reviewed
- findings and results of reviews
- determinations of compliance or noncompliance with each AGI limitation.

COC or reviewing authority shall provide the following:

- written notice to the individuals and entities of results
- appeal rights according to 1-APP, if any determination is considered adverse.

**H Deadline for AGI Certifications and Consents to Disclose**

AGI certification and consent to disclose **must** be submitted:

- according to the deadlines established by the applicable programs
- **before** issuing any program benefit subject to AGI provisions.

**I Multi-County Producers**

Individuals or legal entities with multi-county farming interests will submit the required AGI certifications and consents to disclosure only in the recording county.

The recording county will do the following:

- make any AGI compliance determinations, if necessary
- set values in the eligibility files reflective of the certification or determination
- 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.

### 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

  **Note:** For a successor to an approved CRP-1, the 3-year period is based on the approval date of succession, **not** on the original approval date of CRP-1. See ***--**subparagraph G. The approval date of succession is the effective date of change in interest in the CRP land according to 2-CRP.**--***

- be made once and apply for the entire term of the contract or agreement.

## 190 Rules for Special Cases (Continued)

### 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.

**Note:** See Exhibit 10 for the applicable payment eligibility/limitation rules and forms required for CRP.

### E Which AGI Rule Applies to CRP Contracts

This table provides guidance on which:

- payment limitation and rules apply to CRP contracts
- AGI certification form should have been filed or must be filed at the time of contract approval.

**Note:** Follow subparagraph 189 C to determine which business types are required to file AGI certifications.

| **Original Contact Approved ➔** | **Before May 13, 2002** | | | | **On or After May 13, 2002, and Before October 1, 2008** | **On or After October 1, 2008** |
|---|---|---|---|---|---|---|
| Rex Extended | No | | Yes | | | |
| Contract Extended in 2009 | No | Yes | No | Yes | | |
| AGI Rule | Not Subject to AGI Provisions | 4-PL | 1-PL | 4-PL | 1-PL | 4-PL |
| Required Form | | *** * *** CCC-931 | CCC-526 or CCC-526C | *** * *** CCC-931 | CCC-526 or CCC-526C | *** * *** CCC-931 |

***--Notes:** For CRP continuous contracts approved between May 13, 2002, and September 30, 2002, that were effective for program year 2002, AGI provisions are **not** applicable. See 2-CRP, subparagraph 131 A for additional information. CCC-926 may have been used and was acceptable before CCC-931 was made available.**--***

## 190 Rules for Special Cases (Continued)

### *--F AGI Requirements for Producers Associated With Original Contracts

Follow this table to determine the requirements for filing an AGI certification form for producers.

**Note:** See the table in subparagraph E to determine which AGI certification form should be filed.

If the producer is an entity or joint operation, all members with an ownership share are required to file the applicable AGI certification if the entity/joint operation is required to file the certification.

| IF the producer's share is… | AND the producer is… | THEN the AGI certification is… |
|---|---|---|
| 0 percent | | not required. |
| greater than 0 percent | • an individual<br>• entity without members | required for the producer. |
| | • joint operation<br>• entity with members | required for:<br>• the producer, except for a joint operation<br>• each member with an ownership share greater than 0 percent. |

--*

## 190 Rules for Special Cases (Continued)

### *--G Contract Revisions

This table provides guidance for the requirements for filing an AGI certification form for producers and members of entities and joint operations when a contract is revised for either of the following reasons:

- new producer is added to the CRP contract
- new members are added to an entity or joint operation that has an interest in the CRP contract.

**Note:** See the table in subparagraph E to determine which AGI certification form should be filed.

| If the contract is revised because… | AND the new producer has… | AND the producer is… | THEN an AGI certification is… |
|---|---|---|---|
| a new producer was added to the contact | 0 percent share | | not required. |
| | a share greater than 0 percent | • an individual<br>• entity without members | required for the year the change became effective for the producer.<br><br>**Example:** Producer A has CRP contract #2117 with an effective date of October 1, 2010. Producer A sells the land to Producer B on September 20, 2011. Producer B informs the County Office on January 10, 2012, that he purchased the land under CRP contract #2117. Producer B must file AGI forms for 2011 (the year the change became effective). |
| | | • joint operation<br>• entity with members | required as follows for the year the producer is added to the contract:<br><br>• the producer, except for a joint operation<br><br>• each member with an ownership share greater than 0 percent.<br><br>See exception in subparagraph H. |

--*

## 190 Rules for Special Cases (Continued)

### G Contract Revisions (Continued)

| If the contract is revised because… | AND the new producer has… | AND the producer is… | THEN an AGI certification is… |
|---|---|---|---|
| an existing producer's share was increased from 0 percent | | • an individual<br>• entity without members | required for year the producer was originally added to the contract with a 0 percent share. |
| | | • joint operation<br>• entity with members | required as follows for the year the producer was originally added to the contract with a 0 percent share:<br>• the producer, except for a joint operation<br>• each member with an ownership share greater than 0 percent. |
| a new member is added to a joint operation or an entity with members | | | required for year the member was added to the operation with an ownership share greater than 0 percent.<br>See exception in subparagraph H. |

### H Exception to Year AGI Certification Must Be Filed

If a producer or member of an entity or joint operation was previously associated with the CRP contract, then the original AGI certification continues to apply for that producer or member if their role changes.

**Example:** John Farmer has 100 percent interest in a CRP contract approved in 2010.

Farmers LLC replaces John Farmer as a producer on the CRP contract in 2012. John Farmer is a member of Farmers LLC and has a 100 percent ownership interest in Farmers LLC.

Because John Farmer was already associated with the contract, the 2010 AGI certification continues to be applicable for John. However, an AGI certification **must** be filed for 2012 for Farmers LLC.

## 190 Rules for Special Cases

### *--I Examples of Applicable AGI Years for Succession to DCP and CRP Contracts

In cases where there are questions on DCP/ACRE or CRP contract provisions, contact the appropriate program division. For AGI questions, contact PECD. In all cases, review 1-DCP or 2-CRP, as applicable. The following are examples of applicable AGI years for succession to DCP/ACRE and CRP contracts:

- **DCP/ACRE Rule**. Use the same rule for both original contract holder and successor to determine which AGI years to use. Start with the program year, skip the previous year, and use the 3 years before that, as follows.

  The **2011 program year**, signup occurred October 1, 2010, through June 1, 2011. The contract year is the 2011 program year or FY, October 1, 2010, through September 30, 2011.

  - Original contract holder signed the contract in December 2010.
    2007, 2008, and 2009 are used for **2011** AGI.

  - Successor purchased the land August 1, 2011, and notified the County Office September 1, 2011. County Office approved succession on October 1, 2011. Effective date of succession is August 1, 2011.
    2007, 2008, and 2009 are used for **2011** AGI.

- **CRP Rule for Original Contract Holders**. For effective date of contract, see 2-CRP. Skip the previous year of the initial contract year and use the 3 years before the initial year of the contract, as follows.

  - Original contract holder's contract was approved by COC on June 1, 2011. Contract is effective October 1, **2011**. First payment is October 2012.
    2007, 2008, 2009 are used for **2011** AGI.

  - Original contract holder's contract was approved by COC on June 1, 2011. Contract is effective October 1, **2012**. First payment is October 2013.
    2007, 2008, 2009 are used for **2011** AGI.

- **CRP Rule for Successors.** Start with the date that caused the succession (date the land was purchased; date of inheritance), skip the previous year and use the 3 years before that.

  - Successor purchased land June 1, 2012. County Office is notified August 1, 2012. COC approved successor on October 1, 2012. Effective date of succession is determined according to 2-CRP as June 1, 2012.
    2008, 2009, and 2010 are used for **2012** AGI.

  - Successor inherited land June 1, 2012. County Office is notified January 12, 2013. COC approved successor on January 19, 2013. Effective date of succession is determined according to 2-CRP as June 1, 2012.
    2008, 2009, and 2010 are used for **2012** AGI.**--***

## 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.<br><br>**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

This table 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 | *--either of the following:<br>• line 30 (total taxable income) **plus** line 19 (charitable contributions)<br>• **for S corporations, use only** IRS-1120S, line 21 (ordinary business income).--* |
| estates or trusts | 1041 | line 22 (taxable income) **plus** line 13 (charitable *--deductions) for years 2000 through 2011. |
| 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 2011. |
| persons | 1040 | • line 37 (AGI) for **2005 through 2011**<br>• line 36 (AGI) for **2004**<br>• line 34 (AGI) for **2003**<br>• line 35 (AGI) for **2002**<br>• line 33 (AGI) for **2001**<br>• 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 noncommercial activity for years 2000 through 2011.--* |

**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.

### C Applicable Years for Determining Average AGI

Use this table for applicable years to be used for determining average AGI.

| IF crop year is… | THEN Average AGI will be based on the following years… |
|---|---|
| 2009 | 2005, 2006, and 2007. |
| 2010 | 2006, 2007, and 2008. |
| 2011 | 2007, 2008, and 2009. |
| 2012 | 2008, 2009, and 2010. |
| *--2013 | 2009, 2010, and 2011.--* |

## 191 Determining AGI and Average AGI (Continued)

### D 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<br><br>• 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.<br><br>**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. |

### E 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<br><br>• 1120S; compare the 3-year average of line 5 (other income) 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.

### F AGI Compliance Worksheet

***--**For AGI compliance determinations, use worksheet in paragraph 203.8.**--***

## 191 Determining AGI and Average AGI (Continued)

### G 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.

*--

| Programs and Average AGI Limitations | | | |
|---|---|---|---|
| **Program Payments and Benefits** | **Average AGI Amount** | **Income** | **Average AGI** |
| Commodity (DCP and ACRE), Price Support, and Disaster Assistance | $500,000 | Nonfarm | Adjusted gross nonfarm income. |
| DCP and ACRE Direct Payments | $750,000 | Farm | Adjusted gross farm income (must also meet both the $500,000 nonfarm AGI and the $1 million AGI limitations). |
| DCP and ACRE Direct Payments | $1 million | Total farm and nonfarm | Adjusted gross income (must also meet both the $500,000 nonfarm and the $750,000 farm AGI limitations). |
| Conservation | $1 million | Nonfarm | Adjusted gross nonfarm income, **unless** 66.66 percent or more of the average AGI is average adjusted gross farm income.<br><br>**Note:** May be waived on a case-by-case basis if environmentally sensitive land of special significance would be protected. |

--*

## 192 Average AGI Limitations and Payment Eligibility (Continued)

### B AGI Examples

*--The following table shows how the application of the average AGI limitations affects the payment eligibility of a person or legal entity under different programs.

| Application of the Average AGI Limitations | | | | | |
|---|---|---|---|---|---|
| | | | Program Benefits | | |
| Example | Average AGI | | Commodity, Price Support, and Disaster Assistance | DCP/ACRE Direct Payment | Conservation |
| 1 | Farm | $750,000 | Eligible | Not Eligible | Eligible |
| | Nonfarm | $500,000 | | | |
| | Total AGI | $1.2 million | | | |
| 2 | Farm | $750,000 | Eligible | Eligible | Eligible |
| | Nonfarm | $250,000 | | | |
| | Total AGI | $1 million | | | |
| 3 | Farm | $700,000 | Not Eligible | Not Eligible | Eligible |
| | Nonfarm | $600,000 | | | |
| | Total AGI | $1.3 million | | | |
| 4 | Farm | $800,000 | Not Eligible | Not Eligible | Not Eligible |
| | Nonfarm | $1.2 million | | | |
| | Total AGI | $2 million | | | |
| 5 | Farm | $1 million | Eligible | Not Eligible | Eligible |
| | Nonfarm | $0 | | | |
| | Total AGI | $1 million | | | |

--*

## 193 Average AGI Compliance Reviews

### A Selecting Cases

Reviews for compliance with average AGI provisions may be:

- initiated by a COC or STC representative
- selected on a nationwide basis by DAFP.

### B Verifying Compliance

Information necessary to verify compliance with the average AGI provisions includes, but is not limited to, the following:

- balance sheets
- financial statements
- information prepared for a private lender
- Federal and State income tax returns
- reports prepared for other Government agencies
- other credible information of income for the qualification period
- statement prepared by a certified public accountant or an attorney on behalf of the individual or legal entity that verifies compliance of the individual or legal entity with average AGI provisions for the applicable qualification period.

**Note:** Federal and State income tax information may be requested by the reviewing authority if that is the only means to establish compliance with the average AGI provisions.

The reviewing authority must safeguard the confidentiality of the information provided.

***--Note:** Ensure that information provided by program participants to verify compliance with average AGI provisions is **not** released to others or in response to requests under FOIA.**--***

## *--193 Average AGI Compliance Reviews (Continued)

### C Notification

Program participants selected for review shall be notified in writing of the following:

- nature and reason for the review
- suggested sources and types of information most descriptive and illustrative
- established deadline to provide the information to the reviewing authority
- identity of the reviewing authority
- mailing address of the reviewing authority
- consequences of the failure to timely provide the requesting information.

### D Failure to Provide Information

Failure to timely provide correct and accurate information to establish compliance with the average AGI provisions will result in any or all of the following:

- ineligibility for all program payments and benefits subject to the average AGI requirements for the applicable years

- required refund of these program payments and program benefits

- possible prosecution under civil or criminal statutes.

### E Written Notice of Ineligibility

If requested information is **not** timely provided to the reviewing authority:

- notify the program participant of their ineligibility for payments and benefits from the applicable programs

  **Note:** See example notification letters in paragraph 204.

- 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 that are subject to average AGI limitation requirements
- has program coordination and delivery responsibilities.

FSA has the responsibility for 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 NRCS read access to the subsidiary eligibility data through Web service.

### B AGI Certification Statements Not on File

If an AGI certification statements is **not** on file for a participant in an NRCS-administered program:

- NRCS will request the 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.

### *--C FSA and NRCS Administrative Responsibilities

See Exhibit 14 for the Memorandum of Agreement between NRCS, FSA, and CCC for implementing common provisions, including payment eligibility and payment limitation provisions, through September 30, 2012.--*

## 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**:

•***--**be submitted to DAFP**--***

- 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.

**Note:** See the Adjusted Gross Income (AGI) Limitation Waiver Request Worksheet for Conservation Reserve Program in 2-CRP, Exhibit 16.

## 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 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

- *****--compensation for providing inputs and services to farmers, ranchers, foresters, and--***** farm operations.

### B 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 (Withdrawn--Amend. 12)

## 199 Verifying Average AGI Certifications

### A Required Verification of Average AGI

*--The review and verification of average AGI compliance certifications submitted by persons or legal entities is required to:--*

- ensure the accuracy of payments
- maintain the integrity of programs subject to average AGI limitations
- prevent issuing program payments to persons and legal entities that are not in compliance with the average AGI limitations.

### B Data Exchanged Between FSA and IRS

FSA and IRS have finalized a data-sharing process for average AGI compliance and verification. IRS will report the results of this process to FSA on a regular basis. FSA will use this information to determine the following:

- whether a program participant complies with the average AGI limitations
- if further review is required.

### C Schedules for Average AGI Compliance Activities

See:

- Exhibit 11 for the schedule for average AGI compliance actions for 2009 and 2010 crop, program, and FY
- Exhibit 12 for the schedule for average AGI compliance actions for 2011 and 2012 crop, program, and FY.

### D State and County Office Duties and Responsibilities

State and County Office duties and responsibilities include the following:

- publicize average AGI limitation provisions
- *--provide persons or legal entities copies of CCC-929, CCC-931, and CCC-933
- make available the fact sheets on the average AGI provisions and the AGI verification process
- emphasize the importance that all program participant persons or legal entities timely complete and submit CCC-931 and CCC-933.--*

## 200 Disclosing Information

### A Written Consent for IRS to Disclose Information

***--**The average AGI verification process begins with persons or legal entities providing written consent to IRS to:

- use tax information on file
- disclose certain tax-related information to CCC/FSA for AGI compliance verification purposes.

### B Consent From an Individual

CCC-931 or CCC-933 is to be used by an individual with a Social Security number that is either of the following:

- a program participant in 2009 and subsequent years
- a member of a legal entity that is a program participant.

### C Consent From a Legal Entity

CCC-931 or CCC-933 is to be used by a legal entity with EIN that is either of the following:

- a program participant in 2009 and subsequent years
- a member of another legal entity that is a program participant.

**Note: CCC-931 or CCC-933 must be submitted under the same name and TIN as used for tax filing purposes.**

**Example:** A revocable trust identified by the grantor's Social Security number must submit CCC-931 or CCC-933 for an individual with the grantor's name. The name of the revocable trust shall **not** be included on CCC-931 or CCC-933. The County Office shall update the AGI compliance values in the revocable trust's Producer Eligibility file according to the grantor's certifications on CCC-931 or CCC-933.**--***

## 200 Disclosing Information (Continued)

### D Time Period of Consent for Disclosure

***--**Selection of the 2009 and subsequent program year applies to persons or legal entities:

- in programs subject to 2009, 2010, 2011, 2012, or 2013 average AGI compliance
- who filed CCC-931 or CCC-933 an acceptable statement from CPA or attorney for 2009 and subsequent year average AGI compliance and information disclosure.

**Note:** Persons or legal entities are to select only the year for which program payments are requested.

### E Validity of Written Consent

Consent for the disclosure of tax information is valid only if received by IRS within 120 calendar days of the signature date affixed on CCC-931 or CCC-933.

### F Privacy and Confidentiality Safeguards

Follow the actions described in the following table to safeguard the privacy and confidentiality of the information provided by the program participants.

| IF the person or legal entity is required to… | THEN FSA personnel are required to… |
|---|---|
| complete CCC-931 or CCC-933, as:<br>• an individual<br>• a legal entity<br>• a member of a legal entity or joint operation | • accept all CCC-931's and CCC-933's for program participants<br>• review CCC-931's and CCC-933's for:--*<br>  • complete name<br>  • correct address<br>  • TIN<br>  • year selection<br>  • signature and related authorities<br>  • signature date. |

## 200 Disclosing Information (Continued)

### F Privacy and Confidentiality Safeguards (Continued)

*--

| IF the person or legal entity is required to… | THEN FSA personnel are required to… |
|---|---|
| provide or mail completed CCC-931's and CCC-933's **directly** to the FSA County Office or Service Center at the address specified on CCC-931 or CCC-933 | for all CCC-931's and CCC-933's accepted from participants and determined:<br>• incorrect or incomplete:<br>  • return CCC-931 or CCC-933 to the participants<br>  • assist the participants to correctly complete CCC-931 or CCC-933<br>• correct:<br>  • date stamp with current receive date<br>  • make and retain a copy of CCC-931's and CCC-933's for producer eligibility files<br>  • collect and bundle in groups of 100 or less all CCC-931's and CCC-933's accepted as correct<br>  • complete and include 2 copies of IRS-3210<br>  • send bundles by USPS on a regular basis to IRS at the address specified on IRS-3210<br>  **Notes:** If receipts total more than 100 per workweek, group and mail more than once weekly.<br>  See Exhibit 8 for an example of a completed IRS-3210.<br>  • USPS First-Class mail exception applies. |
| coordinate the annual filing of CCC-931 and CCC-933 with the filing of an application or a request for payments and benefits under all programs subject to the average AGI limitations | coordinate the sending of CCC-931's and CCC-933's to IRS with the actions of recording the average AGI certification values from the participant's CCC-931's and CCC-933's in the web-based eligibility files. |

**Note: A completed CCC-931 or CCC 933 must be received by IRS within 120 calendar days of the signature date affixed by the person or legal entity for the consent to disclosure of tax information to be considered valid.--***

## 200 Disclosing Information (Continued)

### *--G CCC-929, CCC-931, and CCC-933 Availability

Blank CCC-929, CCC-931, and CCC-933 will be available:

- to all participants of 2009 and subsequent year programs subject to AGI compliance
- at each FSA Service Center
- online at **http://intranet.fsa.usda.gov**.

### H Incomplete or Illegible CCC-931's and CCC-933's

All CCC-931's and CCC-933's received and considered unacceptable by IRS will:

- be returned to the FSA Service Center's address listed on CCC-931 or CCC-933
- include a letter of explanation
- include the requirement to submit a new, completed CCC-931 or CCC-933.

FSA Service Center personnel will contact the person or legal entity to:

- explain the reasons for rejection
- assist the person or legal entity in correctly completing and submitting to FSA a correct CCC-931 or CCC-933.

**Note:** See Exhibit:

- 13 for the IRS letter of explanation
- 13.5 for explanation of IRS rejection message and recommended FSA actions.

### I Failure to Submit Completed CCC-931's or CCC-933's

Persons or legal entities that choose **not** to submit a completed CCC-931 or CCC-933 will be:

- determined noncompliant with the AGI limitations for the 2009 and subsequent year crop, program, and FY's
- determined ineligible for program benefits for the year or years that benefits were requested
- required to refund **all** 2009 and subsequent year payments received under the**--*** programs, subject to the average AGI limitations.

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information

### A Acceptance of CCC-931's and CCC-933's

County Offices shall accept **only** complete CCC-931's and CCC-933's. A complete CCC-931 or CCC-933 consists of either of the following:

- CCC-931 or CCC-933 with all items completed

- CCC-931 or CCC-933 with items 1 through 4 completed, Part B signed by the person or legal entity, and a statement from an attorney or CPA that meets the requirements in subparagraph 189 B.

If a person or legal entity chooses to provide an attorney or CPA statement, both the statement and CCC-931 or CCC-933 **must** be submitted to the County Office **before** CCC-931 or CCC-933 is considered complete and AGI compliance values may be updated in the Producer Eligibility file. The County Office shall:

- send the original CCC-931 or CCC-933 to IRS as provided in subparagraph 200 E
- attach the statement to the copy of CCC-931 or CCC-933 retained by FSA.

### B FAXed and Scanned CCC-931's or CCC-933's

FAXed and scanned CCC-931's or CCC-933 may be accepted if:

- all requirements of 1-CM, paragraph 680 are met

- these actions do **not** alter the existing fiduciary capacities or approved signature authorities.

### C Signature Authority for CCC-931's and CCC-933's

The authority for an individual to complete and sign CCC-931 or CCC-933 on behalf of**--*** another individual or legal entity:

- **must** be compatible and acceptable to **both** FSA and IRS
- is more restrictive than 1-CM provisions for FSA program purposes.

**Note:** FSA-211 **cannot** be used as evidence of signature authority.

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### C Signature Authority for CCC-931's and CCC-933's (Continued)

The following table provides the authorizations that are compatible and acceptable to **both** FSA and IRS for CCC-931 or CCC-933.

| Authority/Authorization | Acceptable for CCC-931 or CCC-933 | Explanation, Comments, and Restrictions |
|---|---|---|
| Individual for a legal entity. | Yes | Relationship to the legal entity **must** be included in the signature block. See 1-CM, paragraph 711. |
| Parent or legal guardian for a minor child. | Yes | Relationship to minor child **must** be included in the signature block. See 1-CM, paragraph 677. |
| Durable power of attorney. | Yes | FSA accepts a durable power of attorney for FSA program-related purposes on review and approval of OGC. See 1-CM, paragraphs 728, 729.4, and 729.6.<br><br>IRS accepts durable powers of attorney for tax filing and related purposes, if the attorney-in-fact has full authority to represent the grantor in **all** Federal tax matters. Copies of durable powers of attorney **must** be attached to CCC-931's and CCC-933's when submitted to IRS. |
| FSA-211. | No | **Not** acceptable to IRS. |
| Living spouses for each other. | No | **Not** acceptable to IRS. |
| IRS-2848. | No | **Not** acceptable to FSA. |

### D Filing CCC-931's or CCC-933's for Deceased Persons

CCC-931 or CCC-933 for an individual, now deceased, may be filed by any of the--* following:

- surviving spouse
- individual other than surviving spouse who is authorized to represent the deceased individual
- entity responsible for filing, or will cause the filing, of the final Federal tax return for the deceased individual.

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### D Filing CCC-931's or CCC-933's for Deceased Persons (Continued)

Proof of authorization **must** be provided by all individuals and entities, **except** the surviving spouse. Proof of authorization includes, but is **not** limited to, the following:

- court order of appointment
- trust agreement
- will.

Proof of authorization to represent the deceased individual **must** be attached to CCC-931 or CCC-933 when referred to the IRS.

Consult with the regional attorney on all questionable cases.

This policy is applicable **only** to CCC-931's and CCC-933's because filing CCC-931's or CCC-933's:

- will ordinarily be a 1-time occurrence

- is compatible with the IRS requirements applied to tax and related forms filed with the IRS on behalf of deceased individuals

- is consistent with the regulation at 7 CFR Part 707 in that the claimant for such payment or benefit earned by the deceased individual when living now has authority to seek or apply for the decedent's payment.

Policy in this subparagraph is for CCC-931's and CCC-933's **only**. Follow 1-CM for--* signature authority and processing all other forms for FSA and CCC program purposes.

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax--* Information (Continued)

### E Completing CCC-931's for 2009 and Subsequent Years

Complete CCC-931's according to the following table.

| Item | Instruction |
|---|---|
| 1 | Enter name and address of the FSA County Office or Service Center of the recording county of the person or legal entity. |
| 2 | Enter the name and address of the person or legal entity that is requesting benefits under any of the commodity, price support, conservation, or disaster assistance programs.<br><br>**Note:** Enter the same name and address as used on filed tax returns if the name and address on record at FSA is different. |
| 3 | Enter complete SSN or TIN of the person or legal entity represented in item 2. |
| 4 | Select the year for which program benefits are being requested. **Select only 1.**<br><br>**Note:** The year selected determines the 3-year period that will be used in the calculation of the applicable average AGI for payment eligibility. |
| 5 | Select the response that describes the average AGI (all income from both farm and nonfarm sources) for the applicable 3-year period selected in item 4. **Select only 1.** |
| 6 | Select the appropriate response that describes whether or not the average adjusted gross farm income for the applicable 3-year period selected in item 4 was at least 66.66 percent of the average AGI, both farm and nonfarm income. This AGI is the amount of AGI reported to IRS.<br><br>If "YES" is selected, and if income includes the sale of farm equipment or production inputs and services to farmers, ranchers, foresters and farming operations, review the definition of farm income on CCC-931, page 2.<br><br>**Example:** Jake has requested 2012 DCP benefits. Jake's average AGI was $900,000. His farm AGI was $650,000 from the production of crops and livestock.<br><br>His nonfarm AGI was comprised of $150,000 from his aerial spraying service and $100,000 from oil and gas royalties.<br><br>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.<br><br>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 2012 DCP benefits, **except** for direct payments. |

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax--* Information (Continued)

### E Completing CCC-931's for 2009 and Subsequent Years (Continued)

| Item | Instruction |
|---|---|
| 7 | Select the response that describes the **average adjusted gross farm income** for the applicable 3-year period for the program year selected in item 4. Adjusted gross farm income is determined separately for each of the 3 years and then averaged to determine the **average** adjusted gross farm income used on CCC-931.<br><br>**Note:** **Adjusted gross farm income** is **not** the same as the gross farm income reported to IRS. **Adjusted gross farm income** for FSA purposes is comparable to the net income from farming and related operations. In many cases, this may be the same as the "Net Farm Profit" or "Loss" determined on Schedule F of IRS-1040. However, FSA's definition of adjusted gross farm income also includes income from the sale of items such as agricultural related land, breeding livestock, and agricultural/conservation easements. **Additionally, it is important to consider if income was received from the sale of farm related equipment and/or if income was received from the sale of production inputs and services before answering this question**. Usually, income from these items is not considered farm income. However, if the income from farming is at least 66.66 percent of the total AGI from all sources, both farm income and nonfarm income, a special rule applies and income from these items **must** be included in the adjusted gross farm income. See the definition of farm income on CCC-931, page 2 for full details of what to include in adjusted gross farm income. |
| 8 | Select the response that describes the **average adjusted gross nonfarm income** for the applicable 3-year period for the program year selected in item 4. Adjusted gross nonfarm income is determined separately for each of the 3 years and then averaged to determine the **average** adjusted gross nonfarm income used on CCC-931.<br><br>**Adjusted gross nonfarm income** is determined by subtracting the adjusted gross farm income for a tax year from the AGI as reported to IRS for the tax year. |
| 9 | Read the acknowledgments, responsibilities and authorizations, **before** affixing signature.<br><br>For all types of entities, CCC-931 must be signed by a duly authorized representative. |
| 10 | Enter the title or relationship if signing in a representative capacity. |
| 11 | Enter the signature date in month, day, and year format. |

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax--* Information (Continued)

### F Example of CCC-931

The following is an example of a completed CCC-931.

**This form is available electronically.**

**CCC-931**
(12-07-11)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION**

**1. Return completed form to:**

Front County FSA Office
1234 Dodge Rd.
Somewhere, OK XXXXX-XXXX

*(Name and address of FSA county office or USDA Service Center)*

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et. seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits. 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 appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.* ***PLEASE RETURN COMPLETED FORM TO FSA AT THE ABOVE ADDRESS.***

**2. Name and Address of Individual or Legal Entity *(Including Zip Code)***

Wildcat Land and Livestock LLC
9650 Circle Rd.
Some Town, OK XXXXX-XXXX

*(Enter the same name and address as used for the tax return specified in Part B.)*

**3. Taxpayer Identification Number (TIN) *(Social Security Number for Individual; or Employer Identification Number for Legal Entity)***

XX-XXXXXXX

**PART A – CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME**

**4. Select the program year for payment eligibility *(Check only one)***

| | | | | | |
|---|---|---|---|---|---|
| A. | ☐ | 2009 | The 3-year period for calculation of the average AGI will be the taxable years of 2007, 2006 and 2005. | C. ☐ | 2011 The 3-year period for calculation of the average AGI will be the taxable years of 2009, 2008 and 2007. |
| B. | ☐ | 2010 | The 3-year period for calculation of the average AGI will be the taxable years of 2008, 2007 and 2006. | D. ☒ | 2012 The 3-year period for calculation of the average AGI will be the taxable years of 2010, 2009 and 2008. |

**5.** I certify that the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 (*for the year selected in Item 4*) was:

A. ☒ **Less than** *(or equal to)* **$1,000,000**
B. ☐ **More than $1,000,000**

**6.** Of the average adjusted gross income *(both farm and nonfarm income)* of the individual or legal entity in Item 2 *(for the year selected in Item 4)*, was at least 66.66 percent from farming, ranching or forestry operations?

A. ☒ **YES** B. ☐ **NO**

**NOTE:** *If at least 66.66 percent of the average adjusted gross income of the individual or legal entity is derived from farming, ranching or forestry operation, then income from the sale of farm equipment or production inputs and services to farmers, ranchers and foresters must be included as farm income.*

**7.** I certify that the average adjusted gross **farm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

A. ☒ **Less than** *(or equal to)* **$750,000** B. ☐ **More than $750,000**

**8.** I certify that the average adjusted gross **nonfarm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

A. ☒ **Less than** *(or equal to)* **$500,000** B. ☐ **More than $500,000 but less than** *(or equal to)* **$1,000,000** C. ☐ **More than $1,000,000**

**PART B – CONSENT TO DISCLOSURE OF TAX INFORMATION**

**Pursuant to 26 U.S.C. §6103, I hereby authorize the Internal Revenue Service (IRS) to review the following items of "return information" *(as defined in 26 U.S.C. §6103(b)(2))* from the returns *(as specified below)* of the individual or legal entity identified in Item 2 for the taxable years indicated in Item 4:**

**Form 1040 and 1040NR filers; farm income or loss; adjusted gross income**
**Form 1041 filers; farm income or loss, charitable contributions, income distribution deductions, exemptions, adjusted total income; total income**
**Form 1065 filers; guaranteed payments to partners, ordinary business income**
**Form 1120, 1120A, 1120C filers: charitable contributions, taxable income**
**Form 1120S filers: ordinary business income**
**Form 990T: unrelated business taxable income**

I understand the IRS will review these items of return information in order to perform calculations, the results of which I authorize to be disclosed to officers and employees of the United States Department of Agriculture (USDA) for use in determining the individual's or legal entity's eligibility for specified payments for various commodity and conservation programs. The calculations performed by the IRS use a methodology prescribed by the USDA. In addition, I am aware that the USDA may use the information received for compliance purposes related to this eligibility determination, including referrals to the Department of Justice.

Specially, the IRS will disclose to the USDA the individual's or legal entity's name and TIN, and inform the USDA if, pursuant to its calculations, the average Adjusted Gross Income (AGI) is above or below eligibility requirements as prescribed by the Food, Conservation and Energy Act of 2008. The IRS will also disclose to the USDA the type of return from which the information used for the calculations was obtained.

If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the specified return has not been filed, for any of the taxable years indicated, the IRS may disclose that it was unable to locate a return, or that a return was not filed, for those years, whichever is applicable.

***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**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; and is consistent with the tax returns filed with the IRS;**
- **I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes by filing this form;**
- **I am aware that without this consent to disclosure, the returns and return information of the individual or legal entity identified in Item 2 are confidential and are protected by law under the Internal Revenue Code;**
- **I certify that I am authorized under applicable state law to execute this consent on behalf of the legal entity identified in Item 2 (for legal entity only).**

| 9. Signature (By) | 10. Title/Relationship *of the Individual If Signing In a Representative Capacity for a legal entity* | 11. Date *(MM-DD-YYYY)* |
|---|---|---|
| ***/s/ William A. Farmer*** | ***President, Wildcat Land and Livestock LLC*** | ***02-10-2012*** |

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

# *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax--* Information (Continued)

## F Example of CCC-931 (Continued)

CCC-931 (12-07-11) Page 2 of 2

**GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME – PART A**

Individuals or legal entities that receive benefits under most commodity and conservation programs administered by CCC cannot have incomes that exceed certain limits set by law. For entities, both the entity itself, and its members cannot exceed the income limitations. If a member, whether an individual or an entity, of an entity exceeds the limitations, payments to that entity will be commensurately reduced according to that member's direct or indirect ownership share in the entity. (All members of the entity must also submit this form to verify income limitations are met.)

**Adjusted Gross Income** is the individual's or legal entity's IRS-reported adjusted gross income consisting of both farm and nonfarm income. A three year average of that income will be computed for the three years of the relevant base period identified on the first page of this form to determine eligibility for the applicable program year. **For 2012 only**, individuals or legal entities with average **adjusted gross income** greater than $1 million shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**Adjusted Gross Farm Income** is the part of the yearly adjusted gross income that is farm income. The amount is computed separately for each year 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 operation; payments and benefits from risk management practices, crop insurance indemnities, catastrophic risk protection plans, conservation program and government farm program payments. Individuals or legal entities with average adjusted gross **farm income** greater than $750,000 shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**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 is computed separately for each year and then averaged. Individuals or legal entities with average adjusted gross **nonfarm income** that exceeds $500,000 shall be ineligible for commodity program payments, price support benefits, disaster assistance programs, and for the Milk Income Loss Compensation Program. Additionally, individuals or legal entities with average adjusted gross **nonfarm income** exceeding $1 million will be ineligible for new contracts or participation in conservation programs after October 1, 2008, unless at least 66.66% of their total average adjusted gross income (sum of farm and nonfarm income) is generated from activities related to farming.

**HOW TO DETERMINE ADJUSTED GROSS INCOME**

**Individual** – Internal Revenue Service (IRS) Form 1040 filers, specific lines on that form represent the adjusted gross income and the income from farming, ranching, or forestry operations.

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

**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** – the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS.

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

**GENERAL INFORMATION ON CONSENT TO DISCLOSURE OF TAX INFORMATION – PART B**

This consent allows IRS's access to, and use of, certain items of return information to perform calculations, using a methodology prescribed by the USDA, that will assist USDA in its verification of a program participant's compliance with the adjusted gross income (AGI) limitations necessary for participation in, and receipt of, commodity, conservation, price support or disaster program benefits. This consent also permits the USDA to receive certain items of return information for its eligibility determination.

This consent authorizes the disclosure of these items of return information for only the time period specified. Each item of information requested on this form is needed for the IRS to (1) locate, and verify, your tax information; (2) perform the requisite Average AGI calculations; and (3) provide the USDA with the legal entity's name and Taxpayer Identification Number (TIN), the type of return from which the specified items were located for use in the calculation, and whether or not the average AGI is above or below eligibility requirements. The IRS will not provide the USDA with any of the items specified on this consent form that it uses to perform the calculations or the average AGI figure.

This form can only be signed by the person authorized under state law to sign this consent for the legal entity identified in Item 2. ***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**INSTRUCTIONS FOR COMPLETION OF CCC-931**

| Item No./Field name | Instruction |
|---|---|
| 1. Return Completed Form To | Enter the name and address of the FSA county office or USDA service center where the completed CCC-931 will be submitted. |
| 2. Person or Legal Entity's Name and Address | Enter the person's or legal entity's name and address for commodity, conservation, price support, or disaster program benefits. *Enter the name and address as it appeared on the IRS tax returns filed for the taxable years specified in Item 4.* |
| 3. Taxpayer Identification Number | In the format provided, enter the complete taxpayer identification number of the person or legal entity identified in Item 2. *This will be either a Social Security Number or Taxpayer Identification Number.* |
| 4. Program Year | Select the year for which program benefits are being requested. The selection indicates the 3-year period used for the determination of the average adjusted gross income for payment eligibility and the years for which this consent allows access to tax information. |
| 5. Average Adjusted Gross Income | Select the box next to the response that describes the **average adjusted gross income** for the applicable 3-year period for the program year selected in Item 4. **Select only one response.** |
| 6. Average Adjusted Gross Income from Farming, Ranching or Forestry | Select the appropriate response to indicate whether or not at least 66.66 percent of the **average adjusted gross income** was derived from farming, ranching, or forestry operations during the applicable 3-year period selected in Item 4. **Select "YES" or "NO" as applicable.** |
| 7. Average Adjusted Gross Farm Income | Select the box next to the response that describes the **average adjusted gross farm income** for the applicable 3-year period for the program year selected in Item 4. **Select only one response.** |
| 8. Average Adjusted Gross Nonfarm Income | Select the box next to the response that describes the **average adjusted gross nonfarm income** for the applicable 3-year period for the program year selected in Item 4. **Select only one response.** |
| 9. Signature | **Read the acknowledgments, responsibilities and authorizations, *before* affixing your signature.** |
| 10. Title/Relationship | Enter title or relationship to the legal entity identified in Item 2. |
| 11. Date | Enter the signature date in month, day and year. *This form must be returned to FSA within 90 days of the signature date for the consent to be valid.* |

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax--* Information (Continued)

### G Important Elements and References

The following CCC-931 shows important elements and references.

This form is available electronically.

**CCC-931** (12-07-11) **U.S. DEPARTMENT OF AGRICULTURE** Commodity Credit Corporation

**AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION**

**1. Return completed form to:**

Name and address of recording County Office. (subparagraph 189 F)

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for re... 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et. seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits. 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 appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. PLEASE RETURN COMPLETED FORM TO FSA AT THE ABOVE ADDRESS.*

**2. Name and Address of Individual or Legal Entity** ***(Including Zip Code)***

Name and address used for tax filing purposes if different than current FSA records. (subparagraph 200 C)

**3. Taxpayer Identification Number (TIN)** ***(Social Security Number for Individual; or Employer Identification Number for Legal Entity)***

**SS INCOME**

**4. Select the program year for payment eligibility** ***(Check only one)***

Select only the year for which program benefits were requested. (subparagraph 200 D)

| | | | |
|---|---|---|---|
| A. ☐ **2009** | The 3-year period for calculation of the average AGI will be the taxable years of 2007, 2006 and 2005. | C. ☐ **2011** | The 3-year period for calculation of the average AGI will be the taxable years of 2009, 2008 and 2007. |
| B. ☐ **2010** | The 3-year period for calculation of the average AGI will be the taxable years of 2008, 2007 and 2006. | D. ☐ **2012** | The 3-year period for calculation of the average AGI will be the taxable years of 2010, 2009 and 2008. |

**5.** I certify that the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 *(for the year selected in Item 4)* was:

A. ☐ **Less than** *(or equal to)* **$1,000,000**

B. ☐ **More than $1,000,000**

**6.** Of the average adjusted gross income *(both farm and nonfarm inco... the average legal entity in Item 2 (f... ual or legal Item 4)*, was at least 6... ing or farming, ranching or fo... the sale ...uts and ...resters

A. ☐ **YES** B. ☐ **NO**

*must be included as farm income.*

**7.** I certify that the average adjusted gross **farm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

A. ☐ **Less than** *(or equal to)* **$750,000** B. ☐ **More than $750,000**

**8.** I certify that the average adjusted gross **nonfarm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

A. ☐ **Less than** *(or equal to)* **$500,000** B. ☐ **More than $500,000 but less than** *(or equal to)* **$1,000,000** C. ☐ **More than $1,000,000**

**PART B – CONSENT TO DISCLOSURE OF TAX INFORMATION**

**Pursuant to 26 U.S.C. §6103, I hereby authorize the Internal Revenue Service (IRS) to review the following items of "return information"** ***(as defined in 26 U.S.C. §6103(b)(2))*** **from the returns** ***(as specified below)*** **of the individual or legal entity identified in Item 2 for the taxable years indicated in Item 4:**

**Form 1040 and 1040NR filers; farm income or loss; adjusted gross income**
**Form 1041 filers; farm income or loss, charitable contributions, income distribution deductions, exemptions, adjusted total income; total income**
**Form 1065 filers; guaranteed payments to partners, ordinary business income**
**Form 1120, 1120A, 1120C filers: charitable contributions, taxable income**
**Form 1120S filers: ordinary business income**
**Form 990T: unrelated business taxable income**

I understand the IRS will review these items of return information in order to perform calculations, the results of which I authorize to be disclosed to officers and employees of the United States Department of Agriculture (USDA) for use in determining the individual's or legal entity's eligibility for specified payments for various commodity and conservation programs. The calculations performed by the IRS use a methodology prescribed by the USDA. In addition, I am aware that the USDA may use the information received for compliance purposes related to this eligibility determination, including referrals to the Department of Justice.

Specially, the IRS will disclose to the USDA the individual's or legal entity's name and TIN, and inform the USDA if, pursuant to its calculations, the average Adjusted Gross Income (AGI) is above or below eligibility requirements as prescribed by the Food, Conservation and Energy Act of 2008. The IRS will also disclose to the USDA the type of return from which the information used for the calculations was obtained.

If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the specified return has not been filed, for any of the taxable years indicated, the IRS may disclose that it was unable to locate a return, or that a return was not filed, for those years, whichever is applicable.

*An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.*

**By signing this form:**

- **I acknowledge that I have read and reviewed all definitions and requirements on Page 2 of this form;**
- **I certify ... is true and correct; and is consistent with th...**
- **I agree t... GI compliance verification purposes by filing...**
- **I am awa... s and return information of the individual or l... and are prot...**
- **I certify ... cute this consent on behalf of the legal entit...**

Restrictions on signature authorities. (subparagraph 200.5 C)

Signature date and validity of consent to disclosure. (subparagraph 200 E)

| **9. Signature (By)** | **10. Title/Relationship** ***of the Individual if Signing in a Representative Capacity for a legal entity*** | **11. Date** ***(MM-DD-YYYY)*** |
|---|---|---|
| | | |

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### H CCC-931C – For Conservation Programs Only

CCC-931C shall be used **only** for **all** of the following:

- persons and legal entities
- successors to a conservation program contract, or an agreement, approved on or after October 1, 2008, and **before** October 1, 2012.

With the exception of the specific purpose, CCC-931C has the same functionality and requirements as CCC-931. Follow all procedures in this part for the acceptance, referral, and handling of CCC-931C as practiced for CCC-931.--*

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### I Completing CCC-931C's for 2013 and Subsequent Years

Complete CCC-931C's according to this table.

| Item | Instruction |
|---|---|
| 1 | Enter name and address of the FSA County Office or USDA Service Center of the producer. |
| 2 | Enter person or legal entity's name and address for commodity, conservation, and price support program benefits.<br><br>**Note:** Use same name and address as used on filed tax returns. |
| 3 | Enter complete SSN or TIN of the person or legal entity represented in item 2. |
| 4 | Enter program year for which payments and benefits are requested.<br><br>The program year entered determines the 3-year period used for calculating AGI for payment eligibility and the years for which this consent allows access of tax information for verification purposes. |
| 5 | Select box next to the response that describes the average AGI for the applicable 3-year period that corresponds to the program year entered in item 4. This includes all income from both farm and nonfarm sources. **Select only 1.** |
| 6 | Select appropriate response to indicate whether or not at least 66.66 percent of the average AGI was derived from farming, ranching, or forestry operations during the applicable 3-year period that corresponds to the program year entered in item 4. **Select "Yes" or "No", as applicable.** |
| 7 | Select box next to the response that describes the average adjusted gross farm income for the applicable 3-year period that corresponds to the program year entered in item 4. **Select only 1.** |
| 8 | Select box next to the response that describes the average adjusted gross nonfarm income for the applicable 3-year period that corresponds to the program year entered in item 4. **Select only 1.** |
| 9 | **Read acknowledgments, responsibilities, and authorizations before affixing signature.** For all types of legal entities, CCC-931C must be signed by a duly authorized representative under applicable State law. |
| 10 | If signing in a representative capacity for the individual or legal entity in item 2, include the title or relationship. |
| 11 | Enter signature date in month, day, and year (MM-DD-YYYY) format. |

--*

## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### J Example of CCC-931C

The following is an example of a completed CCC-931C.

This form is available electronically.

**CCC-931C** (11-05-12)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

**AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION**

***For Successors to Conservation Program Contracts and Agreements Only***

**1. Return completed form to:**

**Front County FSA Office**
**1234 Dodge Rd.**
**Somewhere, OK XXXXX-XXXX**

*(Name and address of FSA county office or USDA Service Center)*

**NOTE:** *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et. seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits. 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 appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.* ***PLEASE RETURN COMPLETED FORM TO FSA AT THE ABOVE ADDRESS.***

**2. Name and Address of Individual or Legal Entity *(Including Zip Code)***

**Wildcat Land and Livestock LLC**
**9650 Circle Rd.**
**Some Town, OK XXXXX-XXXX**

*(Use the same name and address as used for the tax return specified in Part B.)*

**3. Taxpayer Identification Number (TIN) *(Social Security Number for Individual; or Employer Identification Number for Legal Entity)***

**XX-XXXXXXX**

**PART A – CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME**

**4. Enter the program year for contract or agreement succession**

**A. 20 13** The period for calculation of the average AGI will be of the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. For example, if the year of succession entered is 2013, the 3-year period for the calculation of the average AGI will be the taxable years of 2011, 2010 and 2009.

**5.** I certify that the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 (*for the year selected in Item 4*) was:

**A.** ☒ **Less than** *(or equal to)* **$1,000,000**

**B.** ☐ **More than $1,000,000**

**6.** Of the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 *(for the year selected in Item 4)*, was at least 66.66 percent from farming, ranching or forestry operations?

**A.** ☒ **YES** **B.** ☐ **NO**

**NOTE:** *If at least 66.66 percent of the average adjusted gross income of the individual or legal entity is derived from farming, ranching or forestry operation, then income from the sale of farm equipment or production inputs and services to farmers, ranchers and foresters must be included as farm income.*

**7.** I certify that the average adjusted gross **farm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

**A.** ☒ **Less than** *(or equal to)* **$750,000** **B.** ☐ **More than $750,000**

**8.** I certify that the average adjusted gross **nonfarm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

**A.** ☐ **Less than** *(or equal to)* **$500,000** **B.** ☒ **More than $500,000 but less than** *(or equal to)* **$1,000,000** **C.** ☐ **More than $1,000,000**

**PART B – CONSENT TO DISCLOSURE OF TAX INFORMATION**

**Pursuant to 26 U.S.C. §6103, I hereby authorize the Internal Revenue Service (IRS) to review the following items of "return information" *(as defined in 26 U.S.C. §6103(b)(2))* from the returns *(as specified below)* of the individual or legal entity identified in Item 2 for the taxable years indicated in Item 4:**

**Form 1040 and 1040NR filers; farm income or loss; adjusted gross income**
**Form 1041 filers; farm income or loss, charitable contributions, income distribution deductions, exemptions, adjusted total income; total income**
**Form 1065 filers; guaranteed payments to partners, ordinary business income**
**Form 1120, 1120A, 1120C filers: charitable contributions, taxable income**
**Form 1120S filers: ordinary business income**
**Form 990T: unrelated business taxable income**

I understand the IRS will review these items of return information in order to perform calculations, the results of which I authorize to be disclosed to officers and employees of the United States Department of Agriculture (USDA) for use in determining the individual's or legal entity's eligibility for specified payments for various commodity and conservation programs. The calculations performed by the IRS use a methodology prescribed by the USDA. In addition, I am aware that the USDA may use the information received for compliance purposes related to this eligibility determination, including referrals to the Department of Justice.

Specially, the IRS will disclose to the USDA the individual's or legal entity's name and TIN, and inform the USDA if, pursuant to its calculations, the average Adjusted Gross Income (AGI) is above or below eligibility requirements as prescribed by the Food, Conservation and Energy Act of 2008. The IRS will also disclose to the USDA the type of return from which the information used for the calculations was obtained.

If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the specified return has not been filed, for any of the taxable years indicated, the IRS may disclose that it was unable to locate a return, or that a return was not filed, for those years, whichever is applicable.

***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**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; and is consistent with the tax returns filed with the IRS;**
- **I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes by filing this form;**
- **I am aware that without this consent to disclosure, the returns and return information of the individual or legal entity identified in Item 2 are confidential and are protected by law under the Internal Revenue Code;**
- **I certify that I am authorized under applicable state law to execute this consent on behalf of the legal entity identified in Item 2 (for legal entity only).**

| 9. Signature (By) | 10. Title/Relationship *of the Individual if Signing in a Representative Capacity for a legal entity* | 11. Date *(MM-DD-YYYY)* |
|---|---|---|
| ***/s/ William A. Farmer*** | *President, Wildcat Land and Livestock LLC* | **02-14-13** |

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

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# *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

## J Example of CCC-931C (Continued)

CCC-931C (11-05-12) Page 2 of 2

**GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME – PART A**

Individuals or legal entities that receive benefits under most commodity and conservation programs administered by CCC cannot have incomes that exceed certain limits set by law. For entities, both the entity itself, and its members cannot exceed the income limitations. If a member, whether an individual or an entity, of an entity exceeds the limitations, payments to that entity will be commensurately reduced according to that member's direct or indirect ownership share in the entity. (All members of the entity must also submit this form to verify income limitations are met.)

**Adjusted Gross Income** is the individual's or legal entity's IRS-reported adjusted gross income consisting of both farm and nonfarm income. A three year average of that income will be computed for the three years of the relevant base period identified on the first page of this form to determine eligibility for the applicable program year. Individuals or legal entities with average **adjusted gross income** greater than $1 million shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**Adjusted Gross Farm Income** is the part of the yearly adjusted gross income that is farm income. The amount is computed separately for each year 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 operation; payments and benefits from risk management practices, crop insurance indemnities, catastrophic risk protection plans, conservation program and government farm program payments. Individuals or legal entities with average adjusted gross **farm income** greater than $750,000 shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**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 is computed separately for each year and then averaged. Individuals or legal entities with average adjusted gross **nonfarm income** that exceeds $500,000 shall be ineligible for commodity program payments, price support benefits, disaster assistance programs, and for the Milk Income Loss Compensation Program. Additionally, individuals or legal entities with average adjusted gross **nonfarm income** exceeding $1 million will be ineligible for new contracts or participation in conservation programs after October 1, 2008, unless at least 66.66% of their total average adjusted gross income (sum of farm and nonfarm income) is generated from activities related to farming.

**HOW TO DETERMINE ADJUSTED GROSS INCOME**

**Individual** – Internal Revenue Service (IRS) Form 1040 filers, specific lines on that form represent the adjusted gross income and the income from farming, ranching, or forestry operations.

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

**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** – the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS.

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

**GENERAL INFORMATION ON CONSENT TO DISCLOSURE OF TAX INFORMATION – PART B**

This consent allows IRS's access to, and use of, certain items of return information to perform calculations, using a methodology prescribed by the USDA, that will assist USDA in its verification of a program participant's compliance with the adjusted gross income (AGI) limitations necessary for participation in, and receipt of, commodity, conservation, price support or disaster program benefits. This consent also permits the USDA to receive certain items of return information for its eligibility determination.

This consent authorizes the disclosure of these items of return information for only the time period specified. Each item of information requested on this form is needed for the IRS to (1) locate, and verify, your tax information; (2) perform the requisite Average AGI calculations; and (3) provide the USDA with the legal entity's name and Taxpayer Identification Number (TIN), the type of return from which the specified items were located for use in the calculation, and whether or not the average AGI is above or below eligibility requirements. The IRS will not provide the USDA with any of the items specified on this consent form that it uses to perform the calculations or the average AGI figure.

This form can only be signed by the person authorized under state law to sign this consent for the legal entity identified in Item 2. ***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**INSTRUCTIONS FOR COMPLETION OF CCC-931C**

| Item No./Field name | Instruction |
|---|---|
| **1. Return Completed Form To** | Enter the name and address of the FSA county office or USDA service center where the completed CCC-931C will be submitted. |
| **2. Person or Legal Entity's Name and Address** | Enter the person's or legal entity's name and address for commodity, conservation, price support, or disaster program benefits. *Enter the name and address as it appeared on the IRS tax returns filed for the taxable years specified in Item 4.* |
| **3. Taxpayer Identification Number** | In the format provided, enter the complete taxpayer identification number of the person or legal entity identified in Item 2. *This will be either a Social Security Number or Taxpayer Identification Number.* |
| **4. Program Year** | Enter the year for which program benefits are being requested. The program year entered determines the 3-year period used for the calculation of the average adjusted gross income (AGI) for payment eligibility and the years for which this consent allows access to tax information. |
| **5. Average Adjusted Gross Income** | Select the box next to the response that describes the **average adjusted gross income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| **6. Average Adjusted Gross Income from Farming, Ranching or Forestry** | Select the appropriate response to indicate whether or not at least 66.66 percent of the **average adjusted gross income** was derived from farming, ranching, or forestry operations during the applicable 3-year period entered in Item 4. **Select "YES" or "NO" as applicable.** |
| **7. Average Adjusted Gross Farm Income** | Select the box next to the response that describes the **average adjusted gross farm income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| **8. Average Adjusted Gross Nonfarm Income** | Select the box next to the response that describes the **average adjusted gross nonfarm income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| **9. Signature** | **Read the acknowledgments, responsibilities and authorizations, *before* affixing your signature.** |
| **10. Title/Relationship** | Enter title or relationship to the legal entity identified in Item 2. |
| **11. Date** | Enter the signature date in month, day and year. ***This form must be returned to FSA within 90 days of the signature date for the consent to be valid.*** |

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## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### K Completing CCC-933's

Complete CCC-933's according to the following table.

| Item | Instruction |
|---|---|
| 1 | Enter name and address of the FSA County Office or Service Center of the recording county of the producer. |
| 2 | Enter the name and address of the person or legal entity that is requesting benefits under any of the commodity, price support, conservation, or disaster assistance programs.<br><br>**Note:** Enter the same name and address as used on filed tax returns if the name and address on record at FSA is different. |
| 3 | Enter complete SSN or TIN of the person or legal entity represented in item 2. |
| 4 | The year for which program benefits are being requested is 2013 **only**.<br><br>**Note:** The program year determines the 3-year period that will be used for calculating the average AGI for payment eligibility. |
| 5 | Select the response that describes the average AGI (all income from both farm and nonfarm sources) for the applicable 3-year period selected in item 4. **Select only 1.** |
| 6 | Select the appropriate response that describes whether or not the average adjusted gross farm income for the applicable 3-year period in item 4 was at least 66.66 percent of the average AGI, both farm and nonfarm income. This AGI is the amount of AGI reported to IRS.<br><br>If "YES" is selected, and if income includes the sale of farm equipment or production inputs and services to farmers, ranchers, foresters and farming operations, review the definition of farm income on CCC-933, page 2.<br><br>**Example:** Jake has requested 2013 DCP benefits. Jake's average AGI was $900,000. His farm AGI was $650,000 from the production of crops and livestock.<br><br>His nonfarm AGI was comprised of $150,000 from his aerial spraying service and $100,000 from oil and gas royalties.<br><br>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.<br><br>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 2013 DCP benefits, **except** for direct payments. |

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## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### K Completing CCC-933's (Continued)

| Item | Instruction |
|---|---|
| 7 | Select the response that describes the **average adjusted gross farm income** for the applicable 3-year period for the program year selected in item 4. Adjusted gross farm income is determined separately for each of the 3 years and then averaged to determine the **average** adjusted gross farm income used on CCC-933.<br><br>**Note:** **Adjusted gross farm income** is **not** the same as the gross farm income reported to IRS. **Adjusted gross farm income** for FSA purposes is comparable to the net income from farming and related operations. In many cases, this may be the same as the "Net Farm Profit" or "Loss" determined on Schedule F of IRS-1040. However, FSA's definition of adjusted gross farm income also includes income from the sale of items such as agricultural related land, breeding livestock, and agricultural/conservation easements. **Additionally, it is important to consider if income was received from the sale of farm related equipment and/or if income was received from the sale of production inputs and services before answering this question**. Usually, income from these items is not considered farm income. However, if the income from farming is at least 66.66 percent of the total AGI from all sources, both farm income and nonfarm income, a special rule applies and income from these items **must** be included in the adjusted gross farm income. See the definition of farm income on CCC-933, page 2 for full details of what to include in adjusted gross farm income. |
| 8 | Select the response that describes the **average adjusted gross nonfarm income** for the applicable 3-year period for the program year in item 4. Adjusted gross nonfarm income is determined separately for each of the 3 years and then averaged to determine the **average** adjusted gross nonfarm income used on CCC-933.<br><br>**Adjusted gross nonfarm income** is determined by subtracting the adjusted gross farm income for a tax year from the AGI as reported to IRS for the tax year. |
| 9 | Read the acknowledgments, responsibilities and authorizations, **before** affixing signature.<br><br>For all types of entities, CCC-933 **must** be signed by a duly authorized representative. |
| 10 | Enter title or relationship if signing in a representative capacity. |
| 11 | Enter signature date in month, day, and year format. |

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## *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

### L Example of CCC-933

The following is an example of a completed CCC-933.

**This form is available electronically.**

**CCC-933**
(01-17-13)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION**

***For the 2013 crop, program, and fiscal years only***

**1. Return completed form to:**

Front County FSA Office
1234 Dodge Rd.
Somewhere, OK XXXXX-XXXX

*(Name and address of FSA county office or USDA Service Center)*

**NOTE:** *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1400, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et. seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

*This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F – Administration) as amended by the American Taxpayer Relief Act of 2012 (see Pub. L. 112-240, Title VII, Extension of Agricultural Programs.) The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.* ***PLEASE RETURN COMPLETED FORM TO FSA AT THE ABOVE ADDRESS.***

**2. Name and Address of Individual or Legal Entity *(Including Zip Code)***

Wildcat Land and Livestock LLC
9560 Circle Rd.
Some Town, OK XXXXX-XXXX

*(Use the same name and address as used for the tax return specified in Part B.)*

**3. Taxpayer Identification Number (TIN) *(Social Security Number for Individual; or Employer Identification Number for Legal Entity)***

XX-XXXXXXX

**PART A – CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME**

4. The program year for payment eligibility

**A. 2013** The period for calculation of the average AGI will be of the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested. For 2013, the 3-year period for the calculation of the average AGI will be the taxable years of 2011, 2010 and 2009.

**5.** I certify that the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 (*for the year selected in Item 4*) was:

**A.** ☒ **Less than** *(or equal to)* **$1,000,000**

**B.** ☐ **More than $1,000,000**

**6.** Of the average adjusted gross income (both farm and nonfarm income) of the individual or legal entity in Item 2 *(for the year selected in Item 4)*, was at least 66.66 percent from farming, ranching or forestry operations?

**A.** ☒ **YES** **B.** ☐ **NO**

**NOTE:** *If at least 66.66 percent of the average adjusted gross income of the individual or legal entity is derived from farming, ranching or forestry operation, then income from the sale of farm equipment or production inputs and services to farmers, ranchers and foresters must be included as farm income.*

**7.** I certify that the average adjusted gross **farm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

**A.** ☒ **Less than** *(or equal to)* **$750,000** **B.** ☐ **More than $750,000**

**8.** I certify that the average adjusted gross **nonfarm income** of the individual or legal entity in Item 2 *(for the program year selected in Item 4)* was:

**A.** ☒ **Less than** *(or equal to)* **$500,000** **B.** ☐ **More than $500,000 but less than** *(or equal to)* **$1,000,000** **C.** ☐ **More than $1,000,000**

**PART B – CONSENT TO DISCLOSURE OF TAX INFORMATION**

**Pursuant to 26 U.S.C. §6103, I hereby authorize the Internal Revenue Service (IRS) to review the following items of "return information" *(as defined in 26 U.S.C. §6103(b)(2))* from the returns *(as specified below)* of the individual or legal entity identified in Item 2 for the taxable years indicated in Item 4:**

**Form 1040 and 1040NR filers; farm income or loss; adjusted gross income**
**Form 1041 filers; farm income or loss, charitable contributions, income distribution deductions, exemptions, adjusted total income; total income**
**Form 1065 filers; guaranteed payments to partners, ordinary business income**
**Form 1120, 1120A, 1120C filers: charitable contributions, taxable income**
**Form 1120S filers: ordinary business income**
**Form 990T: unrelated business taxable income**

I understand the IRS will review these items of return information in order to perform calculations, the results of which I authorize to be disclosed to officers and employees of the United States Department of Agriculture (USDA) for use in determining the individual's or legal entity's eligibility for specified payments for various commodity and conservation programs. The calculations performed by the IRS use a methodology prescribed by the USDA. In addition, I am aware that the USDA may use the information received for compliance purposes related to this eligibility determination, including referrals to the Department of Justice.

Specially, the IRS will disclose to the USDA the individual's or legal entity's name and TIN, and inform the USDA if, pursuant to its calculations, the average Adjusted Gross Income (AGI) is above or below eligibility requirements as prescribed by the Food, Conservation and Energy Act of 2008. The IRS will also disclose to the USDA the type of return from which the information used for the calculations was obtained.

If the IRS is unable to locate a return that matches the taxpayer identity information provided above, or if IRS records indicate that the specified return has not been filed, for any of the taxable years indicated, the IRS may disclose that it was unable to locate a return, or that a return was not filed, for those years, whichever is applicable.

***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**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; and is consistent with the tax returns filed with the IRS;**
- **I agree to authorize CCC to obtain tax data from the IRS for AGI compliance verification purposes by filing this form;**
- **I am aware that without this consent to disclosure, the returns and return information of the individual or legal entity identified in Item 2 are confidential and are protected by law under the Internal Revenue Code;**
- **I certify that I am authorized under applicable state law to execute this consent on behalf of the legal entity identified in Item 2 (for legal entity only).**

**9. Signature (By)**

/s/ *William A. Farmer*

**10. Title/Relationship *of the Individual if Signing in a Representative Capacity for a legal entity***

President, Wildcat Land and Livestock LLC

**11. Date *(MM-DD-YYYY)***

03-15-2013

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.*

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# *--200.5 Average AGI Compliance Certification and Consent to Disclosure of Tax Information (Continued)

## F Example of CCC-933 (Continued)

**CCC-933** (01-17-13) Page 2 of 2

**GENERAL INFORMATION ON AVERAGE ADJUSTED GROSS INCOME – PART A**

Individuals or legal entities that receive benefits under most commodity and conservation programs administered by CCC cannot have incomes that exceed certain limits set by law. For entities, both the entity itself, and its members cannot exceed the income limitations. If a member, whether an individual or an entity, of an entity exceeds the limitations, payments to that entity will be commensurately reduced according to that member's direct or indirect ownership share in the entity. (All members of the entity must also submit this form to verify income limitations are met.)

**Adjusted Gross Income** is the individual's or legal entity's IRS-reported adjusted gross income consisting of both farm and nonfarm income. A three year average of that income will be computed for the three years of the relevant base period identified on the first page of this form to determine eligibility for the applicable program year. Individuals or legal entities with average **adjusted gross income** greater than $1 million shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**Adjusted Gross Farm Income** is the part of the yearly adjusted gross income that is farm income. The amount is computed separately for each year 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 operation; payments and benefits from risk management practices, crop insurance indemnities, catastrophic risk protection plans, conservation program and government farm program payments. Individuals or legal entities with average adjusted gross **farm income** greater than $750,000 shall be ineligible for direct payments under the Direct and Counter-cyclical Program

**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 is computed separately for each year and then averaged. Individuals or legal entities with average adjusted gross **nonfarm income** that exceeds $500,000 shall be ineligible for commodity program payments, price support benefits, disaster assistance programs, and for the Milk Income Loss Compensation Program. Additionally, individuals or legal entities with average adjusted gross **nonfarm income** exceeding $1 million will be ineligible for new contracts or participation in conservation programs after October 1, 2008, unless at least 66.66% of their total average adjusted gross income (sum of farm and nonfarm income) is generated from activities related to farming.

**HOW TO DETERMINE ADJUSTED GROSS INCOME**

**Individual** – Internal Revenue Service (IRS) Form 1040 filers, specific lines on that form represent the adjusted gross income and the income from farming, ranching, or forestry operations.

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

**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** – the adjusted gross income is the total income from trade or business activities plus guaranteed payments to the members as reported to the IRS.

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

**GENERAL INFORMATION ON CONSENT TO DISCLOSURE OF TAX INFORMATION – PART B**

This consent allows IRS's access to, and use of, certain items of return information to perform calculations, using a methodology prescribed by the USDA, that will assist USDA in its verification of a program participant's compliance with the adjusted gross income (AGI) limitations necessary for participation in, and receipt of, commodity, conservation, price support or disaster program benefits. This consent also permits the USDA to receive certain items of return information for its eligibility determination.

This consent authorizes the disclosure of these items of return information for only the time period specified. Each item of information requested on this form is needed for the IRS to (1) locate, and verify, your tax information; (2) perform the requisite Average AGI calculations; and (3) provide the USDA with the legal entity's name and Taxpayer Identification Number (TIN), the type of return from which the specified items were located for use in the calculation, and whether or not the average AGI is above or below eligibility requirements. The IRS will not provide the USDA with any of the items specified on this consent form that it uses to perform the calculations or the average AGI figure.

This form can only be signed by the person authorized under state law to sign this consent for the legal entity identified in Item 2. ***An approved Power of Attorney (Form FSA-211) on file with USDA cannot be used as evidence of signature authority when completing this form.***

**INSTRUCTIONS FOR COMPLETION OF CCC-933**

| Item No./Field name | Instruction |
|---|---|
| 1. Return Completed Form To | Enter the name and address of the FSA county office or USDA service center where the completed CCC-933 will be submitted. |
| 2. Person or Legal Entity's Name and Address | Enter the person's or legal entity's name and address for commodity, conservation, price support, or disaster program benefits. *Enter the name and address as it appeared on the IRS tax returns filed for the taxable years specified in Item 4.* |
| 3. Taxpayer Identification Number | In the format provided, enter the complete taxpayer identification number of the person or legal entity identified in Item 2. *This will be either a Social Security Number or Taxpayer Identification Number.* |
| 4. Program Year (2013) | The year for which program benefits are being requested is 2013 only. The program year determines the 3-year period used for the calculation of the average adjusted gross income (AGI) for payment eligibility and the years for which this consent allows access to tax information. |
| 5. Average Adjusted Gross Income | Select the box next to the response that describes the **average adjusted gross income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| 6. Average Adjusted Gross Income from Farming, Ranching or Forestry | Select the appropriate response to indicate whether or not at least 66.66 percent of the **average adjusted gross income** was derived from farming, ranching, or forestry operations during the applicable 3-year period entered in Item 4. **Select "YES" or "NO" as applicable.** |
| 7. Average Adjusted Gross Farm Income | Select the box next to the response that describes the **average adjusted gross farm income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| 8. Average Adjusted Gross Nonfarm Income | Select the box next to the response that describes the **average adjusted gross nonfarm income** for the applicable 3-year period for the program year entered in Item 4. **Select only one response.** |
| 9. Signature | **Read the acknowledgments, responsibilities and authorizations, *before* affixing your signature.** |
| 10. Title/Relationship | Enter title or relationship to the legal entity identified in Item 2. |
| 11. Date | Enter the signature date in month, day and year. ***This form must be returned to FSA within 90 days of the signature date for the consent to be valid.*** |

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# 201 CCC-929, Average Adjusted Gross Income (AGI) Supplemental

## A Explanation of Average AGI Verification Process

CCC-929:

- must be provided with CCC-931's and CCC-933's
- serves to inform all program participants about the average AGI certification and verification process.

## B Example of CCC-929

The following is an example of CCC-929.

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This form is available electronically.

**CCC-929**
(01-23-13)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**AVERAGE ADJUSTED GROSS INCOME (AGI) SUPPLEMENTAL**

- **Why is it necessary to certify and verify compliance with the average AGI limitations?**

The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill ), as amended by the American Taxpayer Relief Act of 2012 (Pub L. 112-240), provides that individuals and legal entities with average AGI in excess of a specified average AGI limitation are ineligible for payments subject to that limitation. The limitations are: $500,000 average nonfarm AGI for commodity programs; $750,000 average farm AGI for direct payments under the Direct and Counter-cyclical Program or ACRE program; $1 million average AGI for direct payments under the 2012 and 2013 Direct and Counter-cyclical Program or ACRE program; and $1 million average nonfarm AGI for conservation programs.

All direct and indirect recipients of commodity or conservation program payments are required to complete the CCC-931 or CCC-933, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information. The U.S. Government Accountability Office (GAO) concluded in a recent report that, without an adequate verification process, USDA could not ensure program payments and benefits were only being made to eligible recipients.

- **What process has been developed to verify average AGI?**

USDA has worked with the Internal Revenue Service to develop an electronic information exchange process strictly for the purpose of average AGI verification. This process electronically looks at certain line items on tax returns filed for the applicable three-year period; performs a series of calculations to arrive at the average amounts; and then compares these values to the average AGI limitations. USDA receives the results of these comparisons with indicators of whether the participant appears to exceed or not exceed the average AGI limitation amounts. No actual tax data will be included. USDA county office personnel will not view tax return information at any time during this process.

- **Will there be an opportunity to provide additional information or possible explanation and appeal if the results show that it appears one or more of the average AGI limitations have been exceeded?**

As part of the review and evaluation process, participants will be afforded the opportunity to provide tax returns and other information in explanation of the AGI certification. All written notifications of AGI compliance determinations will include explanations and the appropriate appeal rights. If necessary, the cases that appear to exceed the average AGI limitations will be reviewed and evaluated by FSA State office and/or headquarters personnel. The cases will not be reviewed by personnel from the local FSA office.

- **What is required for USDA to verify the average AGI certification?**

IRS requires written consent from the individual or legal entity to provide USDA verification of the average AGI for that individual or legal entity. This written consent is provided by using the form CCC-931 or CCC-933, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information. The CCC-931 form allows the selection of 2009, 2010, 2011, or 2012. Selection of "2009" on the form authorizes IRS to perform the average AGI calculations for the 2005, 2006, and 2007 tax years. Selection of "2010" on the form authorizes IRS to perform the average AGI calculations for the 2006, 2007 and 2008 tax years. Selection of "2011" on the form authorizes IRS to perform the average AGI calculations for the 2007, 2008 and 2009 tax years. Selection of "2012" on the form authorizes IRS to perform the average AGI calculations for the 2008, 2009 and 2010 tax years. The CCC-933 is for 2013 only and authorizes the IRS to perform the average AGI calculations for the 2009, 2010 and 2011 tax years. The CCC-931 or the CCC -933 must be completed for the same year an individual or legal entity requested payments or benefits under programs subject to the AGI limitations.

- **When must the applicant certification and consent form be completed and where does it go?**

Timeliness is essential in order to avoid any delays in the issuance of program payments and the possibility of refunding program payments. It is recommended that the CCC-931 or the CCC-933 be completed at the same time as an application or request for program benefits is submitted. The completed and signed CCC-931 or the CCC-933 should be mailed or returned directly to the local FSA office or USDA Service Center. Authorized FSA personnel will record the average AGI certification and forward the completed CCC-931 and the CCC-933 forms to the IRS for completion of the verification process.

- **What if the certification and consent form is not completed and returned to FSA?**

Failure to provide the certification and consent form may require refund of applicable payments received from FSA and NRCS.

- **Will any other USDA agency other than FSA be provided knowledge of this information returned from the IRS?**

NRCS will be the only other USDA agency that will have knowledge of this information since conservation programs administered by NRCS are subject to the $1 million average nonfarm AGI limitation for conservation programs.

- **Will IRS be able to utilize the information for any other purposes and can it be disclosed to any persons or organizations outside of the Government?**

IRS will only use this information for this specified purpose. The information utilized for AGI compliance and verification purposes is not subject to disclosure under the Freedom of Information Act (FOIA). Furthermore, IRS and USDA are the only Federal, State, Local government agencies, Tribal agencies, or nongovernmental entities allowed by statute, regulation, or Routine Use to gain any measure of access to the information collected by the CCC-931 and CCC-933. And, IRS and USDA access to the information collection is highly limited, extending only to that access required by the specified purpose.

--*

## 202 Review and Validation Process

### A IRS Calculations and Comparisons

***--**For each person or legal entity who submits a completed CCC-931 or CCC-933, IRS will:

- match person's or legal entity's supplied information with IRS tax records and filings
- perform a series of calculations to determine AGI and average AGI amounts for the applicable 3-year periods
- compare calculated amounts to established average AGI limitation amounts
- report the results of the data-matching and calculations to FSA on a regular basis.

### B IRS Results Reported to FSA

IRS provides results to FSA indicating the following information:

- whether or not the person or legal entity appears to meet 1 or more of the average AGI limitations
- number of years in the applicable 3-year period that tax data was available for the person or legal entity and used in the calculations
- IRS forms series on file and used in the data comparison for each person or legal entity.

IRS does **not** provide to FSA the following:

- dollar amounts representing the person's or legal entity's farm or nonfarm income
- AGI or average AGI amounts calculated and used in the comparisons
- a determination whether or not the person or legal entity is eligible or ineligible for**--***payments under program that are subject to average AGI compliance.

### C Receipt and Storage of Data From IRS

The information transferred from IRS to FSA is:

- received and stored in a secure database
- only accessible by authorized personnel
- used only in the AGI verification process
- **not** releasable under FOIA
- **not** available for any other purposes or uses.

## 202 Review and Validation Process (Continued)

### D Using Data Received From IRS

The data received from IRS will be:

- validated with SCIMS and producer eligibility records
- the foundation of reports to be used for AGI compliance verification purposes.

## 203 Average AGI Compliance Reports

### A Reports

***--**The average AGI compliance reports will identify persons or legal entities with the following:

- no data return from IRS
- average AGI amounts that exceed the threshold levels
- average AGI amounts at or below the threshold levels
- no matching records on file with IRS.

### B Responsibility for Reports and Associated Mailings of Notifications

All AGI compliance reports and associated mailings of notifications to affected persons or legal entities will be completed by National and Kansas City Offices.

State Offices and NRCS will be provided a copy of the list of persons or legal entities:

- identified on the applicable report
- sent the appropriate written notification for any required follow-up actions.

## 203.4 Reconciliation Process of Participants and CCC-931 or CCC-933

### A Reconciliation Report

A report will be completed to identify persons or legal entities who have received 2009, 2010, 2011, 2012, or 2013 program payments, and:**--***

- no data has been received from IRS
- no matching records are found on file with IRS.

**Note:** County Offices and NRCS will be provided access or a copy of this report.

### B Participants Identified

The recording County Office will provide written notice to persons and legal entities identified on the report in subparagraph A that contains the following:

- ***--**the requirement to timely complete and submit the enclosed CCC-931 or CCC-933 to maintain 2009, 2010, 2011, 2012, and/or 2013 payment eligibility**--***

***--203.4 Reconciliation Process of Participants and CCC-931 or CCC-933 (Continued)**

**B Participants Identified (Continued)**

- instruction to select either the 2009, 2010, 2011, 2012, or 2013 program year, as appropriate
- that completed CCC-931's and CCC-933's:
  - are to be mailed to the recording County Office at the return address provided on CCC-931 or CCC-933
  - **must** be mailed within 30 calendar days from the date of receipt of the letter
- where and how to obtain additional CCC-931's or CCC-933's, if needed.

**Note:** For an example letter, see subparagraph 204 B.

**C Persons and Legal Entities Identified for 2012 and Subsequent Years**

For 2012 and subsequent crop, program, and FY's, County Offices are instructed to:

- coordinate recording the average AGI certification values for 2012 and 2013 in the web-based eligibility files with the mailing of completed CCC-931's and CCC-933's to IRS
- periodically run the County Eligibility Report for AGI according to 3-PL (Rev. 1), subparagraph 306 I
- select field, "**Not Filed**" to generate a list of every individual and legal entity in the web-based eligibility system, "AGI" section that has not filed CCC-931 for 2012, or CCC-933 or 2013, payment eligibility purposes.

For all persons and legal entities identified through the County Eligibility Report for 2012 or 2013, follow instructions in subparagraph B.

**D Notification Exceptions**

If CCC-931 or CCC-933 was rejected by the IRS for the selected reason of, "No record found on Master file. No return filed for years checked using this TIN/SSN", then:

- do not send a written notification according to subparagraph B
- consider this individual or legal entity as compliant with the average AGI limitations for the current program year
- retain a copy of the IRS rejection letter with the returned CCC-931 or CCC-933 in the individual's or legal entity's eligibility file.**--***

## 203.5 Average AGI Amounts Are Above Threshold Levels

### A Average AGI Above Limitations

A report will list participants with indicators that average AGI amounts exceed the limitations for:

- ***--**commodity (including direct, counter-cyclical, and ACRE payments), price support,**--*** and disaster assistance programs

- conservations programs.

### B Producers Identified

Persons and legal entities identified on this report will be: *** * ***

- notified in writing by the reviewing authority of the results of the IRS data analysis
- required to provide within 30 calendar days of notification to the reviewing authority:

  - a third party verification from a certified public accountant or an attorney that demonstrates that average AGI does **not** exceed established limits

  - actual tax records for the years in question to demonstrate that average AGI does **not** exceed the established limits.

***--**See paragraphs 203.9 and 204 for procedure and examples of nonresponsible participants.**--***

## 203.6 Average AGI Amounts at or Below Threshold Levels

### A Average AGI Within Limitations

A report will list participants with indicators that average AGI amounts are within the limitations for all programs.

No further actions will be required of:

- participants identified for the applicable crop, program, and FY

- County Offices in regard to eligibility files of identified participants for the applicable crop, program, and FY.

## 203.7 FSA Review and Compliance Determinations

### A Review of Questionable Average AGI Certifications Identified Through Using IRS Data

The reviewing authority will:

- **not** be the local FSA office staff or COC
- **be** SED
- ***--**review tax data or other information supplied by the person or legal entity
- if necessary, calculate the average AGI values based on supplied information
- confer with the person or legal entity if questions arise in this process
- determine AGI compliance for the person or legal entity
- provide results and conclusions of the review.

**Note:** SED's are delegated authority to act on initial AGI review determinations referenced in subparagraph B, after performing the review actions specified in this subparagraph.

### B Determination of Person's or Legal Entity's Compliance With Average AGI

SED's will:

- issue written notice of determination, adverse or otherwise, to the person or legal entity**--***

- include right to SED reconsideration, mediation, and appeal right to NAD according to 1-APP

- send a copy of determinations involving NRCS participants to the State Conservationist

- follow subparagraph 204 D for an example notification letter for AGI compliance.

## 203.7 FSA Review and Compliance Determinations (Continued)

### C AGI Compliance Review File for State Office Only

***--**An AGI Compliance Review File created for each person or legal entity and program year reviewed should contain the following after completing the review:

- all documentation (CPA or attorney statement, or tax information) received from the person or legal entity
- copy of subsidiary print **before** completing the review
- copy of the original AGI certification (CCC-926, CCC-931, CCC-933, or CPA or attorney certification)
- copy of the Average AGI Calculation Worksheet (subparagraph 203.8 C), if necessary to determine compliance
- copy of subsidiary print **after** the SED determination was updated in the web eligibility file, if applicable
- copy of the written notice of determination or completion of the review sent to the person or legal entity.**--***

**Note:** See Exhibit 21 for optional AGI Compliance Review Checklists.

## 203.8 Average AGI Compliance Review Process

### A Information Collection and Comparison

A review of average AGI compliance requires the following actions:

- *--collecting the copy of average AGI certification (CCC-926, CCC-931, CCC-933, or acceptable statement from CPA or attorney) submitted by the person or legal entity for the applicable year
- collecting complete tax returns for each of the 3-years qualification period; or acceptable financial documents if filing tax returns is not required; or an acceptable statement from CPA or attorney with all required items that illustrate and document income levels and average AGI compliance for the person or legal entity for the applicable year
- comparing both sets of information to the rules and regulations governing average AGI for payment eligibility for the applicable year subject to review
- verify the following, as applicable:
  - subsidiary flags are accurately set to reflect the certification of record
  - there is a valid CCC-926/CCC-931/CCC-933 on file supporting record certification
  - the person or legal entity received program payments or benefits either directly or indirectly.

### B Results and Findings

The results and findings of the review and evaluation are the basis to determine if person or legal entity meets or exceeds 1 or more of the average AGI limitations.--*

### C Worksheet for Calculating Average AGI for 2009 and Subsequent Years Based on the Submission of Tax Returns

Use the following worksheet to calculate the average AGI for a person or legal entity based on the submission of tax returns.

| 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.<br><br>Year / Amount / Specify From Where Information Was Obtained (for example, IRS Form 1040, Line 37)<br>_____ $_____ _____<br>_____ _____ _____<br>_____ _____ _____<br><br>**Note:** See paragraph 191 for guidance. | |
| 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. | $ |

## 203.8 Average AGI Compliance Review Process (Continued)

### C Worksheet for Calculating Average AGI for 2009 and Subsequent Years Based on the Submission of Tax Returns (Continued)

| Step | Action | Result |
|---|---|---|
| 4 | Enter AGI for the same 3 years in step 1 that was derived from all activities related to farming, ranching, and forestry operations.<br><br>Year / Amount / Specify From Where Information Was Obtained (for example, IRS Form 1040, Line 37)<br>_____ $_____ _____<br>_____ _____ _____<br>_____ _____ _____<br><br>**Note:** See paragraph 191 for guidance. | |
| 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 1. | $ |
| 8 | If the result of step 3 and step 6 is greater than zero and not a negative number, 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 the result of either step 3 or step 6 is zero or a negative number enter zero in step 8.**--*** | % |
| | 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 14; otherwise, go to step 9. | |
| | **Determination** | **Eligible Based on Determination in This Step Only** |
| 9 | If the result of step 7 is $500,000 or less, the person or legal entity is **eligible** for all commodity (including direct, counter-cyclical, and ACRE payments under DCP and ACRE), MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits. | ☐ Yes<br>☐ No |
| 10 | If the result of step 6 is $750,000 or less and step 9 is yes, the person or legal entity is **eligible for direct payments** under DCP and ACRE. | ☐ Yes<br>☐ No |
| 11 | ***--For 2012 and 2013 only**, if the results of step 3 is $1 million or less, step 6 is $750,000 or less, and step 7 is $500,000 or less, then the person or legal entity is eligible for 2012 or 2013 direct payments under 2012 or 2013 DCP and ACRE.**--*** | ☐ Yes<br>☐ No |
| 12 | If the result of step 7 is $1 million or less, the person or legal entity is **eligible for all conservation program payments**. | ☐ Yes<br>☐ No |
| 13 | 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<br>☐ No |

**203.8 * * * Average AGI Compliance Review Process (Continued)**

**C Worksheet for Calculating Average AGI for 2009 and Subsequent Years Based on the Submission of Tax Returns (Continued)**

| Step | Action | Result |
|---|---|---|
| 14 | If the result of step 8 is 66.66 percent or more, and AGI derived from equipment sales and input services are not already included in steps 4, 5, and 6, enter the total AGI derived from equipment sales and input services for the same 3 years in step 1.<br><br>Year _____ Amount $_____ Specify From Where Information Was Obtained (for example, IRS Form 1040, Line 37) _____<br>_____ _____ _____<br>_____ _____ _____<br><br>**Note:** See paragraph 191 for guidance. | |
| 15 | Total the dollar amounts in step 14. | $ |
| 16 | Calculate the **average AGI** from equipment sales and input services by dividing the result of step 15 by the number of years in step 1. | $ |
| 17 | If step 6 does not already include AGI derived from equipment sales and input services in steps 4 and 5, calculate the **average adjusted gross farm income** including equipment sales and input services by adding the result of step 16 to step 6. | $ |
| 18 | Calculate the **average adjusted gross nonfarm income** by subtracting the result of step 17 from the result of step 3. | $ |
| 19 | 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. | % |
| * * * | * * * | * * * |

**203.8 * * * Average AGI Compliance Review Process (Continued)**

**C Worksheet for Calculating Average AGI for 2009 and Subsequent Years Based on the Submission of Tax Returns (Continued)**

| Step | Action | Result |
|---|---|---|
| | **Determination** | **Eligible Based on Determination in This Step Only** |
| ***--**20 | If the result of step 18 is $500,000 or less, the person or legal entity is **eligible** for all commodity (including direct, counter-cyclical, and ACRE payments under DCP and ACRE), MILC, marketing loan gains, LDP payments, disaster assistance, and conservation program benefits. | ☐ Yes<br>☐ No |
| 21 | If the result of step 17 is $750,000 or less, the person or legal entity is **eligible for direct payments** under DCP and ACRE. | ☐ Yes<br>☐ No |
| 22 | **For 2012 only**, if the results of step 3 is $1 million or less, step 17 is $750,000 or less, and step 18 is $500,000 or less, then the person or legal entity is eligible for 2012 direct payments under 2012 DCP and ACRE. | ☐ Yes<br>☐ No |
| 23 | If the result of step 18 is $1 million or less, the person or legal entity is **eligible for all conservation program payments**. | ☐ Yes<br>☐ No |
| 24 | If the result of step 18 exceeds $1 million, but the result of step 19 is**--*** at least 66.66 percent, the person or legal entity is **eligible for all conservation program payments**. | ☐ Yes<br>☐ No |

## 203.8 Average AGI Compliance Review Process (Continued)

*** * ***

### D Admissions

***--**If a person or legal entity submits a revised CCC-931 or CCC-933, or certification is received that the person or legal entity exceeds any of the average AGI limitations for any program, do the following:

- accept the written material and keep with the file
- consider the AGI compliance review complete
- reset the applicable coverage AGI values to "producer not met" in the web-based eligibility files. See 3-PL (Rev. 1), paragraph 31.

If a person or legal entity affirms that 1 or more of the average AGI limitations are**--***
exceeded, FSA is:

- **not** required to issue a decision on ineligibility
- **not** required to issue an adverse decision on average AGI noncompliance
- required to issue adverse overpayment notifications for all programs that FSA administers.

## 203.9 Payment Refunds and Collections

### A Participant Fails to Timely Act or Is Determined AGI Noncompliant

If a person or legal entity fails to timely respond to written notices on AGI compliance requirements, or has been determined noncompliant with the applicable AGI limitations, all payment refund determinations and collection efforts will be initiated by:

- NRCS for all payments under programs it administers subject to this AGI compliance determination
- FSA for all payments under programs it administers subject to this AGI compliance determination.

See paragraph 204 for example letters for AGI compliance.

## 203.9 Payment Refunds and Collections (Continued)

### B Errors in Recording Either Determinations or Admissions

When errors are discovered in either determinations or in the recording of determinations, take applicable corrective actions that include, but are not limited to the following:

- reset the eligibility AGI values according to 3-PL
- document on the report that AGI values were reset according to this subparagraph.

**Example 1:** Participant A certifies compliance with the $500,000 nonfarm AGI and the $1 million nonfarm AGI conservation limitations but indicates the farm AGI exceeds $750,000. When recording those values in web-based eligibility, FSA incorrectly entered all 3 values as "Compliant" resulting in DCP direct payments being inadvertently issued to Participant A.

**Result 1:** Set correct values and notify the participant of the amount of any overpayment issued. The notification of overpayment (receivable) must later have additional explanation entered into the record of this debt explaining that despite the participant's certification that the participant was not eligible. FSA inadvertently paid the participant and the erroneous payment must be refunded.

**Example 2:** Participant B completed CCC-926 for program year 2011 as part of an EQIP application. Funds were not approved to fund the application. A review of Participant B's records for 2011 finds that Participant B did not receive any other program payments or benefits either directly or indirectly.

**Result 2:** Even though Participant B should not become a recipient of an overpayment (receivable) letter because funds were not approved, Participant B could, if Participant B wants to, with CCC-926 and, subsequently, flags could be reset accordingly to avoid having additional AGI compliance communications or notifications sent to Participant B.

### C FSA and NRCS Responsibilities

Each Agency will be responsible for all follow-up actions as required under the following:

- respective program procedures for payment refunds
- DCIA.

## *--204 Example Letters for AGI Compliance

### A Example Letters

Use the example letters in subparagraphs B through G as guides when notifying individuals and legal entities of average AGI limitation requirements or determinations.

### B Example of Letter When CCC-931 or CCC-933 is Needed

The following is an example of a notification letter for a person or legal entity when CCC-931 or CCC-933 is needed.

(*Date*)

Person or legal entity
*(c/o)*
*Address 1*
*Address 2*

Dear Person or Legal entity:

As of the date of this letter, you have not submitted the **required** form CCC-931 or CCC-933, "Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information". Accordingly, you are ineligible for [*insert 2009, 2010, 2011, 2012, and/or 2013, as appropriate*] program benefits. A refund is required of [*insert 2009, 2010, 2011, 2012, and/or 2013, as appropriate*] program payment benefits received. You and/or any legal entity you may have indirect payment interest in will be notified by separate letter of refund amounts required.

The Food, Conservation, and Energy Act of 2008, commonly referred to as the 2008 Farm Bill, provides average adjusted gross income (AGI) limitations for participants who enroll in certain farm programs. The average AGI limitations are:

- $500,000 nonfarm average AGI in order to receive commodity, price support or disaster program benefits;
- $750,000 farm average AGI in order to receive direct payments under the Direct and Counter-Cyclical Program (DCP), or Average Crop Revenue Election Program (ACRE); and
- $1 million nonfarm average AGI to receive conservation program benefits.
- $1 million AGI limitation for 2012 and 2013 direct payments.

Completing form CCC-931 or CCC-933 allows the IRS to average your AGI for the three applicable tax years to provide FSA information on whether your average appears to exceed one or more of the applicable limitation amounts. Individuals, legal entities, and all members of legal entities must complete form CCC-931 or CCC-933.

If you believe that FSA has not properly determined the facts of this case regarding your AGI ineligibility, you may appeal this determination to the County Committee by filing a written request no later than 30 calendar days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you choose, your appeal can include submission of a completed CCC-931 or CCC-933. If you appeal to the County Committee, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you appeal this determination to the County Committee, you may later appeal an adverse determination of the County Committee to the FSA State Committee or the National Appeals Division. To appeal, write to the County Committee at the following address and explain why you believe this determination is erroneous.

(*Insert COC address*.)

If you do not timely file an appeal of this determination, this shall be the final administrative determination with respect to this matter in accordance with regulations at 7 CFR Part 780.

Sincerely,

County Executive Director

--*

## 204 Example Letters for AGI Compliance (Continued)

### C Example With an Attachment Letter for Requesting Additional Information

The following is an example notification letter where indications are average AGI limitations exceeded and additional information is requested for FSA review. This example letter is followed by an attachment.

*--

[Date]

[Address Block]

Dear [Name]:

The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) provides average adjusted gross income (AGI) limitations for participants who enroll in certain farm programs. These limitations apply to individuals and legal entities who receive payments, as well as to members of legal entities that receive payments.

The Farm Service Agency (FSA) and Internal Revenue Service (IRS) formed a partnership to ensure that only those participants who comply with AGI requirements receive farm program benefits. This data-sharing process maintains the confidentiality and privacy of tax return information while providing FSA information necessary to verify your average AGI certification.

You provided written consent allowing the IRS to average your AGI for the applicable tax years and to provide FSA information about whether or not your AGI exceeds limitation amounts.

The information received from the IRS indicates that for **[***insert applicable program year 2009 through 2012***]** program payment eligibility purposes, your average AGI may exceed the:

_____ $**500,000 nonfarm AGI limitation** for commodity program benefits (including direct payments under the Direct and Counter-Cyclical Program (DCP) or Average Crop Revenue Election (ACRE) program), price support or disaster program benefits

_____ **$750,000 farm AGI limitation** for direct payments under the DCP or ACRE program

_____ **$1 million nonfarm AGI limitation** for conservation benefits.

_____ **$1 million AGI limitation** for 2012 direct payments.

Additional information is needed to assist FSA's review. Please provide **one** of the following:

- a signed statement from a CPA or an attorney that verifies your average AGI did not exceed the applicable AGI limitations;
- copies of the complete Federal tax returns that were filed with the IRS for the years **[***insert applicable tax years***]**; or
- a signed acknowledgement that your income exceeded the limitations, if your [*insert applicable program year 2009 through 2012*] certification was in error.

--*

## 204 Example Letters for AGI Compliance (Continued)

### C Example With an Attachment Letter for Requesting Additional Information (Continued)

*--

«Name»
Page 2

If copies of Federal tax returns are provided, FSA will evaluate the information and re-calculate the average AGI. FSA will provide written notice of the results of this review.

If your average AGI exceeded the applicable limits because you filed a joint tax return, but you would have been eligible if you had filed separately, you may provide a CPA or attorney statement certifying that your income, if you had filed separately, would have been within the AGI limits. If a CPA or

attorney certification is not provided, the AGI shown on your joint tax return will be considered your AGI for FSA program purposes.

If a signed statement from a CPA or attorney is provided, the statment **must** include all of the items as shown in the sample letter.

A sample letter with instructions are enclosed for your CPA or attorney's reference.
[*Enclose sample notification letters as shown in subparagraphs 189 D or 189 F, as appropriate.*]

To avoid any delay or interruption in program payments and benefits, please provide all requested information to FSA within 30 days of the date of this letter. Information should be mailed to:

[*Insert State Office Address.*]

Failure to timely respond to this notice will result in a determination of ineligibility for all **[***insert applicable program year 2009 through 2012***]** program benefits. Please be assured that all information provided will be held strictly confidential. If you have questions or concerns, please contact [*insert State Office contact number for AGI*].

Thank you for your cooperation.

Sincerely,

[*Name*]
State Executive Director

Enclosures

--*

## 204 Example Letters for AGI Compliance (Continued)

### D Example of Initial Letter Notifying Participant of Ineligibility

The following is an example initial decision letter advising of ineligibility because of average AGI limitations.

[*Date*]

[*Address Block*]

Dear [*Name of Participant*]:

The Farm Service Agency (FSA) recently wrote you requesting additional information so that FSA could complete its review of your payment eligibility under the average adjusted gross income (AGI) provisions. We have not received a response from you regarding our previous inquiries; therefore, FSA has determined that you exceed the AGI limitation for [*enter specific AGI limitation exceeded and year*].

As a result of this determination, you are ineligible for program payments subject to that limitation. A refund of program payments is, therefore, required. A separate letter will be sent with the required refund amount and instructions for submitting the refund.

If you believe that FSA has not properly considered the facts related to the determination of your eligibility under the AGI provisions, you have the following options:

**Reconsideration of the State Executive Director**

You may request that I reconsider this determination by filing a written request no later than 30 calendar days after you receive this notice according to FSA's appeal procedures found at 7 CFR Part 780. If you request reconsideration, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you choose to seek reconsideration, you may later appeal the determination to the National Appeals Division. To request reconsideration, write to FSA at the following address and explain why you believe this determination is erroneous. The address is:

USDA – Farm Service Agency
Attention: AGI Limitation Review
[*Enter address of the State Office for SED reconsideration.*]

***--204 Example Letters for AGI Compliance (Continued)**

**D Example of Initial Letter Notifying Participant of Ineligibility (Continued)**

[*Name*]
Page 2

**Mediation**

Mediation is available as part of FSA's informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the time frame in which you may file an appeal stops. When mediation closes, the clock restarts and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the FSA State Executive Director at the following address: [*Insert SED address or Mediation Program address, as applicable.*]

**Appeal to the Department of Agriculture National Appeal Division (NAD)**

You may appeal this determination to NAD by filing a written request no later than 30 calendar days after you receive this notice in accordance with the NAD Appeal procedures found at 7 CFR Part 11. If you appeal to NAD, you have the right to a hearing which you or your representative may attend. Once a hearing with NAD begins, you waive any rights you might have to reconsideration, appeal to FSA, and mediation. To appeal, you must write to NAD at the following address, explain why you believe this determination is erroneous, and provide a copy to FSA. You must personally sign your written appeal to NAD and include a copy of this letter. [*Insert applicable NAD address.*]

If you do not timely exercise one of the preceding options, this shall be the final administrative determination with respect to this matter in accordance with the regulations at 7 CFR Part 780 and 7 CFR Part 11.

Sincerely,

[*Enter Name*]
State Executive Director

**--***

## 204 Example Letters for AGI Compliance (Continued)

### E Example of Letter Acknowledging Request for Reconsideration Review

The following is an example letter acknowledging request for reconsideration.

*--

[*Date*]

[*Address Block*]

Dear [*Name of Participant*]:

This letter acknowledges your request for reconsideration of the Farm Service Agency's (FSA's) decision concerning your eligibility under the average adjusted gross income provisions for the [*insert the 2009 through 2012 program year(s), as applicable*].

A representative of the [*enter name*] State FSA Office will review your request on [*enter date which should be no earlier than 17 days from date of mailing*], at [*enter time*]. The hearing will be in a room to be designated for the purpose of conducting a hearing. You, your authorized representative, or both, are invited to attend the hearing and submit any additional information in support of your request for reconsideration. If you choose to personally appear, please come to:

[*Enter State Office address and contact phone number*.]

The hearings are informal and verbatim transcripts are not ordinarily made. However, if you want a transcript to be made at your expense, please let us know at least 7 calendar days before the hearing, and we will make the arrangements. Neither FSA nor the Department will reimburse you for any costs you may incur in connection with your request for reconsideration. Please note that a verbatim transcript will only be permitted if you choose to attend the scheduled hearing either in person or via telephone.

Should you prefer to attend the scheduled hearing by telephone, in advance of the hearing date please provide us with a telephone number of where you and your authorized representative can be contacted on the day and time of the scheduled hearing. If you choose not to attend the hearing at all (either in person or via telephone) please let us know. However, whether you choose to attend the hearing or not, you may submit before the date of the scheduled review, any further facts or evidence you wish to have considered. The Deputy Administrator will consider your request and arrive at a decision based on the record and other available information. The review will include all of the information submitted by you, in addition to the complete file pertaining to your case. FSA's review determination will be in writing and sent to you and your representative as soon as possible after conclusion of the scheduled meeting or hearing.

If you have any questions about this matter, you may contact the State FSA Office at [*enter complete area code and phone number*]. If you telephone us and receive a voice mail recording, please leave your contact information and we will return your call.

Sincerely,

[*Name*]
State Executive Director

--*

## *--204 Example Letters for AGI Compliance (Continued)

### F Example of Letter Granting Reconsideration

The following is an example of a letter approving the participant's eligibility on reconsideration.

[*Date*]

[*Address Block*]

Dear [*Name of Participant*]:

This letter is in further reference to the appeal of the Farm Service Agency's (FSA's) decision concerning your eligibility under the Average Adjusted Gross (average AGI) income provisions for the 2010 program years.

You submitted a form CCC-931, Average Adjusted Gross Income (AGI) Statement for the 2010 program year and affirmed on the form that your nonfarm and farm income, as applicable, for the period of years identified in section 4 of the form, was within the limitations set forth in questions 5 through 7. You also certified that your average adjusted gross farm income was NOT at least 66.66 percent of the average adjusted gross income for the 2008, 2007, and 2006 three year period applicable to 2010.

On May 1, 2011, FSA wrote you advising that information from the U.S. Department of Treasury, Internal Revenue Service (IRS), indicated that your average AGI may exceed the AGI limitations for particular programs. FSA requested additional information to assist in its review. In response, you furnished documents that, when examined without any explanation from you, showed that you exceeded the $1 million nonfarm AGI limitation for 2010 conservation benefits. Accordingly, you were determined ineligible for program payments subject to that AGI limitation. A letter advising you of this decision was issued on October 27, 2011. Upon receipt of that decision, you subsequently sought reconsideration from FSA.

On December 20, 2011, FSA representatives spoke with you in a telephone hearing. In the hearing you explained that the tax documentation you submitted reflected not only your income, but also income of your spouse. You mentioned having provided additional documentation specifying the manner income of you and your spouse would have been declared and reported if you each had filed two separate returns. In addition, you affirmed that the calculations were consistent with the information supporting the joint return. At the time of the hearing, FSA had received your documentation but did not have a certified statement by a certified public accountant or attorney affirming the calculations on division of the joint return. On December 22, 2011, FSA received a September 19, 2011, letter from an attorney affirming your calculations and certification of not having income in excess of the $1 million nonfarm AGI limitation for 2010.

--*

***--204 Example Letters for AGI Compliance (Continued)**

**F Example of Letter Granting Reconsideration (Continued)**

[*Name*]
Page 2

Based on all the information submitted, including the information submitted on reconsideration, FSA has determined that you do not exceed the $1 million AGI limitation for 2010 conservation benefits.

This concludes FSA's reconsideration of this matter in accordance with 7 CFR parts 780 and 1400. A copy of this decision will be provided to local FSA offices.

Sincerely,

[*Name*]
State Executive Director

cc: CED, [*Name*] County FSA Office

**--***

## *--204 Example Letters for AGI Compliance (Continued)

### G Example Letter for Disapproving Reconsideration

The following is an example of a letter disapproving the participant on reconsideration.

[*Date*]

[*Address Block*]

Dear [*Name of Participant*]:

This letter is in further reference to your appeal of the Farm Service Agency's (FSA's) decision concerning your eligibility under the Average Adjusted Gross Income Limitation Provisions for the 2009 and 2010 program years.

**BACKGROUND**

You submitted a form CCC-931, Average Adjusted Gross Income (AGI) Statement, for each of the 2009 and 2010 program years and affirmed on each form that your nonfarm and farm income, as applicable, for the period of years identified in section 4 of each form, was within the limitations set forth in questions 5 through 7. You also certified that your average AGI farm income:

- **was** at least 66.66 percent of the total average AGI for the 2007, 2006, and 2005, three year period applicable to 2009, and

- was **not** at least 66.66 percent of the total average AGI for the 2008, 2007, and 2006, three year period applicable to 2010.

On May 1, 2011, FSA wrote you advising that information from the U.S. Department of Treasury, Internal Revenue Service (IRS), indicated that your average AGI may exceed the average AGI limitations for particular programs. FSA requested additional information from you to assist in its review. In response, you furnished documents affirming that your average AGI exceeded the $750,000 income limitation applicable to direct payments under the Direct and Counter-Cyclical Program (DCP) or Average Crop Revenue Election Program (ACRE) Program for 2009 and 2010. Consequently, you were determined ineligible for program payments subject to that average AGI limitation. A letter advising you of the decision was issued on October 27, 2011. You subsequently appealed FSA's decision to the State committee.

**ISSUE**

Does [*Name*] have average AGI in excess of average AGI limitations for particular programs?

--*

***--204 Example Letters for AGI Compliance (Continued)**

**G Example Letter for Disapproving Reconsideration (Continued)**

[*Name*]
Page 2

**GENERAL PROGRAM PROVISIONS**

The regulations governing average AGI limitations appear at 7 CFR part 1400.

**APPELLANT'S POSITION**

You assert that FSA's decision is in error because it is based on one-time capital gains in 2006 of more the $3 million which resulted from a sale of trailer parks. You indicate that income shown on previous and subsequent years was far below average AGI limitations.

**FINDINGS OF FACT**

1. [*Name*]'s average AGI farm income was not at least 66.66 percent of the average AGI for the 2007, 2006, and 2005 three year period applicable to 2009. (IRS information and copy of May 17, 2011, e-mail correspondence to you from Jason Accountant, CPA).

2. The majority of [*Name*]'s average AGI for each three year period applicable to each of the 2009 and 2010 program years, as applicable, was from nonfarm income (sale of trailer parks). (IRS information and copy of May 17, 2011, e-mail correspondence to you from Jason Accountant, CPA).

3. [*Name*]'s average AGI nonfarm income is in excess of the $500,000 AGI nonfarm limitation for commodity programs (including direct payments under the DCP and ACRE Programs) specified at 7 CFR § 1400.1 for 2009 and 2010. [*Name*]'s November 15, 2011, letter to FSA with attachments.)

**ANALYSIS**

A review of the IRS information and copy of May 17, 2011, e-mail correspondence to you from Jason Accountant, CPA, indicate, contrary to your certification, that your average AGI farm income was not at least 66.66 percent of the average AGI for the 2007, 2006, and 2005 three year period applicable to 2009. Rather, the majority of your average AGI for each three year period applicable to each of the 2009 and 2010 program years, as applicable, was from nonfarm income (sale of trailer parks). You confirmed these facts in your correspondence to FSA and in the hearing with the FSA. Accordingly, you are ineligible for payments and benefits under the $500,000 average AGI nonfarm limitation for commodity programs (including direct payments under the DCP and ACRE Programs) specified at 7 CFR § 1400.1 for 2009 and 2010.

**--***

## 204 Example Letters for AGI Compliance (Continued)

### G Example Letter for Disapproving Reconsideration (Continued)

[*Name*]
Page 3

If you believe that this decision is erroneous, you have the following options:

**Mediation**

Mediation is available as part of FSA's informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the time frame in which you may file an appeal stops. When mediation closes, the clock restarts and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the FSA State Executive Director at the following address: [*Insert SED address or Mediation Program address, as applicable.*]

**Appeal to the Department of Agriculture National Appeal Division (NAD)**

You may appeal this determination to NAD by filing a written request no later than 30 calendar days after you receive this notice in accordance with the NAD Appeal procedures found at 7 CFR Part 11. If you appeal to NAD, you have the right to a hearing which you or your representative may attend. Once a hearing with NAD begins, you waive any rights you might have to reconsideration, appeal to FSA, and mediation. To appeal, you must write to NAD at the following address, explain why you believe this determination is erroneous, and provide a copy to FSA. You must personally sign your written appeal to NAD and include a copy of this letter. [*Insert applicable NAD address.*]

If you do not timely exercise one of the preceding options, this shall be the final administrative determination with respect to this matter in accordance with the regulations at 7 CFR Part 780 and 7 CFR Part 11.

Sincerely,

[*Name*]
State Executive Director

## 204 Example Letters for AGI Compliance (Continued)

### H Example for the Requesting Information

The following is an example for the request of a response for additional information from the participant previously notified of the AGI compliance review.

***--**

[Date]

[Address Block]

Dear [*Name*]:

The Farm Service Agency (FSA) recently sent you a letter dated [*insert date*] requesting information so that FSA can complete its review of your average Adjusted Gross Income (AGI) compliance and subsequent eligibility for **[*insert the appropriate program year 2009 through 2012*]** program payments and benefits. As of the date of this letter, [***insert 1 of the following phrases and modify it to fit the specific instance or situation (these examples are not inclusive and only describe some situations)*** [*we have not received a response from you regarding this matter*] ***OR*** [*we received incomplete sets of tax returns*] ***OR*** [*the statement prepared by John Doe, CPA, fails to provide the required information as specified in the attached example of a CPA statement*] ***OR*** [*the information submitted showing how income would have been reported by spouses had separate returns been filed must be accompanied by a certification of a CPA or attorney*] ***OR*** [*the information submitted appears to be for a person or legal entity that is not the subject of our review*], please submit the information for you as the person or legal entity that is subject to these AGI compliance provisions. ***OR***

Therefore, we request that you respond to this second request for additional information within 14 days of the date of this letter in order to to avoid a determination of ineligibility for **[*insert appropriate program year 2009 through 2012*]** program benefits. A determination of ineligibility would result in you or any legal entity in which you have an interest being required to refund all **[*insert appropriate program year 2009 through 2012*]** program payments and benefits plus interest that you have directly or indirectly received. Please mail your response to:

[*State*] Farm Service Agency
Attn: AGI Compliance Review
[*mailing address*]
[*city, State ZIP Code*]

All information provided in response to this inquiry will be maintained in a system of records and treated by FSA as confidential. If you have questions or concerns, please contact [*insert name*], Program Specialist, at [insert phone number].

Thank you for your cooperation.

Sincerely,

[*Name*]
State Executive Director
Your State FSA Office

***--**

## 204 Example Letters for AGI Compliance (Continued)

### I Example Notification for AGI Compliance Review Completion

The following is an example for the notification of a participant following the completion of the AGI compliance review.

*--

[*Date*]

[*Address Block*]

Dear [*Name*]:

The Farm Service Agency (FSA) has completed an examination of your [*insert the appropriate program year 2009 through 2012*] average Adjusted Gross Income (AGI) certification and the additional information submitted.

Based on the data available to FSA and the supplemental documents you provided, FSA has determined that you comply with the [*insert the following, as applicable: $500,000 nonfarm AGI limitation for commodity program benefits/$750,000 farm AGI limitation for direct payments under the DCP or ACRE program/$1 million nonfarm AGI limitation for conservation benefits; $1 million AGI limitation for 2012 direct payments*].

Consequently, with the regard to the provisions of average AGI compliance, you are eligible for [*insert the appropriate program year 2009 through 2012*] program payments affected.

The review for [*insert the appropriate program year 2009 through 2012*] average AGI compliance is now considered complete. We appreciate your cooperation.

Sincerely,

[*name*]
SED
[*State*] FSA State Office

cc: County Office

--*

## 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

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

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

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

## 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.

*** * ***

## 207 Completing CCC-903's (Continued)

### *--C Example CCC-903 for 2009 Program Year

The following is an example of a completed CCC-903 for the 2009 program year.--*

This form is available electronically.

| CCC-903 (04-07-09) 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
- [ ] Estate
- [ ] Charitable/Non-Profit
- [ ] Corporation
- [ ] Sole Proprietor/Small Business
- [ ] City, County or State-owned Entity
- [ ] Indians rep. by BIA
- [ ] Irrevocable Trust
- [x] General Partnership
- [ ] Joint Venture
- [ ] Revocable Trust
- [ ] Public School
- [ ] Limited Partnership
- [ ] Limited Liability Company
- [ ] 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:<br>• has a separate and distinct interest in the land, crops, and livestock<br>• demonstrates separate responsibility for the interest in land, crops and livestock<br>• 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:<br>• active personal labor, or<br>• active personal management and equipment<br>(**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 provide for transfer to the remainder beneficiary in less than 20 years from the date the trust is established? | | | 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):<br>X Addition of 2 (number) adult family member(s) | X | | |
| | __ 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)

## *--C Example CCC-903 for 2009 Program Year (Continued)--*

**CCC-903** (04-07-09) Page 2 of 2

**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. | | X |
| 2A | The person's or entity's contributions are SIGNIFICANT, COMMENSURATE and AT RISK; And the person or entity is ACTIVELY ENGAGED IN FARMING. (If **"NO"**, explanation is in REMARKS) | X | |
| 2B | For JOINT OPERATIONS ONLY, each member's contributions are SIGNIFICANT, 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)* | | X |
| 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) | | X |

**CONTRIBUTIONS were determined as follows:** Complete Item 5A if the participant is a PERSON or ENTITY. Complete Item 5B if the participant is a JOINT OPERATION. Complete Item 5C if the participant is either an ENTITY or JOINT OPERATION.

| | | |
|---|---|---|
| 5A | The PERSON or ENTITY is determined to make the following CONTRIBUTIONS: | ☐ ACTIVE PERSONAL LABOR ☐ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| 5B | The JOINT OPERATION is determined to make the following CONTRIBUTION(S). | ☐ LAND ☒ CAPITAL ☒ EQUIPMENT |
| | MEMBERS of the JOINT OPERATION are determined to make the following 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 |
| | 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. | |
| 5C | Did all partners, stockholders, or members with an ownership interest represent a contribution of active personal labor and/or active personal management to the farming operation that meets all of the following: 1) performed on a regular basis; 2) identifiable and documentable; and 3) separate distinct from that of any other partner, stockholder, or member with an ownership interest in the farming operation? ☒ **YES** ☐ **NO** | |

6. List in REMARKS all partners, stockholders, or members and their ownership shares that did not meet requirements in Item 5C.

| | |
|---|---|
| 7. COMMON ATTRIBUTION applies to: | |
| 8. Ineligible FOREIGN PERSONS are: | |

**PART D - REMARKS**

**PART E – SIGNATURE OF REVIEWING AUTHORITY**

| 1. COC or STO Representative Signature | 2. Title | 3. Date |
|---|---|---|
| Roger Johnson | Chairperson, COC | 4/12/2009 |

*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.*

## 207 Completing CCC-903's (Continued)

### *--D Example CCC-903 for 2010 and Subsequent Program Years

This form is available electronically.

| CCC-903 (01-23-13) | U.S. DEPARTMENT OF AGRICULTURE<br>Commodity Credit Corporation | 1. NAME<br>Beringer Partners II |
|---|---|---|
| | **WORKSHEET FOR PAYMENT ELIGIBILITY AND PAYMENT LIMITATION DETERMINATIONS** | 2. COUNTY AND STATE<br>Johnson, TX |
| | | 3. PROGRAM YEAR *(select one)*<br>☐ 2010 ☐ 2011 ☐ 2012 ☒ 2013 |

**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 | ☐ Other: |
| ☐ Corporation | ☐ Irrevocable Trust | ☐ Public School | |

**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? **[1-CM (Rev 3) Part 6]** | X | | |
| 2 | If participant is an Estate, has a tax identification number (EIN) been provided for the estate? **[1-CM (Rev 3) Part 6]** | | | 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? **[1-CM (Rev 3) Part 6]** | | | 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? **[4-PL Part 3]** | 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"**, See Common Attribution, Part D, Item 5.) **[4-PL Part 4]** | | | X |
| 6 | Does this person or legal entity meet ALL of the following with regard to the farming operation:<br>• has a separate and distinct interest in the land, crops, and livestock<br>• demonstrates separate responsibility for the interest in land, crops and livestock<br>• maintains funds and accounts separate from all other farming operations. **[4-PL Part 2, Section 6]** | X | | |
| 7 | Are cash rent tenant provisions met with significant contributions of either of the following: *(check as applicable)*<br>☒ active personal labor, or<br>☐ active personal management and equipment<br>(**NOTE**: If participant is a joint operation, each member must meet cash rent tenant provisions.) **[4-PL Part 2, Section 7]** | 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.) **[4-PL Part 2, Section 6, Subsection 2]** | | | X |
| 10 | For limited partnerships, LLPs, LLCs, corporations and similar legal entities, do the partners, members or stockholders providing active personal labor and/or active personal management collectively hold at least 50 percent interest in the legal entity? **[4-PL Part 4, Section 4]** | | | 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? **[4-PL Part 4, Section 5]** | | | X |
| 12 | If a trust, does the trust provide for modification or interest by the grantor, or provide for transfer to the remainder beneficiary in less than 20 years from the date the trust is established? **[4-PL Part 4, Section 6]** | | | X |
| 13 | If an irrevocable trust, has trust documentation been provided and is such documentation on file? **[4-PL Part 4, Section 6]** | | | 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? **[4-PL Part 4, Section 1]** | | | 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"**, See Common Attribution in Part D, Item 5) **[4-PL Part 4, Section 1]** | | | X |
| 16 | Substantive change rules were met by (check each applicable substantive change): **[4-PL Part 2, Section 5]** | | | |
| | X Addition of 1 (number) adult family member(s) | X | | |
| | ___ 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 | | |
| | ___ Addition of equipment not previously involved in the farming operation | | | X |

--*

## 207 Completing CCC-903's (Continued)

### *--D Example CCC-903 for 2010 and Subsequent Program Years (Continued)

CCC-903 (01-23-13) Page 2 of 3

Participant's Name: Beringer Partners II Crop Year: 2013

**PART C – FINDINGS OF THE REVIEWING AUTHORITY**

**CONTRIBUTIONS were determined as follows:** Complete Item 1 if the participant is a PERSON or LEGAL ENTITY. Complete Item 2 if the participant is a JOINT OPERATION. Complete Items 3 through 5 if the participant is a LEGAL ENTITY.

| | | |
|---|---|---|
| 1 | The PERSON or LEGAL ENTITY is determined to make the following CONTRIBUTIONS: | ☐ ACTIVE PERSONAL LABOR ☐ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| 2 | The JOINT OPERATION is determined to make the following CONTRIBUTION(S). | ☒ LAND ☒ CAPITAL ☒ EQUIPMENT |
| | MEMBERS of the JOINT OPERATION are determined to make the following CONTRIBUTIONS: | |
| | Member(s) Name(s): Jack Beringer | ☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): Bobby Beringer | ☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): Ana Beringer | ☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): Ida Beringer | ☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): Jason Beringer | ☒ ACTIVE PERSONAL LABOR ☒ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): | ☐ ACTIVE PERSONAL LABOR ☐ ACTIVE PERSONAL MANAGEMENT ☐ LAND ☐ CAPITAL ☐ EQUIPMENT |
| | Member(s) Name(s): | ☐ 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 or MINOR CHILDREN are used to credit a spouse with a significant contribution of active personal labor or active personal management in this farming operation. **[4-PL Paragraph 116 and 147B]** | |
| 3 | For an LP, LLP, LLC, corporation or similar legal entity, did all partners, stockholders, or members with an ownership interest represent a contribution of active personal labor and/or active personal management to the farming operation that meets all of the following: 1) performed on a regular basis; 2) identifiable and documentable; and 3) separate and distinct from that of any other partner, stockholder, or member with an ownership interest in the farming operation? ☐ **YES** ☐ **NO** **[4-PL Paragraph 147]** | |
| 4 | For any partner, stockholder or member that failed to meet the requirement in Item 3, are **both** of the following requirements met for an exception?<br>- Total DCP direct payments received collectively by all partners, stockholders, and members directly and indirectly, does not exceed $40,000 (Attach documentation of projected DCP/ACRE direct payments), **AND**<br>- At least 50 percent of the ownership interest in the legal entity is held by partners, stockholders, or members that are actively providing labor and management to the farming operation of the legal entity. ☐ **YES** ☐ **NO** **[4-PL Paragraph 147]** | |
| 5 | List all partners, stockholders, or members that do not meet requirements in Item 3 **and** to whom the exception in Item 4 is not applicable. | |

--*

## 207 Completing CCC-903's (Continued)

### *--D Example CCC-903 for 2010 and Subsequent Program Years (Continued)

**CCC-903** (01-23-13) Page 3 of 3

**Participant's Name:** Beringer Partners II **Crop Year:** 2013

**PART D – 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 | The farming operation is NOT ELIGIBLE for payment because the NAME and SSN or EIN of each member or interest holder were not provided. **[1-CM (Rev 3) Part 6]** | | X |
| 2 | LANDOWNER PROVISIONS apply to all or part of this participant's farming operation. **[4-PL Paragraph 62]** | X | |
| 3A | For PERSONS or LEGAL ENTITIES: The person's or entity's contributions are SIGNIFICANT, COMMENSURATE and AT RISK; And the person or entity is ACTIVELY ENGAGED IN FARMING. (If **"NO"**, explain in REMARKS) **[4-PL Paragraphs 126-131; 146-170]** | X | |
| 3B | For JOINT OPERATIONS ONLY, each member's contributions are SIGNIFICANT, COMMENSURATE and AT RISK; And EACH MEMBER is ACTIVELY ENGAGED IN FARMING. (If **"NO"**, explain in REMARKS) **[4-PL Paragraphs 136-141]** | | |
| 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; or because the participant is only partially actively engaged in farming (If **"YES"**, explain in Remarks) **[4-PL Paragraphs 64; 91 and 92]** | | X |
| 5 | A PAYMENT REDUCTION applies because all partners, stockholders, or members failed to make requisite contributions of active personal labor and/or active personal management to the farming operation that meets all of the following: 1) performed on a regular basis; 2) identifiable and documentable; and 3) separate and distinct from that of any other partner, stockholder, or member with an ownership interest in the farming operation. **[4-PL Paragraphs 64; 137 and 147]** | | X |
| 6 | COMMON ATTRIBUTION applies to the following: | | |
| 7 | Ineligible FOREIGN PERSONS are: | | |
| 8 | Ineligible ESTATES OVER 2 YEARS OLD are: | | |
| 9 | SUBSTANTIVE CHANGE was required, but NOT MET by: | | |

**PART E – REMARKS**

**PART F – SIGNATURE OF REVIEWING AUTHORITY**

| 1. COC or STO Representative Signature | 2. Title | 3. Date |
|---|---|---|
| ***/s/ Roger Johnson*** | Chairperson COC | 3/15/13 |

**PART G – ACTIONS COMPLETED**

| | Action | Date |
|---|---|---|
| 1 | Written NOTICE OF DETERMINATION issued to all parties. **[4-PL Part 7]** | 3/19/13 |
| 2 | Determinations recorded in the WEB ELIGIBILITY files. **[3-PL (Rev. 1) Paragraphs 24-31]** | 3/19/13 |
| 3 | For Entities and Joint Operations: Subsidiary files were verified or updated to reflect correct:<br>- members<br>- shares<br>- member contributions<br>- substantive change status | 3/19/13 |
| 4 | As applicable, a CROPLAND FACTOR was computed and recorded in web eligibility files. | |
| 5 | If the participant has interests in MULTIPLE COUNTIES, other counties were notified of the determinations. **[4-PL Paragraphs 226-229]** | |

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## 208 COC Requirements to Make Timely Determinations

### A Overview

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.

### *--D AGI

SED's are delegated authority to make AGI determinations.**--***

## 217 * * * Relief and Incorrect Determinations

### A Misaction or Misinformation

See 7-CP for cases involving misaction or misinformation.

### *--B Incorrect Payment Limitation or Actively Engaged in Farming Determination Corrective Action

Use this table if a payment limitation or actively engaged in farming 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<br>• corrected determination shall be applicable for the current year, **unless** COC determines and DD concurs that both of the following apply:<br>  • error was **not** so great that the producer should have noticed the error<br>  • producer, relying on the erroneous written determination and acting in good faith:<br>  • materially changed plans because of the erroneous determination<br>  • 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<br>**Exception:** The correct determination shall apply for the current year if **both** of the following apply:<br>  • incorrect determination was made in a previous year and considered to be in effect for subsequent years<br>  • error was discovered and the producer was notified **before** a payment.<br>• producer shall be notified of the correct determination according to paragraph 244. |

***--Note:** The provisions of this paragraph are not applicable to average AGI determinations.--*

## 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:<br><br>• the filing date<br>• 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<br>• actively engaged in farming determinations. |
| multiple farming operations and all operations are in the control county | • all eligibility determinations<br>• all actively engaged in farming determinations. |
| multiple farming operations and all farming operations are **not** in the control county | • all eligibility determinations<br>• 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 (Rev. 1).**--***

## 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<br>• involve DD's and State Offices if needed to resolve the differences<br>• 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** in 2009 for initial eligibility and actively engaged in farming determinations for joint operations with 6 or more members

•***--not** required in 2010 through 2013 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.<br><br>**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<br><br>• an actively engaged in farming determination within 60 calendar days of the later of the following:<br><br>  • date the application or contract to participate for the program subject to an actively engaged in farming determination is filed<br><br>  • 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 *** * ***
- 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

## 245 Notification Letters (Continued)

### D Letter for a Joint Operation, Eligible for Payment

*--

(Date)

PRODUCER NAME
ADDRESS1
ADDRESS2

Dear JOINT OPERATION NAME:

The COUNTY NAME County FSA Committee has completed its review of the YEAR farm operating plan and supporting documentation for JOINT OPERATION NAME, a joint operation. The County Committee did not consider any other farming operations in which the joint operation is involved as a member of an entity or a member of another joint operation because these determinations will be made with respect to the Farm Operating Plans filed by such entities or joint operations.

Based on the information submitted, the County Committee determined that the following members of JOINT OPERATION NAME, a joint operation, are eligible for payments subject to the payment eligibility and payment limitation provisions:

| Member Name | Percent Share |
|---|---|
| (MEMBER NAME) | XX |
| (MEMBER NAME) | XX |
| (MEMBER NAME) | XX |
| (MEMBER NAME) | XX |
| (MEMBER NAME) | XX |

The COUNTY NAME County Committee determined each member:

- is actively engaged in farming

- *(only include this statement if it applies)* meets cash rent tenant rules

- is restricted to one limitation for payment purposes and payments will be attributed to each member in accordance with their ownership share. Payments to members who are entities will be attributed to members based on their ownership shares to the 4th level of ownership.

*(Only include this statement if it applies)* Payments will be restricted as indicated:

- MEMBER NAME, a minor child, will have payments attributed to PARENT'S NAME
- MEMBER NAME, a revocable trust, will have payments attributed to GRANTOR'S NAME

These determinations will remain in effect for the current and subsequent years. A new farm operating plan will not be required unless a change occurs that would affect the determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the COUNTY NAME County Office in writing of any change which would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

Sincerely,

CED NAME
County Executive Director
COUNTY NAME FSA Office

--*

## 245 Notification Letters (Continued)

### E Letter for a Joint Operation, Ineligible for Payment

*--

(Date)

PRODUCER NAME
ADDRESS1
ADDRESS2

Dear JOINT OPERATION NAME:

The COUNTY NAME County FSA Committee has completed its review of the YEAR farm operating plan and supporting documentation for JOINT OPERATION NAME, a joint operation. The County Committee did not consider any other farming operations in which the joint operation is involved as a member of an entity or a member of another joint operation because these determinations will be made with respect to the Farm Operating Plans filed by such entities or joint operations.

Based on the information submitted, the County Committee determined that the following members of JOINT OPERATION NAME, a joint operation, are eligible for payments subject to the payment eligibility and payment limitation provisions:

| Member Name | Percent Share |
|---|---|
| (MEMBER NAME) | XX |
| (MEMBER NAME) | XX |

The COUNTY NAME County Committee determined each of these members:

- is actively engaged in farming
- *(only include this statement if it applies)* meets cash rent tenant rules
- is restricted to one limitation for payment purposes and payments will be attributed to each member in accordance with their ownership share. Payments to members who are entities will be attributed to members based on their ownership shares to the 4th level of ownership.

*(Only include this statement if it applies)* Payments will be restricted as indicated:

- MEMBER NAME, a minor child, will have payments attributed to PARENT'S NAME
- MEMBER NAME, a revocable trust, will have payments attributed to GRANTOR'S NAME

The County Committee further determined that the following members are NOT ELIGIBLE for payment for the following reasons:

| Member Name | Percent Share | Reason for Ineligibility *(describe as applicable)* |
|---|---|---|
| (MEMBER NAME) | XX | *(for example: This member is not actively engaged in farming. The member does not make a significant contribution of active personal labor or active personal management.)* |
| (MEMBER NAME) | XX | *(for example: This member does not meet cash rent tenant rules. A significant contribution of equipment is provided by the joint operation, but this member does not make a significant contribution of active personal labor or active personal management)* |
| (MEMBER *NAME*) | XX | *(for example: This member is a foreign person who does not meet foreign person rules. Capital and land are provided, but a significant contribution of active personal labor is not provided.)* |

These determinations will remain in effect for the current and subsequent years. A new farm operating plan will not be required unless a change occurs that would affect the determinations.

These determinations are based on the facts as submitted. You are responsible for promptly notifying the COUNTY NAME County Office in writing of any change which would affect these determinations. Any unrevealed circumstances could require the application of a more restrictive rule.

*[Provide appeal rights according to 1-APP Rev. 2)]*

Sincerely,
CED NAME
County Executive Director
COUNTY NAME FSA Office

--*

## 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<br>• 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.

### 267-400 (Reserved)

# *--Part 8 End of Year Reviews for 2009 and Subsequent Years

## Section 1 Selections and Notifications

### 401 Overview

#### A Introduction

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

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

#### B Purpose

This section provides instructions for selecting and notifying producers of the end-of-year review.**--***

## *--402 Selection Process

### A Introduction

Producers selected for an end-of-year review may be chosen for the following reasons:

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

### B Judgmental Selection

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

- the restructure of a farming operation in the past year by the addition of a new partner, deletion of a partner, change in stockholders, etc.

- the formation of a new farming operation in the past year

- a comparison of farming operations to determine whether an individual or legal entity is involved in more than 1 operation

- farming operations earning more than a specified dollar amount.

### C Required Spot Checks

A default determination made according to paragraph 243 must be selected as an end-of-year review if the proper determination made according to paragraph 244 differed from the default determination.

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

***--402 Selection Process (Continued)**

**D Additional Cases**

In addition to cases that are judgmentally selected, or otherwise required to be selected, the following cases will also be selected for end-of-year review:

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

**E Timing End-of-Year Reviews**

Complete end-of-year reviews by the date established by STC, according to paragraph 261.

**F Waiver Authority for State Offices**

State Offices may waive judgmentally selected end-of-year reviews under the following circumstances:

- farming operations involving **only** a husband and wife
- farming operation was previously reviewed in the last 3 years, did **not** receive an adverse determination, **and** the reviewing authority has determined that there have been no changes that affect the original determinations
- farming operations with **all** land meeting the landowner exemption
- farming operation did not participate in any program in the year selected.

**Notes:** State Offices shall include the number of any waived judgmentally selected reviews in the remarks sections of the final CCC-902EYR.

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

## *--403 Producer Notification

### A Overview

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

### B Producer Notification

Producers who are required to submit documents shall be notified about their selection for end-of-year review no later than 90 calendar days before the end-of-year review completion date established by STC according to paragraph 261.

The notification letter shall contain the following:

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

### C Producer Responsibility

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

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

## *--403 Producer Notification (Continued)

### D Sample Notification Letter

This is an example of a letter notifying a producer of being selected for an **end-of-year review**.

[Letterhead]

*Any County FSA Office*
*502 Spotcheck Ave*
*Some City US 55555-1234*

**Date**
*Wandering Brook, Inc.*
*Fred Friendly, President*
*777 Lucky Day Rd*
*Some City US 55555-1234*

Dear *Mr. Friendly*:

Your farming operation has been selected for a 20XX payment limitation and payment eligibility end-of-year review.

End of year reviews are conducted annually on a number of farming operations and producers that are participants in various FSA administered programs. Initial payment eligibility and payment limitation determinations are made based on the producer's certification of how the farming operation will be conducted for the year.

To ensure overall program integrity, it is necessary that the producer's farming operation be reviewed and documented. Accordingly, your farming operation will be reviewed to determine whether the operation was conducted in 20XX as represented on CCC-902, Farm Operating Plan, on which the initial payment eligibility and payment limitation determinations were based.

*[Delete the following paragraphs that are not applicable to the producer.]*

To verify capital contributions, documents and information are required as follows:

- operating loan documents
- income and expense ledgers
- canceled checks for expenditures, such as:
    - fertilizer
    - seed
    - fuel
    - equipment leases and purchases
    - land leases and purchases
    - hired labor and management
    - any other farming operation expenditures.

--*

***--403 Producer Notification (Continued)**

**D Sample Notification Letter (Continued)**

To verify land contributions, documents and information are required as follows:

- lease agreements
- sales contracts
- property tax statements
- canceled checks associated with land.

To verify equipment contributions, documents and information are required as follows:

- equipment listings
- lease agreements
- purchase contracts
- canceled checks associated with equipment.

To verify labor contributions, documents and information are required as follows:

- documentation of who provided actual labor contributions and type of labor
- employee time sheets or books, if applicable
- canceled checks for hired labor, if applicable.

To verify management contributions, documents and information are required as follows:

- documentation of who provided actual management contributions and specific duties
- canceled checks for hired management
- documents showing signature of individual involved in management, such as:
    - canceled checks for significant purchases
    - loan documents
    - lease and purchase agreements
    - sales documents.

Other documents and information necessary to make a complete review includes, but is not limited to, the following:

- crop sales documents
- warehouse ledgers
- gin ledgers
- corporation papers, including documentation of share ownership

**--***

***--403 Producer Notification (Continued)**

**D Sample Notification Letter (Continued)**

- partnership agreements or articles of partnership
- trust agreements
- legal documents and contracts
- accounting records
- court records
- crop insurance documents.

Please provide the requested information to this office within 30 calendar days of the date of this letter. We will photocopy and return the documents and written information you submit. Copies of the documents and information will be forwarded to the individual(s) who will be conducting the actual review and documenting their findings. The (*Any County FSA Committee or State FSA Office, as applicable*) will then make determinations based on findings supported by the documents and information you provide. Therefore, it is important that you provide complete and accurate documentation.

You may also be contacted for an interview to obtain additional information and clarification concerning contributions to the farming operation and transactions about the farming operation. During the interview, you may be requested to provide access to additional records.

Upon completion of the review, you will be notified of the results of the review and any further action required.

If, within 30 calendar days of the date of this letter, you have **not** provided adequate documentation for the reviewing authority to make its findings and determinations, you will be:

- determined ineligible for the 20XX crop, program or fiscal year benefits

- notified of the revised determination, and given appeal rights

- required to refund payments earned as a result of the previous payment eligibility and payment limitation determination.

Thank you for your cooperation. If you have any questions, please contact this office.

Sincerely,

James E. Cricket
County Executive Director

**--***

**404-410 (Reserved)**

## *--Section 2 Documentation

### 411 Required Documentation

#### A Overview

Producers selected for an end-of-year review must provide adequate documents for the reviewing authority to determine that the farming operation was carried out as represented when initial determinations were made.

This paragraph contains instructions for obtaining documents to verify the entries made on CCC-902 and related forms.

#### B What to Verify

The reviewing authority must obtain adequate documents to verify that:

- inputs used to determine significant contributions to the farming operation were significant
- contributions were commensurate with claimed shares of the farming operation
- contributions were at risk
- land ownership has been accurately reported when the landowner rules were used in the original determination
- any other pertinent factors used in making the original determination are substantiated.

#### C Filing Evidence

County Office personnel shall photocopy documents obtained during the end-of-year review process. File the photocopies with other payment limitation documents. A sufficient number of documents used to make the determination must be filed to support the determination made by the reviewing authority.--*

## *--411 Required Documentation (Continued)

### D Examples of Required Documents

Adequate documentation is required to verify whether contributions are commensurate and significant. This table lists examples of documents used to verify these contributions.

| Contribution | Examples of Documents |
|---|---|
| Capital | • Operating loan documents.<br>• Income and expense ledgers.<br>• Canceled checks for expenditures, such as:<br><br>  • fertilizer<br>  • seed<br>  • chemicals<br>  • fuel<br>  • equipment leases and purchases<br>  • land leases and purchases<br>  • hired labor or management<br>  • other farming operation expenditures. |
| Land | • Lease agreements.<br>• Sales contracts.<br>• Property tax statements.<br>• Canceled checks associated with land. |
| Equipment | • Lease agreements.<br>• Purchase contracts.<br>• Equipment listings.<br>• Canceled checks associated with equipment. |
| Labor | • Employee time sheets or books.<br>• Canceled checks for hired labor. |
| Management | • Canceled checks for hired management.<br>• Documents showing signature of person involved in management.<br><br>**Examples:** Canceled checks for significant purchases.<br>Loan documents.<br>Lease and purchase agreements.<br>Sales documents. |

--*

## *--411 Required Documentation (Continued)

### E Examples of Other Documents Needed

Other documents that may be needed to make a complete review could include, but are not limited to, the following:

- crop sales documents
- warehouse ledgers
- gin ledgers
- corporation papers, including documentation of share ownership
- partnership agreements or articles of partnership
- trust agreements
- legal documents and contracts
- accounting records
- court records
- crop insurance documents.**--***

## *--412 Failure to Provide Documentation

### A Introduction

Producers selected for an end-of-year review must provide the reviewing authority with requested documents. This paragraph explains the adverse actions that will be taken if a producer does not comply with this requirement.

### B Documentation Not Provided

A producer's failure to submit end-of-year review documentation shall result in the following actions.

| IF the producer... | THEN the producer shall be... |
|---|---|
| • refuses to provide the requested information<br><br>• does not provide information within 30 calendar days | • determined not "actively engaged in farming" and ineligible for the year of the review and all later years until eligibility can be reestablished<br><br>• notified of the revised determination, and given appeal rights<br><br>• required to refund payments earned as a result of the previous "actively engaged in farming" and eligibility determinations, according to the applicable program handbook.<br><br>**Note:** Follow 58-FI for issuing the initial notification letter.<br><br>**Note:** This determination does not require COC action. |

**Note:** The reviewing authority may extend the deadline to provide information if merited by unusual circumstances.

### C County Office Action

After a producer is determined ineligible for payment be, County Offices shall update the eligibility records through the eligibility or entity file.**--***

**412-414 (Reserved)**

## *--Section 3 Conducting Reviews

### 415 Responsibilities

#### A Overview

This section provides the required action and worksheets to be used to conduct end-of-year reviews.

This paragraph provides guidelines for required action for conducting end-of-year reviews.

#### B Review Teams

Members of the review team, established according to paragraph 262, shall:

- complete the review for all cases according to paragraph 402
- obtain additional documentation directly from producers whenever it is needed to determine that actual farming operations are or are not in compliance with approved farm operating plans
- document end-of-year review conclusions and make recommendations for action by the initial review authority.

#### C Determinations by Initial Reviewing Authority

The reviewing authority that made the initial determination for the producer selected for end-of-year review shall:

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

**Note:** If the State Office made the initial determination for the producer, the State Office shall make end-of-year review determination.--*

***--415 Responsibilities (Continued)**

**D Required Action and Responsibility**

Follow this table to determine required action and responsibility.

| Step | Action | Responsibility |
|---|---|---|
| 1 | Producer selection. | • Judgmental selection, DAFP.<br>• All other cases, initial reviewing authority. |
| 2 | Producer notification. | Initial reviewing authority |
| 3 | Accumulation of requested information.<br>**Note:** Documents shall be copied and returned to the producer. | Producer's designated control County Office. |
| 4 | Assigning and coordinating reviews. | State Office specialist. |
| 5 | Reviewing documents and fact findings. | Review team member or members under the supervision of the State Office specialist. |
| 6 | Determination and producer notification. | Initial reviewing authority. |
| 7 | End-of-year reports. | • Designated control County Office.<br>• State Office. |

**--***

***--415 Responsibilities (Continued)**

**E Discrepancies**

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

| IF a discrepancy is discovered that... | THEN notify the producer of the... |
|---|---|
| does not affect the original determination | discrepancy and confirm the original determination. |
| affects the original determination | • not "actively engaged in farming" determination or other revised determination<br>• amount of payments to refund, if applicable<br>**Note:** See 58-FI.<br>• producer's appeal rights. |

**416-420 (Reserved)**

## *--421 Completing and Documenting Reviews

### A Information Collection and Comparison

An end-of-year review requires the following actions:

- collection of copies of all program applications, contracts, payment eligibility documentation, and payment limitation documentation submitted by the producer for the applicable year

- collections of specific business-related documents and related information for the producer's farming operation for the applicable year

- comparison of both sets of information to the rules and regulations governing payment eligibility and payment limitation for the program year subject to review.

### B Results and Findings

The results and findings of the review are the basis to determine whether the producer is either of the following:

- eligible, either all or in part, for the program payments and benefits received or requested

- ineligible for the program payments and benefits received or requested for the year or years subject to the review.

### C Review Activities

All review actions and activities are to be recorded with using the 5-part CCC-900 package, which includes the following:

- CCC-900-1
- CCC-900-2
- CCC-900-3
- CCC-900-4
- CCC-900-5.--*

## *--421 Completing and Documenting Reviews (Continued)

### D Review Record

The 5-part CCC-900 package:

- must be completed for each producer selected for review
- becomes the permanent record of the review
- is the basis for the recommendations to the reviewing authority for subsequent determinations for payment eligibility and payment limitation.

### E Availability and Using CCC-900 Package

All 5 parts of the CCC-900 package:

- are available online at **http://intra3.fsa.usda.gov/dam/ffasforms/forms.html**
- are online fillable
- may be completed manually.**--***

## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package

The following is an example of a completed CCC-900 package.

This form is available electronically.

| CCC-900-1 (08-12-10) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation<br>PAYMENT ELIGIBILITY/LIMITATION SELECTION, NOTIFICATION, AND INFORMATION COLLECTION CHECKLIST 1 | A. Producer Name<br>Beringer Partners<br>B. State and County Office Name<br>Johnson County FSA Office; TX<br>C. Program Year Reviewed<br>☒ 2009 ☐ 2010 ☐ 2011 ☐ 2012 |
|---|---|

Follow the steps in this table to conduct EYR. Attach documents and additional information as appropriate.

| Step | Process | Action | Initial | Date |
|---|---|---|---|---|
| 1 | Producer Selection<br>4-PL, Par 402 | Indicate how the case was selected:<br>☒ A. Judgmental selection by DAFP.<br>☐ B. Required spot check.<br>☐ C. Other case required by the reviewing authority. | PT | 8-10-2010 |
| 2 | Producer Notification<br>4-PL, Par 403 and 412 | Date of letter notifying producer of selection: 8-10-2010<br>**Note:** The requested documents and information were provided by the producer on: 8-26-2010<br>If producer refused or failed to provide records for EYR, date producer was notified of ineligibility: _____ | PT | 8-26-2010 |
| 3 | Collection of Agency Records | Obtain copies of all forms and related correspondence for producer:<br>☒ A. CCC-901<br>☒ B. CCC-902<br>☒ C. CCC-903<br>☒ D. Notice of determination<br>☒ E. MABDIG for joint operation or legal entity<br>☒ F. Program contracts and applications for year reviewed | PT | 8-26-2010 |
| **Steps 4 and 5 will be completed by the Review Team** | | | | |
| 4 | Review of Initial Information | Review documents and information initially provided by the producer to determine whether an interview with the producer is required.<br>**Note:** Producer shall be interviewed unless the reason for not interviewing the producer is obvious and adequately justified in writing.<br>A. Is interview with producer required? ☒ YES ☐ NO<br>B. If "YES":<br>(1) date the producer was notified: 8-27-2010<br>(2) go to step 5.<br>C. If "NO":<br>(1) give justification for not interviewing the producer:<br>(2) go to step 5. | HD | 8-27-2010 |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

**CCC-900-1** (08-12-10) Page 2

**Producer Name:** Beringer Partners

| Step | Process | Action | Initial | Date |
|---|---|---|---|---|
| 5 | Producer Interview | Interview the producer(s) or representative of the selected case and obtain details of the farming operation and the method of operation for the crop year.<br><br>**Note:** Consider interviewing separately (without farm manager or principal spokesperson) those producers that are suspected of knowing nothing about the farming operation.<br><br>General interview information:<br><br>A. In discussing the farming operation, does the producer's(s') description of the operation differ with other available information?<br><br>☐ YES ☒ NO<br><br>**Note:** If "YES", explain:<br><br>B. If applicable, advise the producer(s) that accounting records will need to be reviewed and the lending agency of the producer(s) may need to be contacted to verify financing information. | HD | 9-2-2010 |

| C. Name of Producer/Member Interviewed | D. Date of Interview |
|---|---|
| Jack Beringer | 8-31-2010 |
| Ana Beringer | 8-31-2010 |
| Bobby Beringer | 8-31-2010 |
| Ida Beringer | 8-31-2010 |
| | |
| | |

**Notes and Comments**
Each member was interviewed individually by the Review Team. All were very knowledgeable of the different aspects of the farming operation. Each member was able to provide details of their respective duties and responsibilities represented. All of the members knew the details of the operation's financing, marketing, crop production, and livestock production activities. All of the members knew what the grain and livestock markets were including LDP rates for the day of the interview.

| D. Signature of Reviewing Authority or Review Team Member | E. Date *(MM-DD-YYYY)* |
|---|---|
| */s/ Helen Dawson* | 09-02-2010 |

--*

## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

This form is available electronically.

| CCC-900-2 (08-12-10) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation | A. Producer Name |
|---|---|
| | Beringer Partners |
| PAYMENT ELIGIBILITY/LIMITATION DOCUMENTS RECEIVED FROM PRODUCER CHECKLIST 2 | B. State and County Office Name |
| | Johnson County FSA Office; TX |
| | C. Program Year Reviewed ☒ 2009 ☐ 2010 ☐ 2011 ☐ 2012 |

Use this checklist to indicate the documents submitted by the producer and initial and date. If a contribution or determination is not applicable, check "N/A".

| Contribution or Determination | Documentation Required | Initial | Date | N/A |
|---|---|---|---|---|
| 1. Capital | ☒ A. Operating loan documents.<br>☒ B. Income and expense ledgers.<br>☒ C. Canceled checks for expenditures, such as:<br>☒ (1) fertilizer<br>☒ (2) seed<br>☒ (3) chemicals<br>☒ (4) fuel<br>☒ (5) equipment leases and purchases<br>☒ (6) land leases and purchases<br>☐ (7) livestock and livestock related purchases<br>☒ (8) hired labor or management<br>☐ (9) other farming operation expenditures.<br>*(Specify)*:_____ | HD | 9-2-2010 | |
| 2. Land | ☒ A. Lease agreements.<br>☐ B. Sales contracts.<br>☐ C. Property tax statements.<br>☒ D. Canceled checks associated with land.<br>☐ E. Other:<br>*(Specify)*:_____ | HD | 9-2-2010 | |
| 3. Equipment | ☒ A. Lease agreements.<br>☐ B. Purchase contracts.<br>☐ C. Equipment listings.<br>☒ D. Canceled checks associated with equipment.<br>☐ E. Other:<br>*(Specify)*:_____ | HD | 9-2-2010 | |
| 4. Labor | ☒ A. Employee time sheets or books.<br>☒ B. Canceled checks for hired labor.<br>☐ C. Other:<br>*(Specify)*:_____ | HD | 9-2-2010 | |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

**CCC-900-2** (08-12-10) Page 2

**Producer Name:** Beringer Partners

| Contribution or Determination | Documentation Required | Initial | Date | N/A |
|---|---|---|---|---|
| 5. Management | ☐ A. Canceled checks for hired management.<br>☒ B. Loan documents.<br>☒ C. Lease and purchase agreements.<br>☒ D. Sales documents.<br>☒ E. Appointment books.<br>☒ F. Calendars.<br>☐ G. Narrative summaries.<br>☐ H. Phone logs.<br>☒ I. Activity logs.<br>☐ J. Other:<br>*(Specify)*:_____ | HD | 9-2-2010 | |
| 6. Commensurate | ☒ A. Program documents:<br>*(Specify)*:CCC-509's<br>☒ B. Crop sales documents.<br>☒ C. Warehouse ledgers.<br>☒ D. Gin ledgers.<br>☐ E. Corporation papers, including ownership share.<br>☒ F. Partnership agreements.<br>☐ G. Trust agreements.<br>☐ H. Legal documents and contracts.<br>☒ I. Accounting records.<br>☐ J. Court records.<br>☒ K. Crop insurance documents.<br>☐ L. Other:<br>*(Specify)*:_____ | HD | 9-2-2010 | |
| D. Signature of Reviewing Authority or Review Team Member<br>*/s/ Helen Dawson* | | E. Date *(MM-DD-YYYY)*<br>09-02-2010 | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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This form is available electronically.

**CCC-900-3** (09-27-10)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**PAYMENT ELIGIBILITY/LIMITATION CONTRIBUTION WORKSHEET**

A. Producer Name: Beringer Partners

B. State and County Office Name: Johnson County FSA Office; TX

C. Program Year Reviewed: ☒ 2009 ☐ 2010 ☐ 2011 ☐ 2012

**PART A – TOTAL VALUE OF THE FARMING OPERATION**

Complete Part A to determine the total value of the farming operation.

| | 1. Capital | 2. Land | 3. Equipment | 4. Labor | 5. Management | 6. Total |
|---|---|---|---|---|---|---|
| Beringer Part | $2,500,000 | $1,087,450 | $305,700 | $200,000 | - | $4,093,150 |
| Jack | - | - | - | active | active | |
| Anna | - | - | - | active | active | |
| Bobby | - | - | - | active | active | |
| Ida | - | - | - | active | active | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| 7. TOTAL | | | | | | $4,093,150 |

8. Notes and Remarks

Total value of the farming operation is the total of the annual costs, excluding the value of the active personal labor and active personal management that is contributed by each member, that is needed to conduct the farming operation for the for which the determination is made.

Use information provided by the producer, extension service information, and values considered normal and customary for the area by the county committee.

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 2 of 11

**Producer Name:** Beringer Partners

**PART B - CAPITAL CONTRIBUTION**

Complete Part B to determine whether capital qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was capital used as a significant contribution? If "YES", complete this Part B. If "NO", go to Part C. | x | | |

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | Determine how the capital used as a significant contribution was acquired.<br><br>**Note:** Check the appropriate item or items, and go to the corresponding step of Part B.<br><br>☐ A. Direct out-of-pocket input by individual, entity, joint operation, or members of joint operation. Go to step 2.<br><br>☒ B. Capital borrowed by individual, entity, joint operation, or member of joint operation. Go to step 3. | | | |
| 2 | Determinations if direct out-of-pocket capital input. | | | |
| | A. If the capital was funded by an individual, entity, or member of the joint operation, were these contributions made directly to the farming operation? If "NO", explain: | | | |
| | B. If a joint operation in which the capital is contributed by a member or members of the joint operation rather than the joint operation itself, review member accounting records, checks, and loan documents to determine amounts invested. | | | |
| | C. Was each member's contribution of capital commensurate with their share of the operation? If "NO", other contributions may justify the claimed share of operation: | | | |
| | D. Interview the individual, entity representative, or member of the joint operation to ensure that capital contributions were out-of-pocket if not adequately established by documentation. Determine whether they borrowed the capital to provide their contribution.<br><br>Was capital borrowed? If "YES", go to step 3. If "NO", go to step 4. | | | |
| 3 | Determination if capital was borrowed.<br><br>If the capital contribution was borrowed:<br><br>A. Interview the producer to determine from whom the capital was borrowed, and annotate the lender's name:<br><br>First Commercial National Bank and Trust<br><br>B. Indicate the percentage of capital contribution that was borrowed: 70%<br><br>C. Review accounting records to determine whether the capital was contributed directly to the farming operation.<br><br>D. Arrange with the producer to contact the lender and review the loan file. | | | |
| | E. Was the loan acquired as a result of a loan being made to, guaranteed by, or secured by an individual, entity, member of a joint operation or any other joint operation with an interest in the farming operation? If "YES", the capital contribution may not qualify as a significant contribution. | | x | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 3 of 11

**Producer Name:** Beringer Partners

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 4 | Determination of significant contribution.<br>A. Did the producer provide the initial reviewing authority an estimated expense report for the year?<br>(1) If "YES", verify that the contribution equals as least 50 percent of the estimated expenses.<br>(2) If "NO", how did the reviewing authority determine that the individual's or entity's contribution was equal to 50 percent of the total capital necessary to conduct the farming operation? | x | | |
| | B. Based on the review of the capital represented by the farming operation as qualifying, did the farming operation or individuals meet the requirements for a significant contribution of capital?<br>(1) If "YES", the farming operation has met its significant "left-hand" contribution.<br>(2) If "NO", the farming operation has **not** met the requirements for significant "left-hand" contributions without additional "left-hand" contributions. Go to step 5. | x | | |
| 5 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part C.<br>The amounts shown on the projected budget and cash flow statements prepared for the lender were considered comparable to the annual capital requirements believed necessary for this farming operation. Information from the county extension service and FLP values were used for comparative purposes. | | | |

**PART C – EQUIPMENT CONTRIBUTION**

Complete Part C to determine whether equipment qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was equipment used as a significant contribution? If "YES", complete this Part X. If "NO", go to Part D. | x | | |

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | Determine how the equipment used as a significant contribution was acquired.<br>**Note:** Check the appropriate item or items, and go to the corresponding step of this worksheet.<br>☒ A. Owned by an operation or its members. Go to step 2.<br>☒ B. Leased by an operation or its members. Go to step 3. | | | |
| 2 | Equipment owned and contributed by individual, entity, or joint operation.<br>A. Did the farming operation or its members own **all** of the equipment used in the farming operation?<br>**Note:** Review accounting or tax depreciating records, if provided, and other information to confirm ownership of the equipment by the individual, entity, or joint operation. | | x | |
| | (1) If "NO", did the producer own a sufficient amount of equipment to conduct the farming operation and to meet the significant contribution requirement? | x | | |
| | B. If the farming operation is conducted by an individual, entity, or joint operation, was the equipment contributed directly to the farming operation by the individual, entity, or joint operation?<br>If "NO", use of the equipment to qualify as a significant contribution is questionable. Explain how the individual, entity, joint operation, or member of the joint operation contributed the equipment: | x | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 4 of 11

**Producer Name:** Beringer Partners

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 2 (cont) | C. For equipment contributed to the farming operation, determine whether this equipment was acquired as a result of a loan. If the equipment was acquired as a result of a loan, was the loan made to, guaranteed by, or secured by any individual, joint operation, entity, or member of a joint operation that has an interest in the farming operation?<br>• If "NO", equipment may be used as a significant contribution.<br>• If "YES", obtain and copy information about the loan, and discuss with both the producer and County Office to determine whether significant contribution requirements were met. | | x | |
| 3 | Equipment leased and contributed by individual, entity, or joint operation.<br>Determine what equipment was leased and from whom the equipment was leased. Obtain copies of relevant lease documents and equipment listings. | | | |
| | A. Was the equipment leased from someone with an interest in the farming operation?<br>If "NO", leased equipment may qualify as a significant contribution to the farming operation. Go to Step 4. | | x | |
| | If "YES":<br>(1) Is the leased equipment necessary for a significant contribution of equipment?<br>If "NO", explain fully and go to step 4: | | | |
| | (2) Explain fully the interest of the lessor in the farming operation: | | | |
| | (3) Determine and explain how payments were made for the equipment:<br>**Note:** If the equipment was leased by the hour, day, or acre basis, payment must be made in a timely manner. Review accounting records, checks, and billing invoices. | | | |
| | (4) Were equipment lease payments timely paid? | | | |
| | If "YES", was capital borrowed by the individual, entity, or joint operation from any other individual, entity, or joint operation with an interest in the farming operation? | | | |
| | **Note:** If "YES", explain how the farming operation paid for the cash-leased equipment. Obtain and copy necessary documents to support the finding:<br>If "NO", interview the producer and determine why lease agreements were not paid in a timely manner, and go to step 4: | | | |
| 4 | Determination of significant contribution.<br>A. How did the initial reviewing authority determine the total rental value of the equipment?<br>Information from the county extension service and FLP values were used for comparative purposes. | | | |
| | B. Based on the review of the equipment used in the farming operation, did the equipment qualify as a significant contribution?<br>If "YES", the individual, entity, or joint operation has met the "left-hand" contribution requirement. | x | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 5 of 11

**Producer Name:** Beringer Partners

| Step | Action |
|---|---|
| 5 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part D.<br>The majority of the equipment contributed to the farming operation was owned by partnership. |

**PART D – LAND CONTRIBUTION**

Complete Part D to determine whether the land qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was land used as a significant contribution? If "YES", complete this Part D. If "NO", go to Part E. | X | | |

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | Determine how the land used as a significant contribution was acquired.<br><br>**Note:** Check the appropriate block or blocks, and go to the corresponding step of this worksheet.<br><br>☐ A. Landowner: individual, entity, or joint operation. *Go to step 2.*<br><br>☐ B. Landowner: owned and contributed by members of joint operation. *Go to step 3.*<br><br>☒ C. Crop-share lease: individual, entity, or joint operation. *Go to step 4.*<br><br>☒ D. Cash-leased: individual, entity, or joint operation. *Go to step 5.*<br><br>☐ E. Land contributed by combination of methods. *Go to applicable steps 2 through 5.* | | | |
| 2 | Determination if land is owned by individual, entity, or joint operation.<br><br>Obtain and review documents supporting ownership of land, such as deeds or other title documents.<br><br>**Note:** If not available from the County Office, this information should be filed with the appropriate county court. | | | |
| | A. Was ownership of the land established for the applicable crop, program, or FY?<br><br>**Note:** If "NO", the individual, entity, or joint operation cannot qualify under the landowner provisions as actively engaged in farming. | | | |
| | B. During the review of the deed and/or title documents, determine whether the land was acquired by "Contract for Deed," "Deed of Trust," "Land Contract," or other similar arrangement.<br><br>**Note:** This is considered to be acquired as a result of a loan. | | | |
| | C. Was this land acquisition guaranteed by, or secured by an individual, entity, or other joint operation, including members, that have an interest in the farming operation?<br><br>**Note:** If "YES", the land cannot qualify as a significant contribution to the farming operation. Document and copy appropriate information: | | | |
| | D. If the landowner provision is used by a joint operation holding title to the land, review the joint operation agreement for dissolution of the operation. | | | |
| | Does this agreement provide that, upon dissolution, the title to the land owned or proceeds from the sale of the land will revert to the individual members according to their respective shares?<br><br>**Note:** If "NO", the landowner provisions cannot be used unless 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 and there is no documentation otherwise. | | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 6 of 11

**Producer Name:** Beringer Partners

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 3 | Determination if land is owned and contributed by member or members of joint operation. | | | |
| | • Obtain and review the deed or other title documents for the land.<br>**Note:** If not available from the County Office, this information should be filed with the appropriate county court. | | | |
| | A. Was ownership of the land established for the applicable crop, program, or FY?<br>If "NO", the individual, entity, or joint operation cannot qualify under the landowner provisions as "actively engaged in farming." | | | |
| | • During the review of the deed and/or title documents, determine whether the land was acquired by "Contract for Deed," "Deed of Trust," or other similar arrangement.<br>**Note:** This is considered to be acquired as a result of a loan. | | | |
| | B. Was this land acquisition guaranteed by, or secured by an individual, entity, or other joint operation, including members, that have an interest in the farming operation?<br>If "NO", *go to step 4.*<br>If "YES", the land cannot qualify as a contribution to the farming operation. Document and copy appropriate information. | | | |
| 4 | Determinations if land is crop-share leased. | | | |
| | • Obtain and review the lease agreements between the farming operation and the landowner.<br>A. Does the lease agreement require a minimum cash payment? If "YES", determine if it is a cash or share lease. | | x | |
| | • Review the accounting records, crop settlement sheets, or other records and compare the percentage division of crop or crop proceeds to the percentage of division on applicable contracts and applications.<br>B. Was the landowner's share of the production the same as reported to FSA?<br>If "NO", discuss this with the producer to determine why the landowner's share was different than that reported. | x | | |
| | C. Was the land leased from someone with an interest in the farming operation other than as a landlord? If "YES", explain. | | x | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 7 of 11

**Producer Name:** Beringer Partners

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 5 | Determinations if land is considered cash-leased by individual, entity, or joint operation. | | | |
| | • Review CCC-902 and cash-lease agreements. Determine who the land was leased from and if they had an interest in the farming operation. | | x | |
| | • If the cash-leased land is owned and contributed by someone with an interest in the farming operation, determine by interviewing the member or their representative and by reviewing documents, if the land is mortgaged and if the loan to acquire the land was made by, guaranteed by, or secured by, anyone having an interest in the farming operation. | | | |
| | **Note:** A "Contract for Deed," "Deed of Trust," "Land Contract," or other similar arrangement is considered to be acquired as the result of a loan. | | | |
| 6 | Determination of significant contribution. | | | |
| | How did the reviewing authority determine total rental value of the land? | | | |
| | **Note:** Rental value will not be listed on CCC-902 unless the land is leased from someone with an interest in the operation. | | | |
| | • Compare the land owned and leased by the farming operation and used to determine the producer "actively engaged in farming" with all land operated by the farming operation. Use producer's CCC-902 and obtain other County Office records, such as the producer payment record, to identify all farms operated. | | | |
| | A. Did the producer operate more land than was initially used by COC to make the "actively engaged in farming" determination? If "YES", determine and explain how the contribution was found to equal 50 percent of the individual's or entity's commensurate share. | | x | |
| | B. Based upon this comparison of the land operated by the producer to the land initially used by CCC in making determinations, does the land owned and/or leased by the farm operation qualify for inclusion as a significant contribution and have a value equal to at least 50 percent of the individual's, entity's, or joint operation's commensurate share of the total rental value of the land? | x | | |
| | **Note:** If "NO", the individual, entity, or joint operation cannot qualify as "actively engaged in farming" using land as its significant contribution. | | | |
| 7 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part E.<br>All share rented and cash leased land was acquired by the farming operation at rates considered normal and customary for the area. The crop production from the share rented land was divided according the shares represented and reported. The rent for the cash rented land was paid timely and in accordance with the terms of the lease agreements. No land was rented or leased from any individual or entity that had an interest in the farming operation of the partnership. | | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 8 of 11

**Producer Name:** Beringer Partners

**PART E – CASH-RENT TENANT**

Complete Part E to determine whether the producer meets the cash-rent tenant rule.

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | A. If the producer is a cash-rent tenant, did the producer provide a contribution of active personal labor to the farming operation?<br>• If "YES", complete Part G to determine if the contribution of active personal labor was significant.<br>• If "NO", complete Part C and Part H to determine if the producer provided a combination of significant contributions of equipment and management. | | x | |
| 2 | Upon completion of Parts C and H, does the producer meet the cash-rent tenant rules of 4-PL paragraphs 91 and 92.<br>• If "YES", complete step 3 and go to CCC-900-5.<br>• If "NO", determine the producer ineligible for payment on the cash-rent land. Complete step 3 and go to worksheet CCC-900-5. | x | | |
| 3 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part F.<br>Documentation provided clearly illustrated that a significant contribution of equipment was made by the partnership and each of the members made significant contributions of active personal management. | | | |

**PART F – COMBINATION OF CAPITAL, EQUIPMENT, AND LAND CONTRIBUTION**

Complete Part E determine whether a combination of capital, equipment, and land qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was any combination of capital, equipment, and land used to qualify as a significant contribution. If "YES", complete Part E. If "NO", go to Part G. | | x | |

| Step | Action |
|---|---|
| 1 | If the contribution is a combination of the 3 "left-hand" inputs (capital, equipment, and land):<br>• Check the appropriate item or items and complete the applicable worksheets using the 30 percent contribution requirement to determine whether the rules have been met for the appropriate contributions:<br>☐ A. Capital *(go to Part B)*<br>☐ B. Equipment *(go to Part C)*<br>☐ C. Land *(go to Part H)*<br>Go to step 2 of Part E after completing the appropriate Parts. |
| 2 | Determinations.<br>How did the reviewing authority determine that the combined contribution of "left-hand" inputs was equal to 30 percent of the individual's or entity's commensurate share of the total value of the farming operation? |

| | YES | NO | N/A |
|---|---|---|---|
| Does the actual contribution of the inputs equal to 30 percent of the individual's or entity's commensurate share of the total value of the farming operation?<br>• If "YES", the requirements for significant "left-hand" contribution have been met.<br>• If "NO", the requirements to be "actively engaged in farming" have not been met unless exception applies.<br>Check the appropriate exception if applicable:<br>☐ A. Family member provision (joint operation only)<br>☐ B. Sharecropper | | | |

| | |
|---|---|
| 3 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part G. |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 9 of 11

**Producer Name:**

**PART G – ACTIVE PERSONAL LABOR CONTRIBUTION**

Complete Part G to determine whether active personal labor qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was active personal labor used as a significant contribution. If "YES", complete Part G. If "NO", go to Part J. | | | |

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | • Review CCC-902 and interview the individual or individuals contributing active personal labor.<br>• Determine by interview or documentation if the individual or individuals indicated as contributing labor know how may hours of labor it takes for the farming operation and how many hours they provide. | | | |
| | • Is there any record of hours worked by the contributing individual or individuals? If "YES", review and obtain copies to document the determination? | | | |
| 2 | Is this producer a joint operation?<br>• If "YES", determine whether labor performed by a member of a joint operation, was excluded as a contribution.<br>**Note:** If a member of joint operation is paid for any part of the contribution, the contribution cannot be counted.<br>• Review accounting records and determine whether salaries were paid by the joint operation to any member.<br>• If "NO", go to step 3. | | | |
| 3 | Determine whether the individual could have provided the labor reported on CCC-902.<br>A. Was the individual living away from the farm? | | | |
| | B. Did the individual correctly report his or her residence to the County Office?<br>**Note:** Consider interview with the individual (without manager or principal present), if information indicates that it is doubtful the individual provided active personal labor to the farming operation. | | | |
| 4 | Review the payroll and accounting records.<br>A. Was the individual paid for labor? If "NO", go to step 5. | | | |
| | B. If "YES", how much was the individual paid and who paid the labor cost? | | | |
| 5 | Determine:<br>• How "draws" on capital accounts were considered at the end of the year when the profit or loss was disbursed<br>• For joint operations, if commensurate shares were maintained for the members. | | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 10 of 11

**Producer Name:** Beringer Partners

**PART H – ACTIVE PERSONAL MANAGEMENT CONTRIBUTION**

Complete Part H to determine whether active personal management qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was active personal management used as a significant contribution? If "YES", complete Part H. If "NO", go to Part I. | x | | |

| Step | Action | YES | NO | N/A |
|---|---|---|---|---|
| 1 | Review the description of management shown on CCC-902. | | | |
| 2 | Is this a joint operation?<br>• If "YES", determine whether management performed by a member of a joint operation, was excluded as a contribution.<br>**Note:** If a member of joint operation is paid for any part of the contribution, the contribution cannot be counted.<br>• Review accounting records and determine whether salaries were paid by the joint operation to any member.<br>• If "NO", go to step 3. | x | | |
| 3 | If documentation does not adequately establish management contributions, interview the individual(s) and discuss management. | | | |
| | • Does the individual(s) have knowledge of the farming operation commensurate with their claimed contribution of management? | | | |
| | • Ask the individual(s) how the management duties performed contribute to the profitability of the farming operation.<br>• Compare the written description of management on CCC-902 with the individual's comments.<br>**Note:** Consider interview with the individual (without manager or principal present), if information indicates that it is doubtful the individual provided active personal management. | | | |
| 4 | Has the individual(s) prepared written management reports during the year?<br>If "NO", go to step 5. If "YES", review and obtain copies. | x | | |
| 5 | Compare all the individual's residences with the farm location.<br>Was onsite management provided? | x | | |
| | • If "YES", how often?<br>On a daily basis<br>• If "NO", how are management duties performed? | | | |
| 6 | Determine:<br>• How "draws" upon capital accounts were considered at the end of the year when the profit or loss was disbursed.<br>• For joint operations, if commensurate shares were maintained for the members.<br>No draws were made by any of the members during the year. | | | |
| 7 | Compare the reported management contribution to the operation with the review results, and determine whether there is a significant difference.<br>There were no significant differences found or noted. | | | |
| 8 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part I.<br>The documentation and personal interviews supported the members' representations of their management duties and responsibilities. | | | |

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# 421 Completing and Documenting Reviews (Continued)

## F Example of Completed CCC-900 Package (Continued)

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**CCC-900-3** (09-27-10) Page 11 of 11

**Producer Name:** Beringer Partners

**PART I – CONTINUATION OF ACTIVE PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT CONTRIBUTION**

Complete Part H to determine whether a combination of active personal labor and active personal management qualified as a significant contribution.

| | YES | NO | N/A |
|---|---|---|---|
| Was a combination of active personal labor and active personal management used as a significant contribution. If "YES", complete Part I. If "NO", go to Part J. | | x | |

| Step | Action |
|---|---|
| 1 | Review the description of labor and management shown on CCC-902.<br><br>Complete Part F and Part G to determine that the combination of active personal labor and active personal management has 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. |
| 2 | Determine how the reviewing authority determined that the contribution would have a critical impact on the profitability of the farming operation. |
| 3 | Summarize the facts involved in this determination, develop findings as appropriate, and go to CCC-900-4. |

**PART J – COMMENSURATE AND AT-RISK CONTRIBUTIONS**

Complete Part J to determine if contributions were commensurate and at-risk for a loss.

Were the contributions of each member commensurate with the claimed share of the profits or losses from the farming operation?

| List each member: | YES | NO | N/A |
|---|---|---|---|
| Jack | x | | |
| Anna | x | | |
| Bobby | x | | |
| Ida | x | | |
| | | | |
| | | | |

Were the member's contributions at risk for a loss?

| List each member: | YES | NO | N/A |
|---|---|---|---|
| Jack | x | | |
| Anna | x | | |
| Bobby | x | | |
| Ida | x | | |
| | | | |
| | | | |

Summarize the reasons for the responses.

Each member individually signed all financing documents and security agreements as personally responsible for repayment
Each member contributed active personal labor and active personal management as represented.
The members have no other farming interests.
Personal interviews confirmed that this business is their livelihood.

| D. Signature of Reviewing Authority or Review Team Member | E. Date *(MM-DD-YYYY)* |
|---|---|
| */s/ Jack C. Morgan* | 09-03-2010 |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

This form is available electronically.

| CCC-900-4 (08-12-10) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation | A. Producer Name: Beringer Partners |
|---|---|
| PAYMENT ELIGIBILITY/LIMITATION SUBSTANTIVE CHANGE AND OTHER DETERMINATIONS WORKSHEET | B. State and County Office Name: Johnson County FSA Office; TX |
| | C. Program Year Reviewed: ☒ 2009 ☐ 2010 ☐ 2011 ☐ 2012 |

**PART A – SUBSTANTIVE CHANGE**

Complete Part A to determine whether the substantive change requirements were applicable.

| | YES | NO |
|---|---|---|
| Was there an increase in the number of limitations for payment in this farming operation from the previous year? If "YES", complete Part A. If "NO", go to Part B. | | X |

| Step | Action | Finding |
|---|---|---|
| 1 | Was substantive change required? ☐YES ☐NO<br>• If "YES", go to step 2.<br>• If "NO", enter the reason in the "Finding" column and go to Part B.<br>**Example:** The formation of a husband and wife joint venture does not require substantive change. | |
| 2 | If substantive change was required, list what COC considered substantive change. | |
| 3 | Include the substantive change that occurred.<br>**Note:** Go to the following step containing the substantive change that occurred. | |

| Step | Action | Finding |
|---|---|---|
| A | If addition of **adult family member**, determine whether the adult family member qualifies according to paragraph 138. | |
| B | If change in **land rental** from cash-lease to share-lease, determine whether the change qualifies a landowner only according to paragraphs 54 through 58. | |
| C | If a **20 percent increase in base acres**, determine whether the change qualifies according to paragraphs 54 through 58. | |
| D | If a **change in ownership of equipment or land**, determine whether the change qualifies according to paragraphs 54 through 58. | |
| E | If **addition of equipment** not previously involved in the farming operation, determine whether the change qualifies according to paragraphs 54 through 58. | |
| 4 | Summarize the facts involved in this determination, develop findings as appropriate, and go to Part B. | |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

**CCC-900-4** (08-12-10) Page 2 of 3

**Producer Name:** Beringer Partners

**PART B – FOREIGN PERSONS AND OTHER DETERMINATIONS**

Complete Part B to determine whether foreign person determinations and other determinations were correctly made.

| Step | Determination | Action | Finding |
|---|---|---|---|
| 1 | Other farming interest | Did the producer indicate any other farming interests, including interest of spouse and minor children in accordance with 4-PL Par. 52?<br>☐ YES ☒ NO<br>• If "YES", verify that all were reported by reviewing system reports.<br>• If "NO", verify by reviewing system reports, such as the entity interest report. | No other farming interests found. |
| 2 | Common attribution | Review the initial determination to determine whether any common attribution rule applies in accordance with 4-PL par. 179.<br>Is there a reason that common attribution applies?<br>☐ YES ☒ NO<br>• If "YES", explain. | |
| 3 | Foreign person | Do foreign person rules apply in accordance with 4-PL Part. 3?<br>☐ YES ☒ NO<br>• If "YES", specify and go to CCC-900-3.<br>• If "NO", go to next item. | All members were represented to be U.S. citizens. |
| 4 | Estate | If the producer is an estate in existence for 2 program years after the program year in which the producer died, or if the producer under review is a joint operation or legal entity with an estate as a member, was the estate reviewed in accordance with procedure in 4-PL Par. 156?<br>☐ YES ☐ NO<br>• Was the estate kept open for the purpose of receiving program payment and benefits?<br>☐ YES ☐ NO<br>• If "YES", estate is not eligible for the year reviewed. | Not applicable. No members were represented to be an estate. |
| 5 | Deceased Producer | Was the individual producer identified as deceased, or if the producer under review is a joint operation or legal entity, were any members an individual identified as deceased during the year reviewed?<br>☐ YES ☒ NO<br>• If "YES", were reviews completed and appropriate actions taken in accordance with 1-PL Part 8?<br>☐ YES ☐ NO<br>• If "NO", document in Findings. | Not applicable. No members were identified as deceased individuals in 2009. |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

**CCC-900-4** (08-12-10) Page 3 of 3

**Producer Name:** Beringer Partners

| PART B – FOREIGN PERSONS AND OTHER DETERMINATIONS *(Continuation)* | | | |
|---|---|---|---|
| 6 | Required State Office Determinations | Is the producer a joint operation with 6 or more members?<br>☐ YES ☒ NO *(go to step 7)*<br>• If "YES", did the State Office timely make the initial eligibility and actively engaged in farming determinations in accordance with 4-PL Par. 236?<br>☐ YES ☐ NO<br>• If "NO", note explanation in Findings. | |
| 7 | County Committee Determinations | Did the county committee make all payment eligibility determinations within 60 calendar days after the required forms and supporting documentation needed for the determinations were received in the county office?<br>☒ YES ☐ NO<br>• If "NO", document in Findings as a default determination in accordance with 4-PL Par. 208. | |

| D. Signature of Reviewing Authority or Review Team Member | E. Date *(MM-DD-YYYY)* |
|---|---|
| */s/ Josephine Rodriguez* | 09-03-2010 |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

This form is available electronically.

**CCC-900-5** (08-12-10)

**U.S. DEPARTMENT OF AGRICULTURE**
Commodity Credit Corporation

**PAYMENT ELIGIBILITY/LIMITATION**
**SUMMARY OF FINDINGS AND RECOMMENDATIONS**

A. Producer Name: Beringer Partners

B. State and County Office Name: Johnson County FSA Office; TX

C. Program Year Reviewed: ☒ 2009 ☐ 2010 ☐ 2011 ☐ 2012

Complete this form to summarize findings for the initial reviewing authority.

| Factor | YES | NO | Questioned | N/A | Handbook or Worksheet Reference |
|---|---|---|---|---|---|
| 1. CCC-902 followed. | X | | | | 4-PL; Parts 2, 3 and 4 |
| 2. Significant contribution of land. | X | | | | 4-PL; Pars. 61 and 74 |
| 3. Significant contribution of capital. | X | | | | 4-PL; Pars. 61 and 72 |
| 4. Significant contribution of equipmemt. | X | | | | 4-PL; Pars. 61 and 73 |
| 5. Significant contribution of "left-hand" combination. | X | | | | 4-PL; Pars. 61, 71 and 77 |
| 6. Significant contribution of active personal labor. | | X | | | 4-PL; Pars. 61 and 75 |
| 7. Significant contribution of active personal management. | X | | | | 4-PL; Pars 61 and 75 |
| 8. Significant contribution of "right-hand" combination. | | X | | | 4-PL; Pars. 61, 71 and 77 |
| 9. Share of profits and losses commensurate with contributions. | X | | | | 4-PL; Pars. 61 and 78 |
| 10. Contributions at risk. | X | | | | 4-PL; Pars. 61 and 79 |
| 11. Cash-rent tenant rule met. | X | | | | 4-PL; Pars. 91 and 92 |
| 12. Foreign person rule met. | | | | X | 4-PL; Pars. 106-111 |
| 13. Substantive change requirements met. | | | | X | 4-PL; Pars. 54-58 |
| 14. Spousal provision requirements met. | | | | X | 4-PL; Par. 116 |
| 15. Common attribution determination correct. | | | | X | 4-PL; Par. 179 |
| 16. Initial "actively engaged in farming" determination correct. | X | | | | 4-PL; Part 2, Section 6, Subsection 1 |
| 17. Minor child determination correct. | | | | X | 4-PL; Par. 117 |
| 18. For a legal entity, such as a corporation, LLC, or LLP, were contributions of active personal labor and/or active personal management of each partner, stockholder, or member:<br>• Performed on a regular basis<br>• Identifiable and documentable<br>• Separate and distinct from contributions of other partners, stockholders, or members? | | | If "NO", list the partner, stockholder, or member that failed to make such contributions. | X | 4-PL; Pars.147 and 148 |

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## *--421 Completing and Documenting Reviews (Continued)

### F Example of Completed CCC-900 Package (Continued)

**CCC-900-5** (08-12-10) Page 2 of 2

**Producer Name:** Beringer Partners

19. "Actively Engaged in Farming" Findings

Each member of Beringer Partners met the requirements to be considered "actively engaged in farming" through the Partnership's significant contributions of capital, equipment and land, and the significant contributions of active personal management by each member of the farming operation. The interviews completed of the members independently revealed that each were very familiar and had specialized knowledge of their duties and responsibilities as represented while at the same time, were quite aware of the other daily activities that occurred in the farming operation. All members were signatory to any borrowing or financing for the partnership. No question that member contributions were commensurate with claimed shares and at risk.

20. Cash-Rent Tenant Findings

The cash rent tenant provisions were met by each of the members through the partnership's significant contribution of equipment and the significant contributions of active personal management by each of the members.

21. Substantive Change and Other Findings

No increase in the number of limitations for payment for 2009. Substantive change provisions were not applicable.

22. Were the initial determinations correct?

☒ YES. Go to Item 23.

☐ NO. Provide a detailed explanation of why not.

23. Recommendations

The review team recommends that the determinations of record be affirmed and the farming operation remains eligible for all 2009 program payments and benefits subject to limitation.

| D. Signature of Reviewing Authority or Review Team Member | E. Date *(MM-DD-YYYY)* |
|---|---|
| */s/ Archie Stanton* | 09-03-2010 |

**Submitted to the COC or STC for review and determinations.**

F. Date Submitted *(MM-DD-YYYY)*: 09-03-2010

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## 422 (Withdrawn--Amend. 6)

## 423-440 (Reserved)

## *--Section 4 CCC-902EYR's

### 441 County Office Action for Submitting CCC-902EYR

#### A Overview

This section provides instructions for preparing CCC-902EYR.

This paragraph instructs County Offices to submit CCC-902EYR's to the State Office.

#### B Submission Date

STC shall establish a date or dates for County Offices to submit CCC-902EYR's to the State Office for review (paragraph 261).

#### C Submission Format

County Offices shall use CCC-902EYR to report end-of-year reviews to the State Office.

**Note:** On CCC-902EYR, item 10, "Dollar Amount", record the total actual and projected amount of payments or benefits for which the producer is known to be ineligible as a result of the end-of-year review.

#### D Attachments and Enclosures

Attach or include the following with CCC-902EYR:

- all EYR worksheets completed
- recommendations to COC
- determinations made by COC
- written notifications issued to the producers.

**Note:** Do **not** send copies of tax returns.**--***

## *--441 County Office Action for Submitting CCC-902EYR (Continued)

### E Example of CCC-902EYR

Following is an example of CCC-902EYR.

This form is available electronically.

**CCC-902EYR** (03-15-10)

**U.S. DEPARMENT OF AGRICULTURE**
Commodity Credit Corporation

**End-of-Year Report of Payment Limitation Review**

(RPT-00-PL-10-001-R)

1. Reporting Office (Counties include State): Main County, ST

2. Reporting Date (MM-DD-YYYY): 02-25-2011

3. Year Reported: 2009

4. Report Status: Progress Report ☐ Revised Report ☐ Negative Report ☐ Final Report ☒

| Type of Selection | Number of Reviews: A. Selected | Number of Reviews: B. Completed | C. Number of Discrepancies Found *(If any, complete Items 8, 9 & 10)* |
|---|---|---|---|
| 5. Judgmental (Required by DAFP) | 15 | 15 | 0 |
| 6. Required spot check | 0 | 0 | 0 |
| 7. Additional cases selected by reviewing authority | 5 | 5 | 3 |

**Explanation of Discrepancies - Attach additional sheets if needed. Insert office name on attachments.**

| 8. ID Number *(Last 4 Digits)* | 9. Discrepancy Found | 10. Action Taken | 11. Dollar Amount |
|---|---|---|---|
| 0000 | Not actively engaged in farming | Provided written notice and established receivables | $ 20,000 |
| 0001 | Not actively engaged in farming | Provided written ntoice and established receivables | $ 5,000 |
| 0002 | Not actively engaged in farming | Provided written notice and established receivables | $ 5,000 |
| | | | $ |
| | | | $ |
| | | | $ |
| | | | $ |

12. Remarks
5 DAFP selections waived - 2 H/W only operations; 3 operations owned all land.

EYR Worksheets, recommendations and supporting documentation for all reviews completed are attached as required.

13A. Signature of CED for County Report, SED for State Report: */s/John Smith*

13B. Date (MM-DD-YYYY): 02-25-2011

--*

## 442 State Office Action for Submitting CCC-902EYR

### A Overview

To assess the overall effectiveness of the end-of-year reviews, one CCC-902EYR summarizing results of County Office reviews conducted is **required**.

### B Preparing Summary CCC-902EYR

State Offices shall do the following.

| Step | Action |
|---|---|
| 1 | Review County Office CCC-902EYR's. |
| 2 | Use CCC-902EYR to summarize totals of County Office CCC-902EYR, items 5, 6, and 7. |
| 3 | Attach a copy of the County Office CCC-902EYR's to the State Office CCC-902EYR. |
| 4 | Send the State Office CCC-902EYR to PECD.<br><br>***--Notes:** Include all CCC-900-5's and the notification of determination for all completed reviews.**--***<br><br>**Negative reports are required**. |

### C Example of CCC-902EYR

See subparagraph 441 E for an example of CCC-902EYR.

## 443-500 (Reserved)

# *--Part 9 ARCT

## Section 1 Overview and Access

### 501 Introduction

#### A ARCT

ARCT is a web-based system:

- in which National, State, and County Office users can record all AGI-related review information and activities for 2009 and subsequent years' program participants

- that provides reporting capability for both AGI reconciliation and compliance review information recorded for program participants.

#### B Purpose and Uses of ARCT

ARCT is designed for the following purposes and uses:

- record and track, by producer, all AGI reconciliation and compliance review activities

- source data for AGI reconciliation and compliance review reporting

- a tool to ensure that any participant in programs subject to AGI limitations and recipient of 2009 and subsequent years payments and benefits complies with the applicable AGI limitations.

#### C ARCT Access

Access privileges are granted only to authorized FSA personnel who have USDA e-Authentication Level 2 credentials.

#### D ARCT Help and Quick Reference Guide

In addition to the instructions and illustrations provided, abbreviated instructions and examples can be found under the "Help" button located at the top of each display screen.--*

### 502-510 (Reserved)

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## *--Section 2 AGI Reconciliation

### 511 AGI Reconciliation Actions

#### A ARCT and AGI Reconciliation

ARCT allows users to record the following AGI reconciliation activities:

- acceptance of CCC-931 or CCC-933 for the identified participant
- rejection of CCC-931 or CCC-933 by IRS
- issuance of written notice of a determination of AGI noncompliance because of the failure of the participant to timely file CCC-931 and/or CCC-933
- the amount of receivable established for the applicable program year
- voluntary withdrawal of CCC-931 or CCC-933 by the participant
- no further actions required of the participant.

#### B Search of Participants for AGI Reconciliation

ARCT enables users to search participants to complete the following:

- enter AGI reconciliation information
- edit or revise previously recorded AGI reconciliation information.

#### C Reports for AGI Reconciliation Activity

ARCT enables users to track progress and overall information status of AGI reconciliation though a series of AGI reconciliation reports that can be generated by:

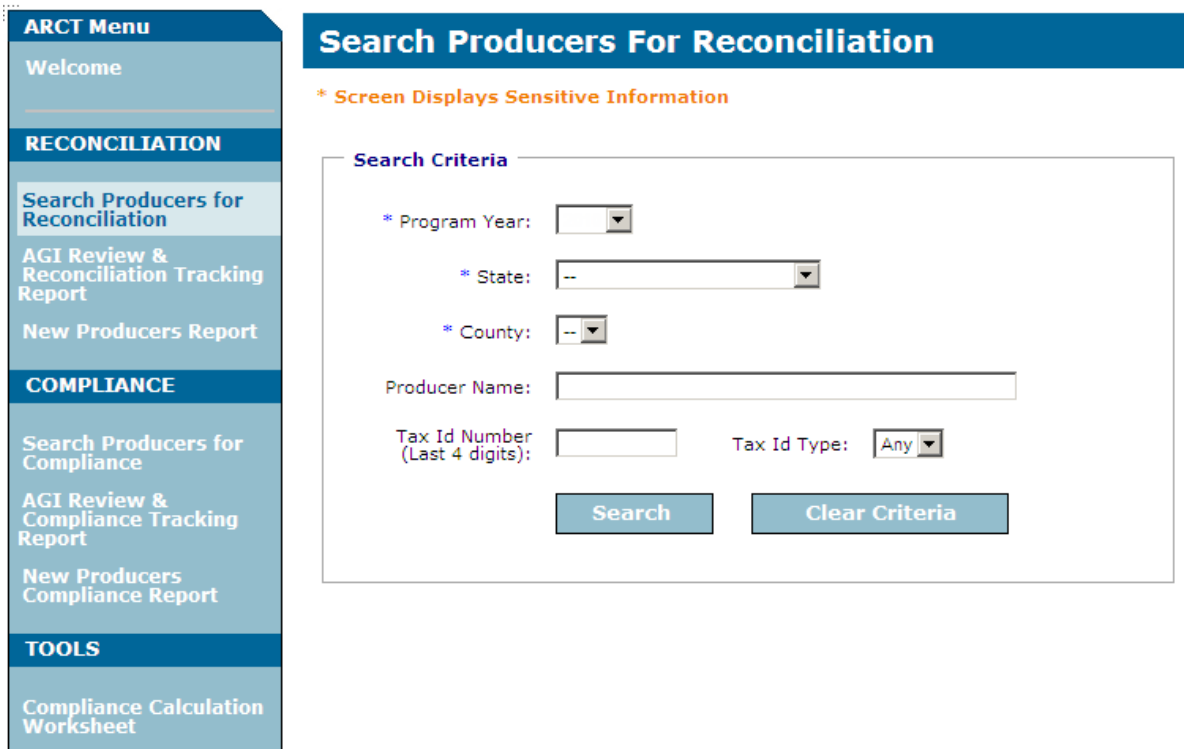
- program year
- upload time period
- State
- county.

**Note:** The reports will be generated in MS Excel format.**--***

## *--512 ARCT AGI Reconciliation – Producer Search

### A Producer Search

The following are examples of ARCT screens for searching producers for AGI reconciliation actions.

| Description/Action |
|---|
| The AGI reconciliation form will allow State and County Office users to record reconciliation actions taken for 2009 and subsequent years' program participants identified on the AGI reconciliation reports based on the information received. To access ARCT, go to **https://wdcprod81.sc.egov.usda.gov/arct**. The eAuthentication Warning Screen will be displayed. CLICK "**I Agree**". The eAuthentication Login Screen will be displayed.<br><br>Enter user's eAuthentication user ID, password, and CLICK "**Login**." The following Search Producer for Reconciliation Screen will be displayed.<br><br>  |

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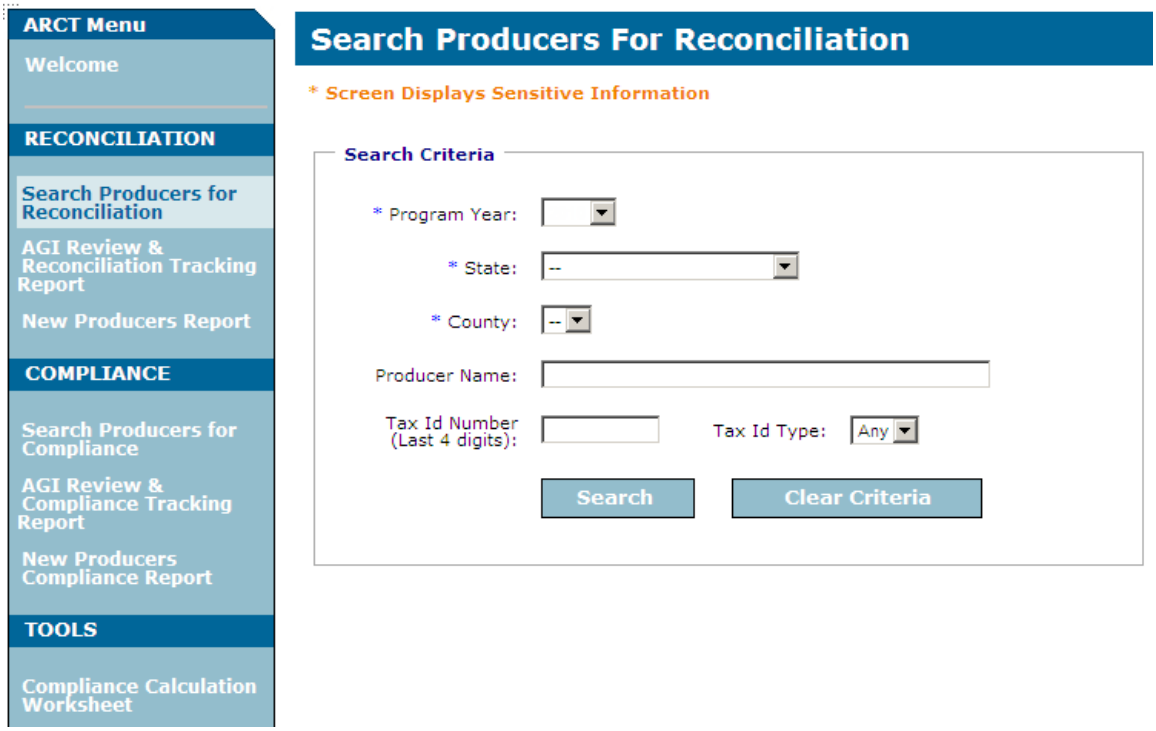
## *--512 ARCT AGI Reconciliation – Producer Search

### A Producer Search (Continued)

| Description/Action |
|---|
| From the drop-down lists, select the appropriate:<br><br>• program year<br>• State<br>• county.<br><br>CLICK "**Search**".<br><br>  <br> |

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## *--512 ARCT AGI Reconciliation – Producer Search

### A Producer Search (Continued)

| Description/Action |
|---|
| The following Search Producer for Reconciliation Screen will be displayed with "Search Criteria" section and "Producers" section with the following information:<br><br>• producer name<br>• SSN/TIN<br>• USDA Core Customer ID<br>• producer type ("**B**" (business) or "**I**" (individual))<br>• determination (status).<br><br>In the "Producers" section, under the "Producer Name" column, **click** the participant's name to access its questionnaire. |

**Search Producers For Reconciliation**

* Screen Displays Sensitive Information

**Search Criteria**

**Program Year:** 2010

**State:** Connecticut (09)

**County:** Fairfield (001)

**Producer Name:**

**Tax Id Number (Last 4 digits):**

**Tax Id Type:** Any

Modify Criteria

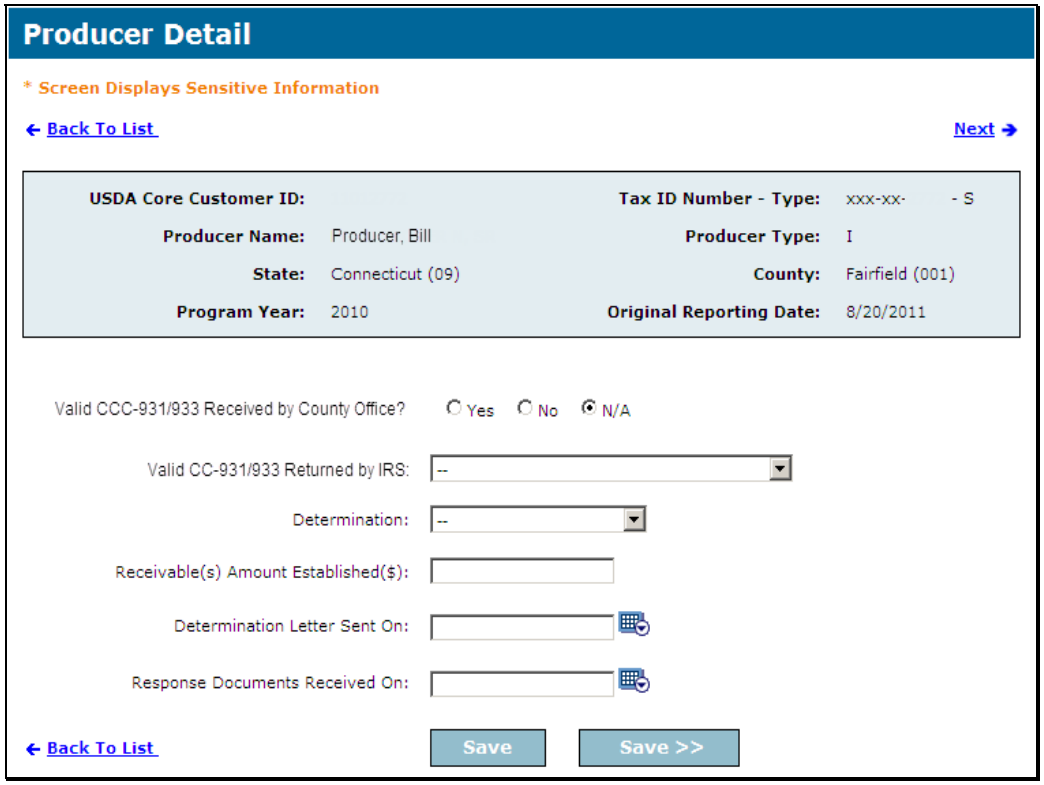
**Producers**

| Producer Name ▲ | Last Four SSN/TIN-Type | USDA Core Customer ID | Producer Type | Determination |
|---|---|---|---|---|
| Bill | -S | | I | |
| Richard's Floral Business | -E | | B | |

--*

## *--513 ARCT AGI Reconciliation – Producer Details

### A Producer Details

| Description/Action |
|---|
| The following Producer Detail Screen will be displayed with the following information and questions. Complete the following questions:<br><br>• USDA Core Customer ID<br>• Tax ID Number - Type<br>• Producer Name<br>• Producer Type<br>• State<br>• County<br>• Program Year<br>• Original Reported Date<br>• Valid CCC-931 or CCC-933 Received by the County Office (Yes, No, or N/A)<br>• Valid CCC-931 or CCC-933 Returned by IRS (Select a Reason)<br>• Determination (Status)<br>• Receivable(s) Amount Established ($)<br>• Determination Letter Sent on<br>• Response Document Received On.<br><br>CLICK "**Save**".<br><br>  <br> |

--*

## *--513 ARCT AGI Reconciliation – Producer Details

### A Producer Details (Continued)

| Description/Action |
|---|
| When completing the "Determination" drop-down list:<br><br>• "AGI Certification Withdrawn" indicates the following:<br><br>  • admission of AGI noncompliance<br><br>  • NRCS–**only** participant and the application for conservation practice was withdrawn<br><br>  • producer chose to withdraw and not participate in any programs subject to AGI limitations<br><br>• "Ineligible" indicates the producer:<br><br>  • certified as AGI noncompliant<br><br>  • was determined as AGI noncompliant<br><br>  • failed/refused to provide and AGI compliance certification and consent for disclosure<br><br>• "No Determination Required" indicates the following:<br><br>  • IRS-rejection reason is, "No record found on master file."<br><br>  • producer provided a valid CCC-931 or CCC-933, but does not receive, directly or indirectly, any program payments or benefits that are subject to AGI limitations<br><br>  • deceased individual.<br><br>Subsidiary files **must** be updated to reflect what is recorded here. |

**--***

## *--514 ARCT AGI Reconciliation – Producer Reports

### A AGI Review & Reconciliation Tracking Report

The following are actions needed and ARCT display screens for generating progress reports for AGI reconciliation.

**Description/Action**

ARCT reports allow the users to track progress and overall information status of AGI reconciliation.

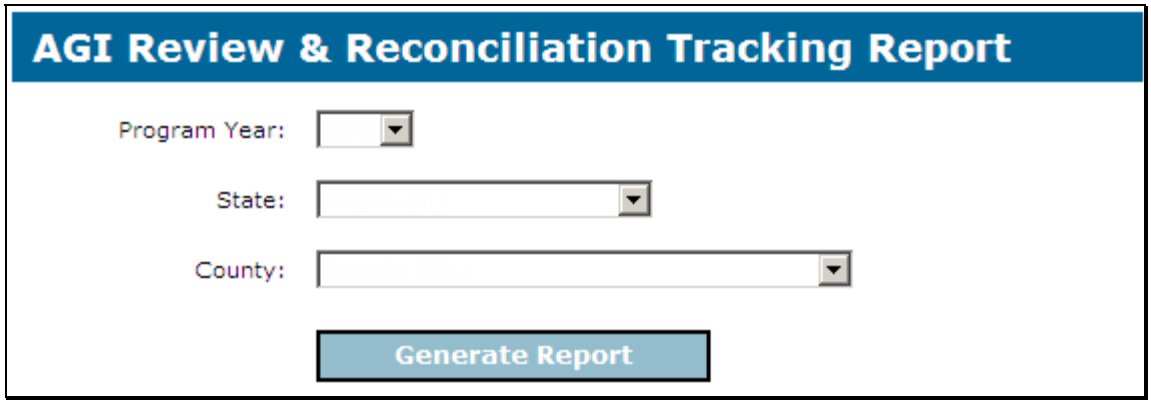
To access ARCT reports, go to **https://wdcprod81.sc.egov.usda.gov/arct**. The eAuthentication Warning Screen will be displayed. CLICK "**I Agree**" and the eAuthentication Login Screen will be displayed. Enter user's eAuthentication user ID, password and CLICK "**Login**." The Search Producer Screen will be displayed. Under ARCT Menu, Producer, CLICK "**Generate a Report**".

The following AGI Review & Reconciliation Tracking Report Screen will be displayed. From the drop-down lists, select the appropriate:

- program year
- State
- county.

**Note:** Select "**All**" for "County" when generating a State report.

CLICK "**Generate Report**".




The following is an example of the AGI Review & Reconcilliation Tracking Report.

**AGI Review & Reconciliation Tracking Report**
Year: 2010
State: Virginia (51)
County: Fauquier (061)
Generated On: February 24, 2013
Generated By:
*Sensitive Personnel Data is shown below. Use is Restricted. Please ensure that data is password protected and encrypted before forwarding via email.

| USDA Core Customer ID | Last Four SSN/TIN | Tax ID Type | Producer Type | Last Name | First Name | Middle Name | Producer Name | Business Name |
|---|---|---|---|---|---|---|---|---|
| | | S | I | PRODUCER | BILL | | PRODUCER, BILL | |
| | | S | B | | | | RICHARD'S FLORAL BUSINESS | RICHARD'S FLORAL BUSINESS |

--*

## *--514 ARCT AGI Reconciliation – Producer Reports

### A AGI Review & Reconciliation Tracking Report (Continued)

| Description/Action |
|---|
| The **AGI Review & Reconciliation Tracking Report** will be displayed with the following header, column headers, and data:<br><br>• Year<br>• State<br>• County<br>• Generated On (Date)<br>• Generated By (FSA User).<br><br>The following **Sensitive Personnel Data** will be displayed. Use is **restricted**. Users shall ensure that data is password protected and encrypted **before** forwarding by e-mail.<br><br>• USDA Core Customer ID<br>• Last Four SSN/TIN<br>• Tax ID Type<br>• Producer Type<br>• Business Name<br>• Eligibility Recording State<br>• State Code<br>• Eligibility Recording County<br>• County Code<br>• Last Name<br>• First Name<br>• Middle Name<br>• Producer Name<br>• Original Reporting Date<br>• Address Status<br>• Address<br>• Delivery Address<br>• Foreign Address<br>• Mailing City<br>• Mailing State<br>• Mailing Zip<br>• CCC-931 Received by COF<br>• Reason CCC-931 Returned by IRS<br>• Determination Letter Sent to Producer<br>• Documents Received by FSA<br>• Determination<br>• Receivable Amount Established<br>• Last Updated By<br>• Last Updated On.<br><br>Print or save the "ARCT Report by County" or "ARCT Report by State". CLICK "**Logout of eAuth**" or "**Exit ARCT**" to exit the system. |

--*

## *--514 ARCT AGI Reconciliation – Producer Reports

### B New Producers Report

The following are actions needed and ARCT display screens for generating reports for the identifications of new producers for AGI reconciliation.

**Description/Action**

ARCT reports allow the users to find information on new participants that have been added to the AGI reconciliation records since the last reconciliation report was generated. **It is recommended that this report be generated and appropriate actions completed on a quarterly basis**.

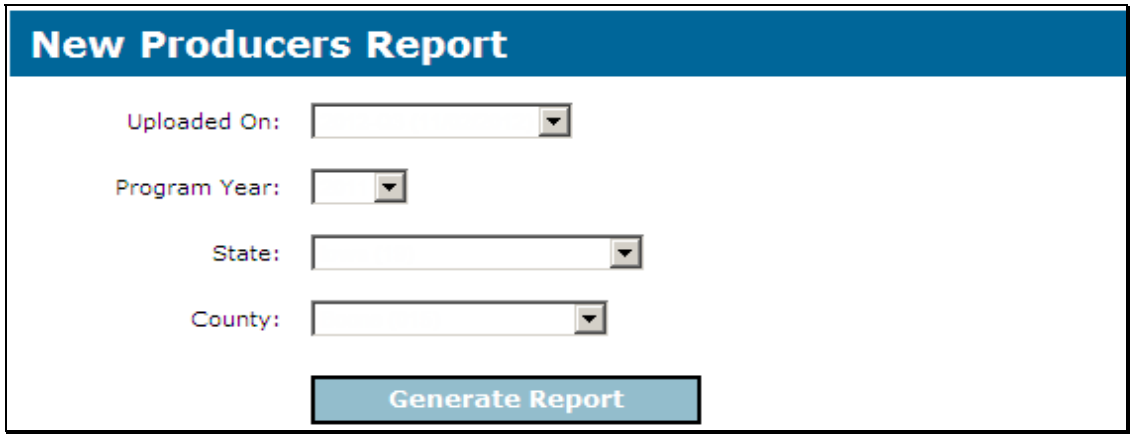
Under ARCT Menu, Reconciliation, CLICK "**New Producer Report**".

The following New Producers Report Screen will be displayed. From the drop-down lists, select the appropriate:

- "Uploaded On" (select the appropriate quarterly period)
- "Program Year"
- "State"
- "County".

**Note:** Select "**All**" for "County" when generating a State report.

CLICK "**Generate Report**".




The following is an example of the New Producers Report.

New Producers Report
Uploaded On: 2012-Q3 (11/02/2012)
Year: 2011
State: Iowa (19)
County: Boone (015)
Generated On: February 24, 2013
Generated By:
*Sensitive Personnel Data is shown below. Use is Restricted. Please ensure that data is password protected and encrypted before forwarding via email.

| USDA Core Customer ID | Last Four SSN/TIN | Tax ID Type | Producer Type | Last Name | First Name | Middle Name | Producer Name | Business Name |
|---|---|---|---|---|---|---|---|---|
| | | E | B | | | | PRODUCER TRUST | PRODUCER TRUST |
| | | S | I | PRODUCER | JOE | | PRODUCER, JOE | |

--*

## *--514 ARCT AGI Reconciliation – Producer Reports

### B New Producers Report (Continued)

| Description/Action |
|---|
| The **New Producers Report** will be displayed with the following header, column headers, and data:<br><br>• Year<br>• State<br>• County<br>• Generated On (Date)<br>• Generated By (FSA User).<br><br>The following **Sensitive Personnel Data** will be displayed. Use is **restricted**. Users shall ensure that data is password protected and encrypted **before** forwarding by e-mail.<br><br>• USDA Core Customer ID<br>• Last Four SSN/TIN<br>• Tax ID Type<br>• Producer Type<br>• Business Name<br>• Eligibility Recording State<br>• State Code<br>• Eligibility Recording County<br>• County Code<br>• Last Name<br>• First Name<br>• Middle Name<br>• Producer Name<br>• Original Reporting Date<br>• Address Status<br>• Address<br>• Delivery Address<br>• Foreign Address<br>• Mailing City<br>• Mailing State<br>• Mailing Zip<br>• CCC-931 Received by COF<br>• Reason CCC-931 Returned by IRS<br>• Determination Letter Sent to Producer<br>• Documents Received by FSA<br>• Determination<br>• Receivable Amount Established<br>• Last Updated By<br>• Last Updated On.<br><br>Print or save the "ARCT Report by County" or "ARCT Report by State". CLICK "**Logout of eAuth**" or "**Exit ARCT**" to exit the system. |

--*

**515-525 (Reserved)**

## *--Section 3 AGI Compliance Review

### 526 AGI Compliance Review Actions

#### A ARCT and AGI Compliance Review

ARCT allows users to record the following AGI compliance review activities:

- results of the completed review of the participant's documentation
- determination of compliance or noncompliance with each AGI limitation
- issuance of written notice of a determination of AGI compliance or noncompliance with the applicable AGI limitations
- the amount of receivable established for the applicable program year
- voluntary withdrawal of CCC-931 or CCC-933 by the participant
- removal from compliance review.

#### B Search of Participants for AGI Compliance Review

ARCT enables users to search participants to complete the following:

- enter AGI compliance review information
- edit or revise previously recorded AGI compliance information.

#### C Reports for AGI Compliance Review Activity

ARCT enables users to track progress and overall status of AGI compliance though a series of AGI compliance review reports that can be generated by:

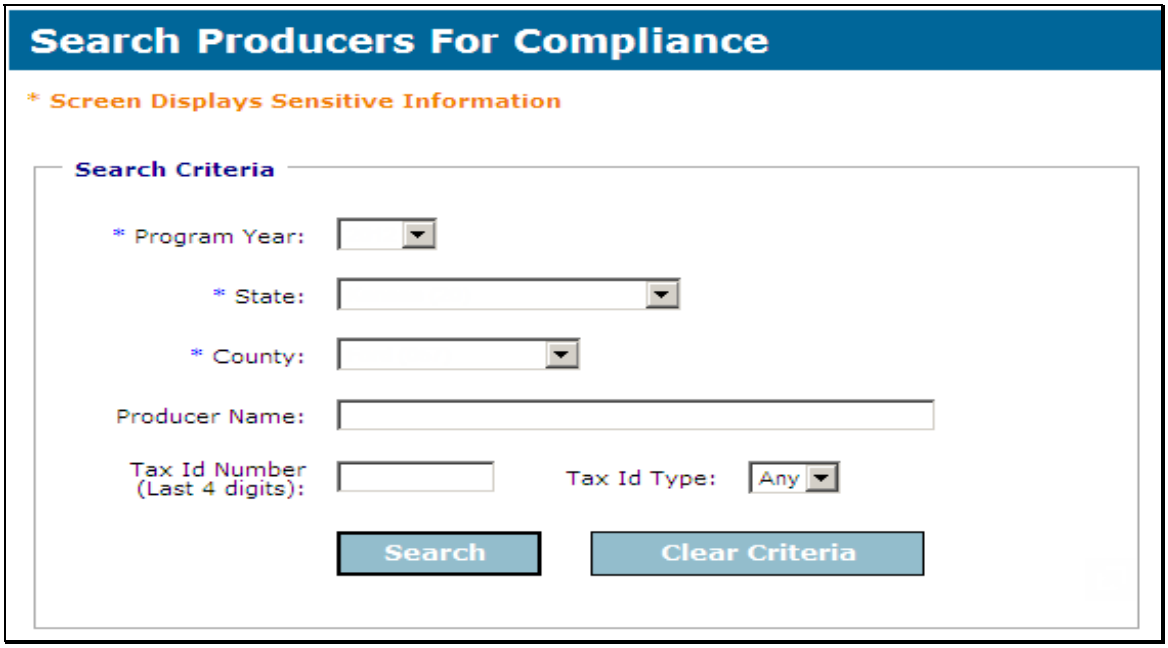
- program year
- State
- county.

**Note:** The reports will be generated in MS Excel format.**--***

## *--527 ARCT AGI Compliance Review – Producer Search

### A Producer Search

The following are examples of ARCT screens for searching producers for AGI compliance reviews.

| Description/Action |
|---|
| The AGI Compliance Review form will allow State Office users to record compliance review actions taken for 2009 and subsequent years' program participants identified for AGI compliance review.<br><br>To access, go to **https://wdcprod81.sc.egov.usda.gov/arct**. The eAuthentication Warning Screen will be displayed. CLICK "**I Agree**" and the eAuthentication Login Screen will be displayed. Enter user's eAuthentication user ID, password, and CLICK "**Login**." Under ARCT Menu, Compliance, CLICK "**Search Producers for Compliance**" and the following Screen will be displayed.<br><br>From the drop-down lists, select the appropriate:<br><br>• program year<br>• State<br>• county<br><br>CLICK "**Search**".<br><br>  <br> |

--*

## *--527 ARCT AGI Compliance Review – Producer Search

### A Producer Search (Continued)

**Description/Action**

The following Search Producers Screen will be displayed with "Search Criteria" section and "Producers" section with the following information:

- producer name
- SSN/TIN
- USDA Core Customer ID
- producer type ("**B**" (business) or "**I**" (individual))
- determination (status).

In the "Producers" section, under the "Producer Name" column, **click** the participant's name to access their records.

**Search Producers For Compliance**

* Screen Displays Sensitive Information

Search Criteria

Program Year: 2012

State: Kansas (20)

County: Ford (057)

Producer Name:

Tax Id Number (Last 4 digits):

Tax Id Type: Any

Modify Criteria

1 2

Producers

| Producer Name ▲ | Last Four SSN/TIN-Type | USDA Core Customer ID | Producer Type | Review Completed |
|---|---|---|---|---|
| PRODUCER, BILL | -S | | I | |
| PRODUCER, JOE | -S | | I | |
| PRODUCER, ONE !New | -S | | I | |

--*

## *--528 ARCT AGI Compliance Review – Producer Details

### A Producer Details

| Description/Action |
|---|
| The following Producer Detail Screen will be displayed. |

**Producer Detail**

* Screen Displays Sensitive Information

← Back To List ← Previous Next →

| | | | |
|---|---|---|---|
| **USDA Core Customer ID:** | | **Tax ID Number - Type:** | xxx-xx- - S |
| **Producer Name:** | | **Producer Type:** | I |
| **State:** | Kansas (20) | **County:** | Ford (057) |
| **Program Year:** | 2012 | **Original Reporting Date:** | 7/21/2012 |
| **AGI Limitation Potentially Exceeded:** | $750K FI, $1M NFI and 66% rule does not apply, $1M Total AGI | **Tax Records Filed:** | 2008, 2009, 2010 |

Is a Compliance review required? --

Type of Tax Documentation Submitted: --

Determination for $500K NFI: --

Determination for $750K FI: --

Determination for $1M NFI: --

Determination for $1M Total AGI: --

Review Completed: ○ Yes ○ No ◉ N/A

Adverse Determination Date:

Subsidiary Updated:

Total Receivables Established($):

Appeal Documents Filed:

← Back To List Save Save >>

--*

## *--528 ARCT AGI Compliance Review – Producer Details

### A Producer Details (Continued)

| Description/Action |
|---|
| On the Producer Detail Screen, update the 2009 and subsequent years' records with the appropriate determinations and receivable amounts established, if applicable. The producer information, State, county, last 4 TIN, etc., are locked from edit. Each limitation for each year has the following options available:<br><br>• Eligible<br>• Ineligible<br>• Withdrawn<br>• Producer-Not Met<br>• Removed from Review<br>• n/a.<br><br>When selecting the appropriate option from the drop-down list:<br><br>• "Eligible" indicates that the producer was determined to be compliant with the average AGI limitation (corresponds to the "SED determined" flag)<br><br>• "Ineligible" indicates that the producer was determined to be noncompliant with the average AGI limitation (corresponds to the "SED determined" flag)<br><br>• "Withdrawn" indicates that the producer withdrew CCC-931 previously filed for the program year<br><br>• "Producer-Not Met" indicates that the producer provided a written admission of average AGI noncompliance<br><br>• "Removed from Review" may be used to indicate that the producer is deceased<br><br>**Note:** AGI compliance review will not be pursued and the review is considered completed.<br><br>• "n/a" indicates that the producer did not request program payments or benefits subject to this average AGI limitation.<br><br>After completing data entry, CLICK "**Save**" to send updates to the database.<br><br>**Note:** Subsidiary files **must** be updated to reflect what is selected here. |

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## *--529 ARCT AGI Compliance Review – Producer Reports

### A AGI Review & Compliance Tracking Report

The following are actions needed and ARCT display screens for generating progress reports for AGI compliance reviews.

**Description/Action**

ARCT reports allow the users to track progress and overall information status of AGI compliance reviews.

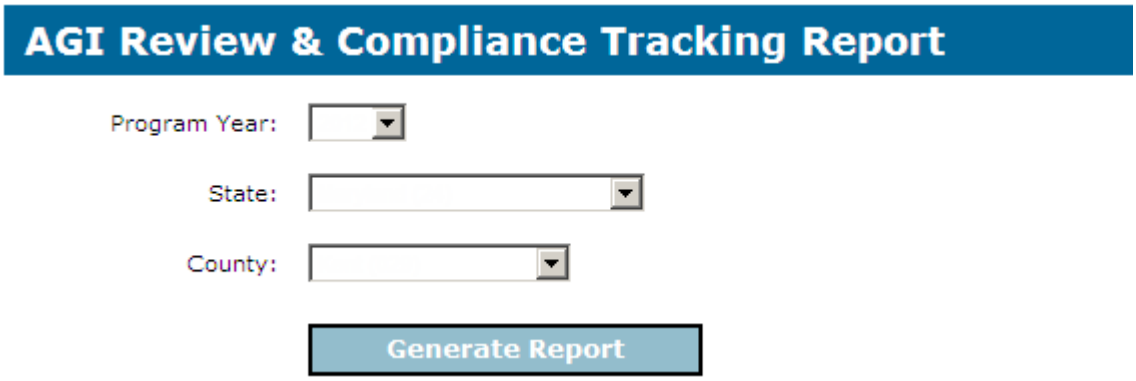
To access ARCT Reports, go to **https://wdcprod81.sc.egov.usda.gov/arct**. The eAuthentication Warning Screen will be displayed. CLICK "**I Agree**" and the eAuthentication Login Screen will be displayed. Enter user's eAuthentication user ID, password and CLICK "**Login**." The Search Producer Screen will be displayed. Under ARCT Menu, Compliance, CLICK "**AGI Review & Compliance Tracking Report**".

The following AGI Review & Compliance Tracking Report Screen will be displayed. From the drop-down lists, select the appropriate:

- program year
- State
- county.

**Note:** Select "**All**" for "County" when generating a State report.

CLICK "**Generate Report**".




**AGI Review & Compliance Tracking Report**
Year: 2012
State: Maryland (24)
County: Kent (029)
Generated On: February 24, 2013
Generated By:
*Sensitive Personnel Data is shown below. Use is Restricted. Please ensure that data is password protected and encrypted before forwarding via email.

| USDA Core Customer ID | Last Four SSN/TIN | Tax ID Type | Producer Type | Last Name | First Name | Middle Name | Producer Name |
|---|---|---|---|---|---|---|---|
| | | S | I | PRODUCER | BILL | | PRODUCER, BILL |
| | | S | I | PRODUCER | JOE | | PRODUCER, JOE |

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## *--529 ARCT AGI Compliance Review – Producer Reports

### A AGI Review & Compliance Tracking Report (Continued)

| Description/Action |
|---|
| The **AGI Review & Compliance Tracking Report** will be displayed with the following header, column headers, and data:<br><br>• Year<br>• State<br>• County<br>• Generated On (Date)<br>• Generated By (FSA User).<br><br>The following **sensitive personnel data** will be displayed. Use is **restricted**. Users shall ensure that data is password protected and encrypted **before** forwarding by e-mail.<br><br>• USDA Core Customer ID<br>• Last Four SSN/TIN<br>• Tax ID Type<br>• Producer Type<br>• Business Name<br>• Eligibility Recording State<br>• State Code<br>• Eligibility Recording County<br>• County Code<br>• Last Name<br>• First Name<br>• Middle Name<br>• Producer Name<br>• Original Reporting Date<br>• Address Status<br>• Address<br>• Delivery Address<br>• Foreign Address<br>• Mailing City<br>• Mailing State<br>• Mailing Zip<br>• CCC-931 Received by COF<br>• Reason CCC-931 Returned by IRS<br>• Determination Letter Sent to Producer<br>• Documents Received by FSA<br>• Determination<br>• Receivable Amount Established<br>• Last Updated By<br>• Last Updated On.<br><br>Print or save the "ARCT Report by County" or "ARCT Report by State". CLICK "**Logout of eAuth**" or "**Exit ARCT**" to exit the system. |

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## *--529 ARCT AGI Compliance Review – Producer Reports

### B New Producers Report

The following are actions needed and ARCT display screens for generating reports for the identifications of new producers for AGI compliance review.

**Description/Action**

ARCT Reports allow the users to find information on new participants that have been added to the AGI compliance review records since the last AGI Review & Compliance Tracking Report was generated. **It is recommended that the State Offices generate this report and take appropriate actions on a quarterly basis**.

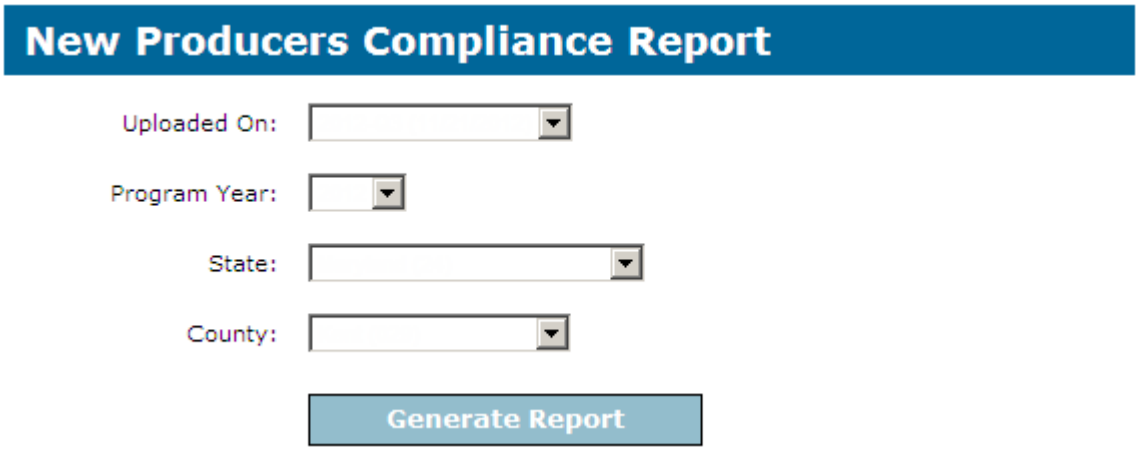
Under ARCT Menu, Compliance, CLICK "**New Producer Report**".

The following New Producers Compliance Report Screen will be displayed. From the drop-down lists, select the appropriate:

- "Uploaded On" (Select the appropriate quarterly period)
- "Program Year"
- "State"
- "County".

**Note:** Select "**All**" for "County" when generating a State Report.

CLICK "**Generate Report**".




**New Producers Compliance Report**
Uploaded On: 2012-Q3 (11/21/2012)
Year: 2012
State: Maryland (24)
County: Kent (029)
Generated On: February 24, 2013
Generated By:
*Sensitive Personnel Data is shown below. Use is Restricted. Please ensure that data is password protected and encrypted before forwarding via email.

| USDA Core Customer ID | Last Four SSN/TIN | Tax ID Type | Producer Type | Last Name | First Name | Middle Name | Producer Name |
|---|---|---|---|---|---|---|---|
| | | S | I | PRODUCER | BILL | | PRODUCER, BILL |
| | | S | I | PRODUCER | JOE | | PRODUCER, JOE |

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## *--529 ARCT AGI Compliance Review – Producer Reports

### B New Producer Report (Continued)

| Description/Action |
|---|
| The **New Producer Report** will be displayed with the following header, column headers, and data:<br><br>• Year<br>• State<br>• County<br>• Generated On (Date)<br>• Generated By (FSA User).<br><br>The following **sensitive personnel data** will be displayed. Use is **restricted**. Users shall ensure that data is password protected and encrypted **before** forwarding by e-mail.<br><br>• USDA Core Customer ID<br>• Last Four SSN/TIN<br>• Tax ID Type<br>• Producer Type<br>• Business Name<br>• Eligibility Recording State<br>• State Code<br>• Eligibility Recording County<br>• County Code<br>• Last Name<br>• First Name<br>• Middle Name<br>• Producer Name<br>• Original Reporting Date<br>• Address Status<br>• Address<br>• Delivery Address<br>• Foreign Address<br>• Mailing City<br>• Mailing State<br>• Mailing Zip<br>• CCC-931 Received by COF<br>• Reason CCC-931 Returned by IRS<br>• Determination Letter Sent to Producer<br>• Documents Received by FSA<br>• Determination<br>• Receivable Amount Established<br>• Last Updated By<br>• Last Updated On.<br><br>Print or save the "ARCT Report by County" or "ARCT Report by State". CLICK "**Logout of eAuth**" or "**Exit ARCT**" to exit the system. |

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**530-540 (Reserved)**

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## *--Section 4 Tools and Help Guides

### 541 ARCT Tools

#### A Compliance Calculation Worksheet

ARCT provides a printable Compliance Calculation Worksheet to assist in the determination of the average AGI amount for:

- each program participant (person, legal entity, and members of a legal entity)
- the applicable program year
- the number of years of taxable income for the participant
- each of the AGI limitations

#### B Using the Compliance Calculation Worksheet

The Compliance Calculation Worksheet:

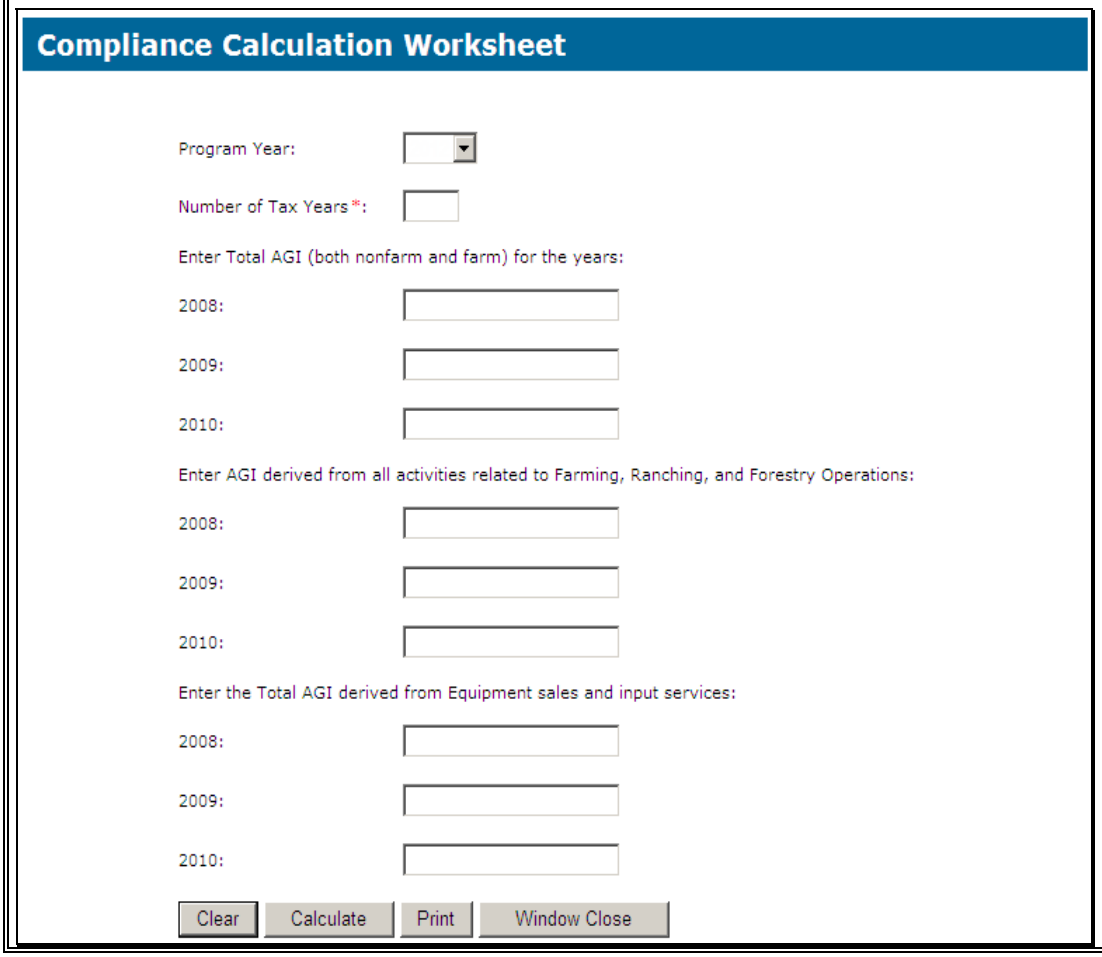
- requires the user to select the appropriate program year and enter the amounts of income for the applicable years

- requires the user to enter the number of years of the 3-year period in which the participant had taxable income

- displays the calculated AGI amounts and the eligibility status of the participant under each of the applicable AGI limitations.**--***

***--541 ARCT Tools (Continued)**

**C Example of a Compliance Calculation Worksheet**

| Description/Action |
|---|
| ARCT provides an AGI Compliance Calculation Worksheet to assist in the determination of the average AGI amounts. Under ARCT Menu, Tools, CLICK "**Compliance Calculation Worksheet**" and the Compliance Calculation Worksheet Screen will be displayed.<br><br>From the drop-down list, the user must select the appropriate "Program Year" and then enter the following information:<br><br>• number of years in the 3-year period the participant had taxable income<br>• income amounts derived from farm and nonfarm sources<br>• income derived from equipment sales and input services, if applicable.<br><br>CLICK "**Calculate**"<br><br>  <br> |

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## *--541 ARCT Tools (Continued)

### C Example of a Compliance Calculation Worksheet (Continued)

**Description/Action**

**Compliance Calculation Worksheet**

**Reslults Set 1:**

| | |
|---|---|
| The person or legal entity is eligible for all commodity (including direct, counter-cyclical, and ACRE payments under DCP and ACRE), MILC, marketing load gains, LDP payments, disaster assistance, and conservation program benefits. | Not Eligible |
| The person or legal entity is eligible for direct payments under DCP and ACRE. | Not Eligible |
| Average adjusted gross non farm income is less than or eqal to $1M. The person or legal entity is eligible for all conservation program payments. | Eligible |
| Average adjusted gross non farm income is more than $1M but the percentage of average adjusted gross farm income from the average AGI is at least 66.66%. The person or legal entity is eligible for all conservation program payments. | Not Applicable |

Program Year: 2011

Number of Tax Years*: 3

Enter Total AGI (both nonfarm and farm) for the years:

2007: 750000.00

2008: 800000.00

2009: 750000.00

Sum: 2300000.00

Average: 766666.67

Enter AGI derived from all activities related to Farming, Ranching, and Forestry Operations:

2007: 150000.00

2008: 200000.00

2009: 200000.00

Sum: 550000.00

Average: 183333.33

Average Adjusted Gross NonFarm Income:

583333.34

Percentage of Average Adjusted Gross Farm Income:

23.91

Enter the Total AGI derived from Equipment sales and input services:

2007: 0.00

2008: 0.00

2009: 0.00

Sum: 0.00

Average: 0.00

Total Adjusted Gross Farm Income from all Farming, Ranching, and Forestry Operations PLUS Equipment Sales and Input Services:

2008: 150000.00

2009: 200000.00

2010: 200000.00

Sum: 550000.00

Average: 183333.33

Average Adjusted Gross NonFarm Income 2:

583333.34

Percentage of Average Adjusted Gross Farm Income 2:

23.91

Clear | Calculate | Print | Window Close

--*

***--541 ARCT Tools (Continued)**

**D ARCT Help and Reference Guide**

Assistance with any ARCT capabilities, including options for reports in MS Excel, can be found by:

- selection of “Help” on any ARCT display screen
- referring to the ARCT Help Guide found in Exhibit 30.

**E Mail Merge and AGI Notifications**

AGI compliance and reconciliation reports generated through ARCT can be used for sending identified participants notifications of the following:

- the requirement to timely submit CCC-931 or CCC-933
- AGI compliance review
- request for AGI information or for additional information
- completion of a compliance review
- determination of AGI compliance or noncompliance.

Sample AGI notification letters and mail merge instructions can be found on the AGI SharePoint web site.**--***

## 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-1026 | Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification | | Ex. 14 |
| CCC-501A | Member's Information | | Ex. 10 |
| CCC-501B | Designation of "Permitted Entities" | | Ex. 10 |
| CCC-502 | Farm Operation 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 | | 190 |
| CCC-526C | Payment Eligibility - Average Adjusted Gross Income Certification For Certain Conservation Reserve Program Contracts Approved Before October 1, 2008 | | 190, Ex. 14 |
| CCC-580 | Milk Income Loss Contract (MILC) | | 186 |
| CCC-900-1 | Payment Eligibility/Limitation Selection, Notification, and Information Collection Checklist 1 | 421 | |
| CCC-900-2 | Payment Eligibility/Limitation Documents Received From Producer Checklist 2 | 421 | |
| CCC-900-3 | Payment Eligibility/Limitation Contribution Worksheet | 421 | |
| CCC-900-4 | Payment Eligibility/Limitation Substantive Change and Other Determinations Worksheet | 421 | |
| CCC-900-5 | Payment Eligibility/Limitation Summary of Findings and Recommendations | 421 | 442 |
| CCC-901 | Member's Information - 2009 and Subsequent Years | 99 | Text, Ex. 10, 14 |
| CCC-902 Automated | Farm Operating Plan for Payment Eligibility - 2009 and Subsequent Program Years | 130.5, 132 | Ex. 10, 14 |
| 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-902E Continuation | Continuation Sheet for Farm Operating Plan for an Entity - 2009 and Subsequent Program Years | 141 | 34, 120 |
| CCC-902EYR | End-of-Year Report of Payment Limitation Review | 441 | 402, 442 |

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

**Forms (Continued)**

| Number | Title | Display Reference | Reference |
|---|---|---|---|
| CCC-902I | Farm Operating Plan for an Individual - 2009 and Subsequent Program Years | 130 | Text, Ex. 10 |
| CCC-902I Short Form | Farm Operating Plan for an Individual - 2009 and Subsequent Program Years | 131 | 34, 74 |
| CCC-903 | Worksheet for Payment Eligibility and Payment Limitation Determinations | 207 | 33, 109 |
| CCC-926 1/ | Average Adjusted Gross Income (AGI) Statement | | Text, Ex. 10, 14, 21 |
| CCC-927 1/ | Consent to Disclosure of Tax Information - Individual | | Ex. 11-13 |
| CCC-928 1/ | Consent to Disclosure of Tax Information - Legal Entity | | Ex. 11-13 |
| CCC-929 | Average Adjusted Gross Income (AGI) Supplemental | 201 | 199, 200 |
| CCC-931 | Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information | 200.5 | Text, Ex. 12, 13.5, 21 |
| CCC-931C | Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information<br><br>For Successors to Conservation Program Contracts and Agreements Only | 200.5 | Text, Ex. 12, 13.5, 21 |
| CCC-933 | Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information<br><br>For the 2013 crop, program, and fiscal years only. | 200.5 | Text, Ex. 13.5, 21 |
| CRP-1 | Conservation Reserve Program Contract | | 13, 187, 190, Ex. 10 |
| CRP-1F Addendum | CRP-1 Modification to Extend the Contract Expiration Date for _____ Years | | Ex. 10 |
| FSA-211 | Power of Attorney | | 200.5 |
| I-151 1/ | Alien Registration Receipt Card | | 107 |
| I-551 | Permanent Resident Card/Resident Alien Card | 107 | 108, 120, 130, 131, 141, Ex. 2 |
| IRS-990 | Return of Organizations Exempt From Income Tax | | 97 |
| IRS-990-T | Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e)) | | 191, Ex. 21 |
| IRS-1040 | U.S. Individual Income Tax Return | | 188, 191, 200.5, 203.8, Ex. 21 |
| IRS-1041 | U.S. Income Tax Return for Estates and Trusts | | 191, Ex. 21 |
| IRS-1065 | U.S. Return of Partnership Income | | 191, Ex. 21 |
| IRS-1120 | U.S. Income Tax Return for an S Corporation | | 191, Ex. 21 |
| IRS-1120S | U.S. Income Tax Return for an S Corporation | | 191, Ex. 21 |
| IRS-2848 | Power of Attorney and Declaration of Representative | | 200.5 |
| IRS-3210 | Document Transmittal | Ex. 8 | 200 |

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 |
|---|---|---|
| AMA | Agriculture Management Assistance | 11, 187 |
| ARCT | AGI Review and Compliance Tracking System | Part 9 |
| AWEP | Agricultural Water Enhancement Program | 11, 187 |
| CBWP | Chesapeake Bay Watershed Program | 11, 187 |
| CCPI | Cooperative Conservation Partnership Initiative | 11, 187 |
| CPA | Certified Public Accountant | 189, 200, 200.5, 203.7, 203.8, 204, Ex. 21 |
| CSTP | Conservation Stewardship Program | 11, 14, 187 |
| EIN | employer identification number | 136, 156, 168, 200, Ex. 2 |
| FRPP | Farm and Ranchland Protection Program | 11, 187 |
| IRA | individual retirement account | 167 |
| LLP | limited liability partnership | 34, 52, 147, 148, 149, 191 |
| LP | limited partnership | 34, 52, 120, 147, 148, 149, 191, Ex. 2 |
| MLG | marketing loan gain | 3, 11, 12, 14, 186 |
| TAAF | Trade Adjustment Assistance for Farmers | 11, 14, 34, 187 |
| 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.

***--AGI Review and Compliance Tracking System (ARCT)**

ARCT is a web-based system:

- in which National, State, and County Office users can record all AGI-related review information and activities for 2009 and subsequent years' program participants

- that provides reporting capability for both AGI reconciliation and compliance review information recorded for program participants.**--***

**"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.

<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:<br><br>• cattle, sheep, goats, swine<br><br>• elk, reindeer, bison, deer<br><br>• horses<br><br>• poultry<br><br>• fish and other aquaculture products used for food<br><br>• 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:<br><br>• farmland, ranchland, or forestry land<br>• water or hunting<br>• 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>

**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 who rents land from another producer or landowner under either of the following conditions:

- for a fixed cash amount
- guaranteed crop share as the amount of the commodity to be paid in rent.**--***

### Common Attribution

Common attribution means crediting payments made to persons or legal entities collectively to 1 limitation, for the applicable program, based on a specific or unique relationship between the persons or legal entities.

### 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 Services

Custom services mean the hiring of a contractor or vendor that is in the business of providing such specialized services or to perform services for the farming operation in exchange for the payment of a fee for such services performed.

**Definitions of Terms Used in This Handbook (Continued)**

### Default Determination

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

### *--Enrolled Agent

Enrolled agent means someone who is authorized to deal with IRS on behalf of another; however, enrolled agent certifications are **not** acceptable for AGI eligibility purposes.**--***

### 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.

### 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).

**Definitions of Terms Used in This Handbook (Continued)**

***--General Partnership**

General partnership means:

- comprised of 2 or more persons or legal entities
- formed under State law
- subject to the terms of a formalized agreement
- identified with EIN.**--***

**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 or joint venture, whose members are jointly and severally liable for the obligations of the organization, in which 2 or more individuals or entities pool their resources, such as land, labor, capital, management, and equipment, to conduct the farming operation for a common purpose, sharing the profits and losses.

**Joint Venture**

Joint venture means a short-term association of persons or legal entities, where the association exists without an actual partnership or corporate designation.**--***

**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.

**Menu and Screen Index**

The following table lists the menus and screens displayed in this handbook.

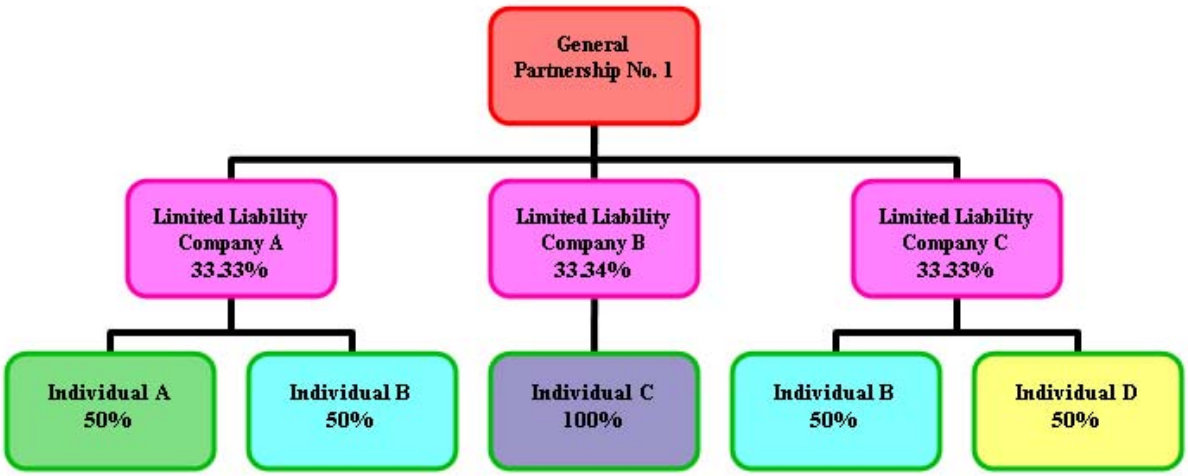
| Menu or Screen | Title | Reference |
|---|---|---|
| | Farming Operation Summary Page Screen | 130.5 |
| | Farming Operation Summary Page (Short Form) Screen | 132 |

**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;<br>-owns all equipment;<br>-cash rents all the land;<br>- hires all the labor.<br>The members provide all active personal management.<br>- all individuals and entities are AGI compliant | - all 3 LLC's, are actively engaged in farming;<br>- 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;<br>- 3 "persons" for payment limitation as follows:<br>LLC-A;<br>LLC-B and Individual C combined;<br>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

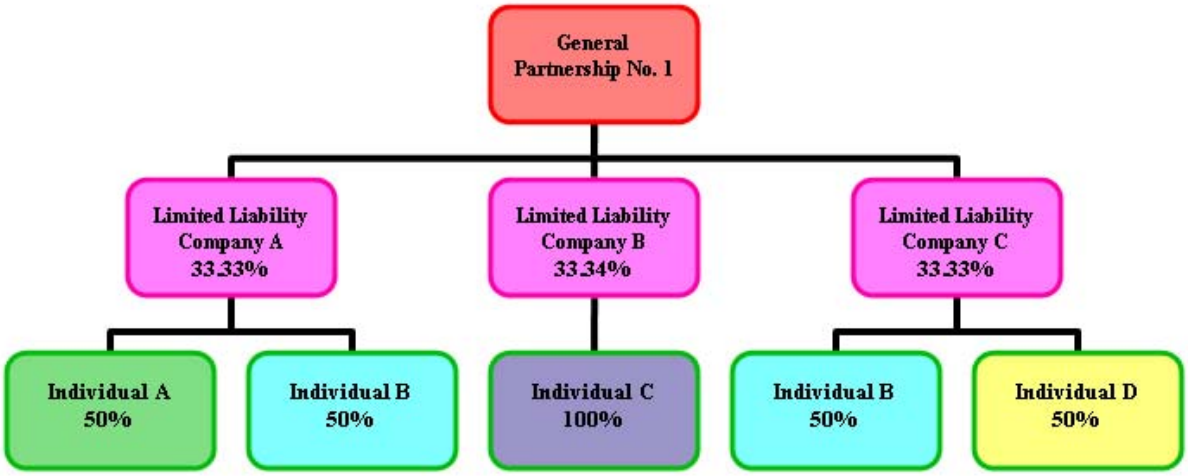
Individual D....limited to $40,000 from other operations.....= 40,000

**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.

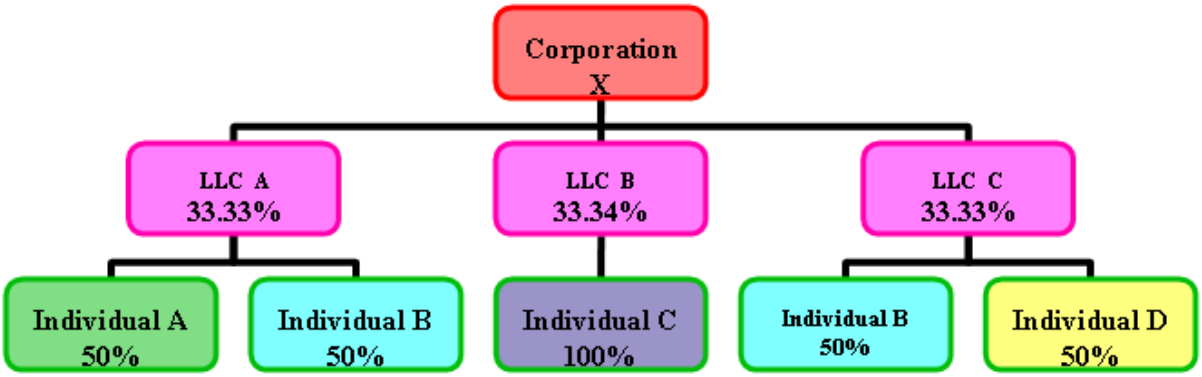
| Description of Farming Operations | | | | |
|---|---|---|---|---|
| **Husband and Wife share 50/50 in a joint operation.** | **Wife is 100% beneficiary of a trust.** | **Husband has 25% interest in his father's estate.** | **Husband has 35% interest in a limited partnership with his brothers** | **Husband has 50% interest in the corporation that is the general partner of the Limited Partnership.** |
| Husband/Wife Jt Op.<br>H = 50%, W = 50%<br><br>Earns $70,000 NAP<br>Earns $66,000 DCP | Trust<br>W = 100%<br><br>Earns $8,000 NAP<br>Earns $10,000DCP | Estate<br>H = 25%<br><br>Earns $12,000 NAP<br>Earns $9,000 DCP | Bros Cattle LTD<br>H = 35%<br><br>Earns $10,000 NAP<br>Earns $15,000 DCP | Bros Cattle LTD<br>Corp = 1%<br>H = 50% of Corporation<br>LTD earns $10,000 NAP<br>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<br>H = $35,000<br>W = $35,000<br>Jt Op = $0 | NAP<br>H = $0<br>W = $8,000<br>Estate = $8,000 | NAP<br>H = $3,000<br>W = $0<br>Estate = $12,000 | NAP<br>H = $3,500<br>W = $0<br>LTD = $10,000 | NAP<br>H = $50<br>W = $0<br>Corp = $100 |
| DCP<br>H = $_33,000_____<br>W = $_33,000_____<br>Jt Op = $_0_____ | DCP<br>H = $__0_____<br>W = $__**7,000**__*<br>Trust = $7,000_ | DCP<br>H = $___2,250____<br>W = $___0_____<br>Estate = $_9,000___ | DCP<br>H = $_**4,750**_____<br>W = $_0_____<br>LTD = $_**14,425**_____ | DCP<br>H = $_0_____<br>W = $__0_____<br>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.<br><br>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.<br><br>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 |

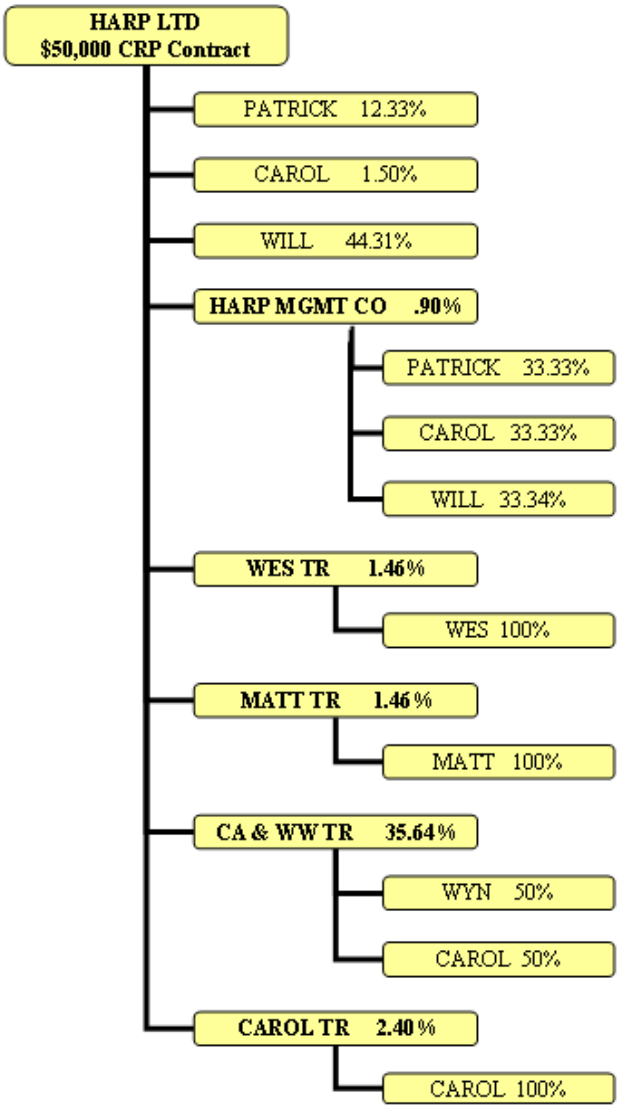
1/ A pro rata reduction will be made for any payments attributed to individuals A or B
2/ A pro rata reduction will be made for any payments attributed to individual C
3/ A pro rata reduction will be made for any payments attributed to individuals B or D

**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

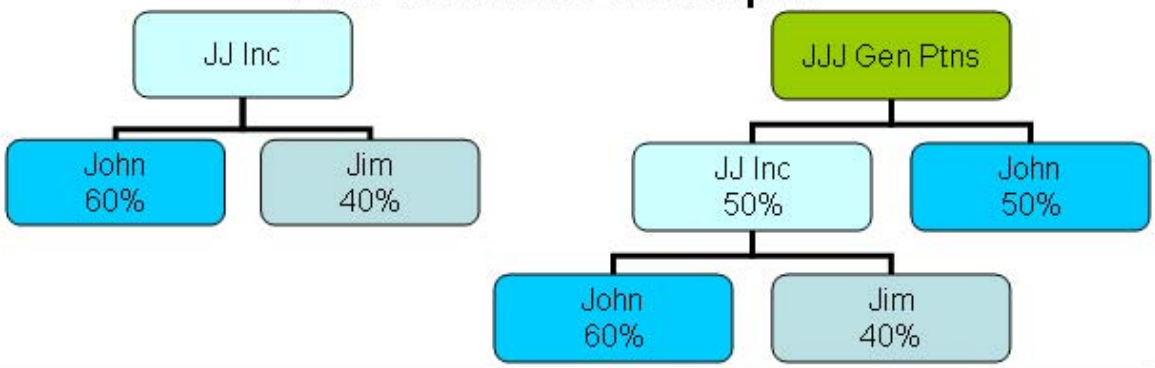
| Person or Entity | Total Attribution | Calculation |
|---|---|---|
| **Harp LTD** | **50,000** | **ALL** |
| Harp Mgmt Co | 450 | .9 x 50,000 |
| Wes Tr | 730 | .0146 x 50,000 |
| Matt Tr | 730 | .0146 x 50,000 |
| CA&WW Tr | 17,320 | .3564 x 50,000 |
| Carol Tr | 1200 | .024 x 50,000 |
| Patrick (Individual & embedded) | 6,165<br>+150<br>6,315 | .1233 x 50,000<br>.3333 x 450 |
| Will (individual & embedded) | 22,155<br>+150<br>22,305 | .4431 x 50,000<br>.3334 x 450 |
| Carol, Wes, Matt & Wyn (individual & embedded interests) | 750<br>150<br>730<br>730<br>17,320<br>1200<br>20,880 | .015 x 50,000<br>.3333 x 450<br>100% x 730<br>100% x 730<br>100% x 17,320<br>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.

## IRS-3210, Document Transmittal

This is an example of IRS-3210 that is available in a fillable format at **http://intranet.fsa.usda.gov**. CLICK "**FFAS Employee Forms/Publications Site**" and CLICK "**Find Current Forms Using Our Form Number Search**". For "Form Number", ENTER "**IRS 3210**".

*--

| DOCUMENT TRANSMITTAL | TO: Internal Revenue Service - USDA<br>P.O. Box 24033<br>Fresno, CA 93779 | PAGE 1 OF 1 |
|---|---|---|

| DOCUMENT IDENTIFICATION | REMARKS:<br><br>Date: 02-03-2012 |
|---|---|

| QUANTITY | TYPE | | REC'D |
|---|---|---|---|
| 100 | CCC-931 | Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information | |
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| FROM: | |
|---|---|
| USDA Farm Service Agency<br>Any County FSA Office<br>1010 Government Way<br>Town, ST 10101-9999 | **Releasing Official**<br>Martin S. Jones, County Executive Director |
| | **Received and Verified** |
| | **Originator Telephone Number**<br>(111) 222-3333 |
| | **Date Acknowledged** |

FORM IRS-3210

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**Payment Eligibility and Payment Limitations for Disaster Assistance Programs**

This is an example of the payment eligibility and payment limitations for Disaster Assistance Programs.

| Program | Years | Payment Eligibility | | Annual Payment Limitation | | Payment Limitation Control | |
|---|---|---|---|---|---|---|---|
| | | Gross Revenue | AGI | Regulation | Amount | Regulation | Method |
| SURE and ELAP | 2008 | | $2.5 million | 7 CFR Part 1480 | $100,000 total for SURE, ELAP, LFP, and LIP | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 - 2011 | | $500,000 Nonfarm AGI | 7 CFR Part 1439 | | 7 CFR Part 1400 as revised for 2009 forward. | Direct attribution to person or legal entity. |
| LFP | 2008 | | $2.5 million | 7 CFR Part 1439 | | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 - 2011 | | $500,000 Nonfarm AGI | | | 7 CFR Part 1400 as revised for 2009 forward. | Direct attribution to person or legal entity. |
| LIP | 2008 | | $2.5 million | | | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 - 2011 | | $500,000 Nonfarm AGI | | | 7 CFR Part 1400 as revised for 2009 forward. | Direct attribution to person or legal entity. |
| TAP | 2008 | | $2.5 million | 7 CFR Part 783 | $100,000 | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 - 2011 | | $500,000 Nonfarm AGI | | $100,000 | 7 CFR Part 1400 as revised fro 2009 forward. | Direct attribution to person or legal entity. |
| NAP | 2008 | $2 million | | 7 CFR Part 1437 | $100,000 | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 - forward | | $500,000 Nonfarm AGI | | $100,000 | 7 CFR Part 1400 as revised for 2009 forward. | Direct attribution to person or legal entity. |
| CDP | 2005 - 2007 | | $2.5 million | 7 CFR Part 760 | $80,000 total for all 3 years | 7 CFR Part 1400 | "Person" as defined. |
| LCP | 2005 - 2007 | | | | $80,000 total for all 3 years | | |
| LIP | 2005 - 2007 | | | | $80,000 total for all 3 years | | |
| *--ECP | 2008 | | $2.5 million 1/ | 7 CFR Part 701 | $200,000 per disaster | 7 CFR Part 1400 | "Person" as defined. |
| | 2009 – forward | | $1 million nonfarm | | | 7 CFR Part 1400 as revised for 2009 forward. | Direct attribution to person or legal entity.--* |

1/ If applicable, see subparagraph 11 A.

**Impact of Food, Conservation, and Energy Act of 2008 on CRP-1 Payment Eligibility and Payment Limitation**

**Notes:** See subparagraph 190 E for forms required for AGI provisions.
***--**

| 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, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>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 **Effective Date**: Person, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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 reenrollment CRP-1 **Approval Date**: Person, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | COC approves a reenrollment (new CRP-1) for a 2000 CRP-1 on December 5, 2006. Effective date for the reenrollment 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. | CCC-901<br>CCC-902 **1**/<br>CCC-931 | 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. | CCC-901<br>CCC-902 **1**/<br>CCC-931 | New producer succeeds to a 2009 CRP-1, effective August 1, 2011. |

**1**/ CCC-902 parts that are applicable according to subparagraph 34 D.**--***

**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, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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, actively engaged in farming, permitted entity. | | |
| **Succession-in-Interest** (When CRP-1 was subject to AGI before succession.) | Based on the parent CRP-1 **Effective Date**: Person, actively engaged in farming, permitted entity. | | 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, actively engaged in farming, permitted entity. | | 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 reenrollment CRP-1 **Approval Date**: Person, actively engaged in farming, permitted entity. | | COC approves a reenrollment (new CRP-1) on December 5, 2006. Effective date for the reenrollment is October 1, 2009. |
| | **Action Approved 10/1/08 or Later** | | |
| **New CRP-1** | Based on CRP-1 **Approval Date**: Direct Attribution. | CCC-901<br>CCC-902 **1**/ | 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 **Approval Date**: Person, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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 **Approval Date**: Person, actively engaged in farming, permitted entity. | CCC-501A<br>CCC-501B<br>CCC-502 | 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. | CCC-901<br>CCC-902 **1**/<br>CCC-931 | New producer succeeds to a 2009 CRP-1 effective August 31, 2010. |

**1**/ CCC-902 parts that are applicable according to subparagraph 34 D.--*

***--2009 and 2010 Schedule for Average AGI Compliance Actions**

Follow this table for the 2009 and 2010 schedule for average AGI compliance actions.

| Date | Action | Process |
|---|---|---|
| June 15 | Deadline for submitting CCC-927 or CCC-928 to IRS. | |
| To be determined | Reconciliation of data returned from IRS and 2009/2010 payment recipients. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2009 and/or 2010. Report only those names and ID numbers that lack a corresponding data return from IRS. |
| To be determined | First notice of no data returns from IRS. Provide 30 calendar days to submit CCC-927 or CCC-928 to IRS. | Notice generated and mailed from KC. |
| To be determined | Second notice of no data returns from IRS. Provide 30 calendar days to submit information to correct condition; otherwise, will be determined ineligible for 2009 and/or 2010 program payments and benefits subject to average AGI compliance.<br><br>First notice of questionable average AGI compliance based on data returned from IRS. Provide 30 calendar days to submit information that demonstrates compliance with the applicable average AGI limitations; otherwise, will be determined ineligible for 2009 and/or 2010 program payments and benefits subject to average AGI compliance. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2009 and/or 2010. Report only those names and ID numbers that lack a corresponding data return from IRS. Notice generated and mailed from KC.<br><br>Compare sub-files with "Y" in the "Average AGI" field for 2009 and/or 2010 with the data returned from IRS for the names and ID numbers with indicators of questionable average AGI compliance. Provide results by State and county codes. Once list is provided to each State, notice will be issued from State Offices. |
| October 1 | Final 2010 DCP and ACRE payments. | |
| October 1 | CRP annual rental payments. | |
| To be determined | No data returns from IRS or no additional information was timely provided. Send written notice of ineligibility for 2009 and/or 2010 program payments and benefits because of average AGI noncompliance. Include appeal rights according to 1-APP. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2009 and/or 2010. Report only those names and ID numbers that lack a corresponding data return from IRS. Provide lists to each State Office.<br><br>State Offices issue notice of determination. |
| To be determined | Sub-files changed to reflect status of ineligibility for 2009 and/or 2010 program payments and benefits because of average AGI noncompliance. | State Offices notify control/recording County Offices of the determinations. Control/recording County Offices shall take appropriate actions. |

**--***

## 2011 and 2012 Schedule for Average AGI Compliance Actions

Follow this table for the 2011 and 2012 schedule for average AGI compliance actions.

| Date | Action | Process |
|---|---|---|
| ***--**To be determined | Deadline for submitting CCC-927, CCC-928, or CCC-931 to IRS. | |
| To be determined | Reconciliation of data returned from IRS and 2011/2012 payment recipients. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2011 and/or 2012. Report only those names and ID numbers that lack a corresponding data return from IRS. |
| To be determined | First notice of no data returns from IRS. Provide 30 calendar days to submit CCC-927, CCC-928, or CCC-931 to IRS. | Notice generated and mailed from KC. |
| To be determined | Second notice of no data returns from IRS. Provide 30 calendar days to submit information to correct condition; otherwise, will be determined ineligible for 2011 and/or 2012 program payments and benefits subject to average AGI compliance.<br><br>First notice of questionable average AGI compliance based on data returned from IRS. Provide 30 calendar days to submit information that demonstrates compliance with the applicable average AGI limitations; otherwise, will be determined ineligible for 2011 and/or 2012 program payments and benefits subject to average AGI compliance. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2011 and/or 2012. Report only those names and ID numbers that lack a corresponding data return from IRS. Notice generated and mailed from KC.<br><br>Compare sub-files with "Y" in the "Average AGI" field for 2011 and/or 2012 with the data returned from IRS for the names and ID numbers with indicators of questionable average AGI compliance. Provide results by State and county codes. Once list is provided to each State, notice will be issued from State Offices. |
| To be determined | No data returns from IRS or no additional information was timely provided. Send written notice of ineligibility for 2011 and/or 2012 program payments and benefits because of average AGI noncompliance. Include appeal rights according to 1-APP. | Match by ID number the data returned from IRS with sub-files with "Y" in the "Average AGI" field for 2011 and/or 2012. Report only those names and ID numbers that lack a corresponding data return from IRS. Provide lists to each State Office.<br><br>State Offices issue notice of determination. |
| To be determined--* | Sub-files changed to reflect status of ineligibility for 2011 and/or 2012 program payments and benefits because of average AGI noncompliance. | State Offices notify control/recording County Offices of the determinations. Control/recording County Offices shall take appropriate actions. |
| October 1 | Final DCP and ACRE payments. | |
| October 1 | CRP annual rental payments. | |

***--Example of IRS Letter of Explanation**

Department of the Treasury
**Internal Revenue Service**

**Notice XXX**
(3-2010)

U.S. Department of Agriculture Forms CCC-927 and CCC-928
Consent To Disclosure of Tax Information – Individual and Legal Entity

Your USDA Form CCC-927 or CCC-928 is being returned to you due to **incomplete entries or illegibility.** The following information is required on all USDA Forms CCC-927 and CCC-928:

Box Number 1: Person's name and address for Form CCC-927 or the Legal entity's name and address for Form CCC-928. (Please enter the name and address as it appears on the returns filed for the taxable years checked in Box 3.

Box Number 2: Enter the complete social security number of the individual identified in Box 1 of Form CCC-927. Enter the complete employer identification number of the legal entity identified in Box 1 of Form CCC-928.

Box Number 3: Check the appropriate box(es) to indicate the 3 year period(s) used for determination of the average adjusted gross income for payment eligibility.

Box Number 4: Signature of the individual identified in Box 1 of Form CCC-927. Signature of the individual authorized under State law to represent the legal entity identified in Box 1 of Form CCC-928.

Box Number 5, Form CCC-928: Enter the title or relationship to the legal entity identified in Box 1.

Box Number 5, CCC-927: Enter the signature date in month, day, and year.

Box Number 6, CCC-928: Enter the signature date in month, day, and year.

Please submit a new completed request to:
Internal Revenue Service
P.O. Box 24033
Fresno, CA 93779

If you have any questions, contact your local USDA Service Center.

**--***

***--Explanation of the IRS Rejection Message, "Not found on master file", and Recommended FSA Actions**

If the IRS rejection message, "Not found on master file" is received, follow this table.

| **IF CCC-931 or CCC-933 filer is…** | **THEN FSA actions are as follows…** |
|---|---|
| minor child | • place rejection message and CCC-931 or CCC-933 in producer's eligibility files<br><br>• consider the producer AGI compliant for the specific program year.<br><br>**Note:** Additional information may be requested and/or required by the reviewing authority to verify tax status or classification. |
| • Native American<br>• member of recognized tribe<br>• Alaskan Native<br>• Pacific Islander | |
| individual with annual income less than minimum threshold of required filing | |
| apostolic or religious organization (504c designation by the IRS) | |
| charitable organization | |
| nonprofit organization (501c designation by the IRS) | |
| new legal entity | • place rejection message and CCC-931 or CCC-933 in producer's eligibility files<br><br>• consider the new legal entity AGI compliant for the specific program year only<br><br>• obtain valid CCC-931's or CCC-933's from all interest holders for the specific program year. |
| individual opposed to filing Federal income taxes | • determine the producer as AGI noncompliant and ineligible for all payments and benefits under programs subject to the AGI limitations<br><br>• provide written notice with review rights according to 1-APP<br><br>• if requested, do **not** issue payments and benefits under any program subject to AGI limitations<br><br>• initiate receivables if payments and benefits have been issued under any program subject to AGI limitations. |
| individual knowingly failed to file Federal income taxes in all 3 years of the qualification period | |

**--***

***--Memorandum of Agreement**

Following is the Memorandum of Agreement between NRCS, FSA, and CCC for implementing common provisions, including payment eligibility and payment limitation provisions through September 30, 2012.

**Memorandum of Agreement (MOA)**

**between**

**Natural Resources Conservation Service (NRCS),**

**Farm Service Agency (FSA), and**

**Commodity Credit Corporation (CCC)**

**For the Implementation of Common Provisions, Including**

**Payment Eligibility and Payment Limitation Provisions**

**Through September 30, 2012**

## I. PURPOSE

The purpose of this (MOA) is to provide for the implementation, cooperation, expectations and responsibilities between FSA, NRCS, and CCC in administering provisions common to the agencies including all payment eligibility and payment limitation provisions as found in the Food, Security Act of 1985, as amended, and regulations at 7 CFR Part 1400.

## II. GENERAL PROVISIONS

FSA and NRCS administer various farm commodity and conservation programs in which participants are subject to payment eligibility and payment limitation requirements in 7 CFR Part 1400. The administration of these programs requires the obtaining of information, determination of eligibility, and maintenance of this data. FSA has the administrative responsibilities for collecting and maintaining data that includes the name and address of the participant (SCIMS and farm records); information about the participant's farming operation (subsidiary files); and information on the participant's annual income (AGI files). FSA uses this information to make determinations of the participant's eligibility for program payments and restrictions on the amount of such payments that can be received by the participant, both directly and indirectly, for direct attribution. FSA has developed custom software applications for both the System 36 and web-based environments to store the eligibility data of all participants. FSA maintains this data and ensures the credibility and accuracy of this data. FSA performs the administrative compliance duties of the payment eligibility requirements and determinations of all participants of record. As such, FSA has also entered into agreements with the IRS and the Social Security Administration to verify and validate the accuracy of the participant information. FSA provides this data and develops common eligibility routines for use by NRCS in the administration of conservation programs for which they have responsibility.

**--***

***--Memorandum of Agreement (Continued)**

## III. AUTHORITY

This MOA is authorized by Title I of the Farm Security and Rural Investment Act of 2002 (2002 Act), Title I of the Food, Conservation, and Energy Act of 2008 (2008 Act), and Title XII of the Food Security Act of 1985 (1985 Act), as amended. Other authorities may also apply.

## IV. RESPONSIBILITIES

A. FSA and CCC responsibilities:

1. In consultation with NRCS, develop and maintain rules, regulations, policies, and procedures that govern payment eligibility, payment limitation and average adjusted gross income (AGI) limitation requirements common to multiple programs administered by FSA and NRCS.

2. Annually publicize and provide information on all requirements of payment eligibility, payment limitation, and AGI limitations.

3. Provide leadership and guidance to all USDA agencies as needed on all payment eligibility, payment limitation and average AGI limitation issues.

4. Provide consultation regarding common policies and procedures between FSA and NRCS leadership.

5. Develop and maintain information collection processes necessary to obtain program participant information such as name and address; farming operation types and locations; legal entity types; farm and nonfarm income data as reported to the IRS for periods of at least three years (CCC-902; CCC-901; CCC-926; CCC-526C; and, other forms and documents determined applicable).

6. Timely make determinations regarding the participant's eligibility for program benefits and the amounts that can be received annually.

7. Annually, or as otherwise applicable, obtain an acceptable certification of average AGI from all persons, legal entities, and members of legal entities for the appropriate reporting time period.

8. Develop common eligibility routines for use by FSA and NRCS. Significant changes to existing routines, or the addition of new routines, will be planned in conjunction with NRCS and with adequate testing time allowed prior to implementation.

**--***

***--Memorandum of Agreement (Continued)**

9. Record determinations for payment eligibility and payment limitation purposes for immediate use by both FSA and NRCS in payment processing.

10. Timely provide written notice to program participants of the determinations made for payment eligibility and payment limitation purposes with rights to appeal if determinations are considered adverse.

11. Timely acknowledge appeals and administrative hearing proceedings on all appeals.

12. Maintain the administrative case files on appeal hearings with the National Appeals Division (NAD).

13. Respond to any further administrative proceedings as necessary with NAD for appeals, reconsiderations and reviews.

14. Develop software user requirements and technical specifications, program, test, implement, and maintain common software routines used by all agencies to determine eligibility, payment eligibility, payment limitation, and average AGI limitations. Maintain a software test environment as well as a software production environment.

15. Maintain FSA and NRCS customer records for Farm and Tract Eligibility (FTE), and Highly Erodible Land Conservation and Wetland Conservation (AD-1026).

16. Make available and allow secure access by NRCS software applications via web-services to the current data on all program participants that includes information recorded in SCIMS, farm tract records, entity files, subsidiary files and eligibility files as developed under regulations pertaining to FSA.

17. Make available to program participants the appropriate forms for Consent for IRS to disclose pertinent information to FSA for AGI limitation compliance purposes.

18. Process information and data returned from the IRS for participants that previously submitted valid consent forms to the IRS.

19. On a regular basis as data is returned from IRS, record and update eligibility files for participants with average AGI amounts below the threshold levels as verified with IRS data.

20. Notify participants that appear to have average AGI amounts above the threshold levels of the results of the IRS data analysis, and require all such participants to provide actual tax records or other acceptable documentation. within 30 days to demonstrate that average AGI does not exceeds the established limits.

**--***

***--Memorandum of Agreement (Continued)**

21. Revise business rules to not allow any payment activity or otherwise disable all eligibility files for participants that are notified that average AGI amounts have been determined to be above the applicable thresholds for payment eligibility.

22. Review tax data and other information provided by program participants with questionable AGI amounts and conclusively determine AGI compliance.

23. Notify participants subject to the AGI review the results of the evaluation and determination of AGI compliance for the applicable year or years reviewed.

24. Provide to NRCS a list of participants determined to be non-compliant with the average AGI limitations for appropriate actions.

25. Conduct regular reconciliation processes to identify participants that have received current year benefits, but have not been included on any data return from the IRS, which indicates a consent form has not been submitted.

26. Provide to NRCS a list of participants identified as current year payment recipients, but have not provided a consent form to the IRS for appropriate follow-up actions.

27. Provide to NRCS on a regular basis a list of participants recorded as current year program payment recipients, but also identified as deceased on the most recent Social Security Administration's Death Master File.

28. FSA shall timely notify NRCS of the annual cost IRS charges to FSA/CCC for AGI validation and the annual cost to obtain the Death Master File from the Social Security Administration.

B. NRCS responsibilities:

1. Make available to program participants the appropriate forms needed for payment eligibility and payment limitation purposes.

2. Make available to program participants the appropriate forms for Consent for IRS to disclose pertinent information to FSA for AGI limitation compliance purposes.

**--***

***--Memorandum of Agreement (Continued)**

3. Timely deliver to the local FSA office any forms and documentation completed for payment eligibility and payment limitation purposes by participants of NRCS-administered programs.

4. Timely reimburse FSA and/or CCC no less than one-third of the annual cost that IRS will charge FSA/CCC for the average AGI validation process. The estimated cost for FY 2010 is . The estimated cost for FY 2011 and FY 2012 is for each year.

5. Reimbursement will not be required for any part of the annual subscription fee of paid by FSA/CCC for the Social Security Administration's Death Master File.

## V. MISCELLANEOUS PROVISIONS

1. FSA, CCC and NRCS mutually agree to cooperate at all levels to ensure consistent implementation of all payment eligibility and payment limitation requirements applicable to all conservation programs.

2. It is mutually agreed that this Agreement is effective when signed by all parties and shall continue in full force and effect through September 30, 2012. This Agreement may be terminated at any time with thirty days notice by one party. Should this Agreement be terminated, billing will be submitted for services rendered prior to the date of termination for which payment has not been received. This Agreement may be modified by amendment duly executed by officials of FSA and NRCS. NRCS and FSA will enter annually into a National Level Reimbursement Agreement (Form AD-672) based on this interagency agreement and any amendments hereto.

3. Neither CCC, FSA, nor NRCS, shall assign or transfer any rights or obligations under this Agreement without prior written approval of the other party.

4. CCC, FSA and NRCS agree that, to the extent possible under applicable law, each party will be solely responsible for its own acts omissions, and the results thereof, and shall not be responsible for the results thereof caused by the acts or omissions of the other party.

5. The Deputy Administrator for Farm Programs, Farm Service Agency or the Deputy Administrator designee or successor, is delegated authority to carry out this Agreement for FSA and CCC, and, with the NRCS Chief, or designee, may further amend this Agreement consistent with the provisions of the 1985 Act, as amended, and the regulations at 7 CFR Part 1400. The provisions of this Agreement may only be modified by written agreement between the parties.

**--***

***--Memorandum of Agreement (Continued)**

6. All parties to this MOA will comply fully with the information gathering provisions of section 1619 of the 2008 Act, the Privacy Act, the Freedom of Information Act, and any other related acts concerning privacy and the dissemination of records.

FARM SERVICE AGENCY/
COMMODITY CREDIT CORPORATION

12/10/09
Date

NATURAL RESOURCES
CONSERVATION SERVICE

3-17-10
Date

## AGI Compliance Review Checklists

### A Example of CL-1 Checklist

*--

The following optional checklist may be included in the State Office AGI Compliance Review File created for each participant and program year reviewed.

**CL-1** **AGI Compliance Review Checklist**
**CPA or Attorney Certification Statement**

| **Producer Name:** | | **Year(s) Reviewed:** | ☐ 2009 ☐ 2010 ☐ 2011 ☐ 2012 ☐ 2013 |
|---|---|---|---|

| | **Yes** | **No** | **N/A** |
|---|---|---|---|
| 1. Did the participant submit the required documentation within the required timeframe? Date documentation received: _____ | | | |
| 2. Has the CPA's or Attorney's license been verified through a reliable source? If so, print a copy and place in the review file. *(**Optional** - complete only if credentials or status are in question.)* | | | |
| 3. Was the statement prepared for the correct participant subject to the AGI compliance review? | | | |
| 4. Does the statement contain all the required elements to be considered acceptable for average AGI compliance verification purposes? ***(Exhibit 1)*** | | | |
| 5. Has the statement been evaluated for the following:<br>• the correct and applicable 3-year period for qualification;<br>• the average AGI limitations to which compliance is certified;<br>• the referenced schedules and line items of filed tax returns;<br>• the filing date(s) for the referenced tax returns. ***(Exhibit 1)*** | | | |
| 6. Has the Average AGI Calculation Worksheet been completed to verify correctness of the computations? | | | |
| 7. Has a copy of the AGI certification (CCC-926, CCC-931, CCC-933, or CPA or attorney certification) been received from the recording county office? | | | |
| 8. Has a copy of the participant's subsidiary print been printed for the applicable year(s) being reviewed? | | | |
| 9. Was the participants AGI certification correctly recorded in the web eligibility file? (Note: Compare subsidiary print to what was certified on the participant's original AGI certification.) | | | |
| 10. If the participant is determined to be ***not eligible*** for the year(s) reviewed, has the web eligibility file been updated to reflect the determinations (*SED determination field)*? | | | |
| 11. Has written notice of the determinations been provided to the participant, and if adverse, has the options of reconsideration to the SED, mediation, and appeal rights to NAD been included? Date of the letter: _____ | | | |
| 12. For participants determined ***not eligible***, has a receivable been properly established in NRRS for the program benefits received for the applicable year(s)? | | | |

AGI Compliance Review file should contain the following documents upon completion of the review:

- documentation received from the participant;
- copy of subsidiary print <u>prior</u> to completing review;
- copy of the original AGI certification (CCC-926, CCC-931, CCC-933, or CPA or attorney certification;
- copy of the Average AGI Calculation Worksheet, *if necessary to determine compliance*;
- copy of subsidiary print <u>after</u> SED determination has been updated in the web eligibility file, *(if applicable*;
- copy of the written notice of determination sent to participant.

Name of person completing review: _____

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## AGI Compliance Review Checklists (Continued)

### A Example of CL-1 Checklist (Continued)

*--

**CL-1** **AGI Compliance Review Checklist**
**CPA or Attorney Certification Statement**

***Reference 4-PL, Subparagraphs 203.8 D and 204 C***

Certifications will only be accepted from licensed CPA's and attorneys. Statements from enrolled agents will **not** be accepted. If a letter is submitted by CPA or an attorney to certify compliance with an average AGI limitation for which a person or entity received notification of possible noncompliance, the letter **must** include the following elements.

- CPA's or attorney's State license identification number.
- Explanation of the reason for the certification.
- Acknowledgement of having read, understood, and agreement to the terms and conditions of 4-PL subparagraph 203.8, including the following:
  - CPA/attorney acknowledges and agrees to having reviewed and being familiar with the average AGI limitations, definitions, and compliance requirements in 7 CFR Part 1400, with the programs involved, having made such inquiries as are necessary to apprise CPA/attorney of such matters, and understands the tax years used to calculate the average AGI for program years 2009 through 2013.
- Relevant information on the most recently filed tax returns for the period in question, which includes:
  - the correct and applicable 3-year period for qualification;
  - the average AGI limitations to which compliance is verified;
  - the referenced schedules and line items of filed tax returns;
  - the filing date(s) for the referenced tax returns.
- If applicable, a detailed explanation of how the applicable average AGI limitations were **not** exceeded even though the information on tax returns indicates otherwise.

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## AGI Compliance Review Checklists (Continued)

### B Example of CL-2 Checklist

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The following optional checklist may be included in the State Office AGI Compliance Review File created for each participant and program year reviewed.

**CL-2** **AGI Compliance Review Checklist**
**IRS Tax Information - Returns and Schedules**

| **Producer Name:** | | **Year(s) Reviewed:** | ☐ 2009 ☐ 2010 ☐ 2011 ☐ 2012 ☐ 2013 |
|---|---|---|---|

| | **Yes** | **No** | **N/A** |
|---|---|---|---|
| 1. Did the participant submit the required documentation within the required timeframe? Date documentation received: _____ | | | |
| 2. Was the tax information provided for the correct participant subject to the AGI compliance review? | | | |
| 3. Was the tax information signed, or otherwise verified as filed with the IRS, by the participant subject to the AGI compliance review? | | | |
| 4. Were the sets of tax returns complete as to be considered acceptable for average AGI compliance verification purposes? | | | |
| 5. Has the tax information been evaluated for the following:<br>• the correct and applicable 3-year period for qualification;<br>• the average AGI limitations to which compliance is certified;<br>• the applicable forms, schedules, and line items as needed to identify all farm and nonfarm income amounts;<br>• the filing date(s) in comparison to the applicable 3-year period. | | | |
| 6. Has the Average AGI Calculation Worksheet been completed to verify correctness of the participant's AGI certification? | | | |
| 7. Has a copy of the AGI certification (CCC-926, CCC-931, CCC- 933, or CPA or attorney certification) been received from the recording county office? | | | |
| 8. Has a copy of the participant's subsidiary print been printed for the applicable year(s) being reviewed? | | | |
| 9. Was the participants AGI certification correctly recorded in the web eligibility file? (Note: Compare subsidiary print to what was certified on the participant's original AGI certification.) | | | |
| 10. If the participant is determined to be ***not eligible*** for the year(s) reviewed, has the web eligibility file been updated to reflect the determinations (*SED determination field)*? | | | |
| 11. Has written notice of the determinations been provided to the participant, and if adverse, has the options of reconsideration to the SED, mediation, and appeal rights to NAD been included? Date of the letter: _____ | | | |
| 12. For participants determined ***not eligible***, has a receivable been properly established in NRRS for the program benefits received for the applicable year(s)? | | | |

AGI Compliance Review file should contain the following documents upon completion of the review:

- all tax documentation received from the participant;
- copy of subsidiary print prior to completing review;
- copy of the original AGI certification (CCC-926, CCC-931, CCC-933, or CPA or attorney certification;
- copy of the Average AGI Calculation Worksheet, *if necessary to determine compliance*;
- copy of subsidiary print after SED determination has been updated in the web eligibility file *(if applicable)*;
- copy of the written notice of determination sent to participant.

Name of person completing review: _____

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## AGI Compliance Review Checklists (Continued)

### B Example of CL-2 Checklist (Continued)

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**CL-2** **AGI Compliance Review Checklist**
**IRS Tax Information - Returns and Schedules**

***Reference 4-PL, Paragraph 191***

The following provides guidance for the forms used when determining AGI using data reported to IRS.

| **IF determining total AGI for...** | **THEN see IRS Form...** | **AND use the amount entered on...** |
|---|---|---|
| corporations | 1120 | either of the following:<br>• line 30 (total taxable income), **plus** line 19 (charitable contributions) for years 2000 through 2011<br>• for S corporations, use only on IRS-1120S, line 21 (ordinary business income) |
| estates or trusts | 1041 | line 22 (taxable income)<br>**plus**<br>line 13 (charitable deductions) for years 2000-2011. |
| LLC's, LLP's, LP's, or other similar type organization | 1065 | line 22 (total income from trade or business)<br>**plus**<br>line 10 (guaranteed payments to partners) for years 2000-2011. |
| persons | 1040 | line 37 (AGI) for 2005-2011. |
| tax-exempt or charitable organizations | 990-T | line 34 (unrelated business taxable income)<br>**minus**<br>income that CCC determined to be from non-commercial activity for years 2000-2011. |

The following provides guidance on the supporting schedules and forms that may be used when determining farm AGI using data reported to IRS.

| **Schedule/Form** | **Line Item and Description** |
|---|---|
| Schedule C | line 31 – Net profit or (loss). |
| Schedule D | line 11 – Gains from Form 4797, Part I, long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824. |
| Schedule E | line 42 – Reconciliation of farming and fishing income. |
| Schedule F | line 36 – Net farm profit or (loss). |
| Form 4797 | line 4 – Section 1231 gain from installment sales from Form 6252, line 26 or 37.<br>**Note:** This amount is carried forward to Schedule D, line 11. |
| Form 4835 | line 32 – Net farm rental income or (loss).<br>**Note:** This amount is carried forward to Schedule E, line 40. |
| Form 6252 | line 24 – Installment sale income.<br>**Note:** This amount in carried forward to Schedule D, line 11 and to Form 4797, line 4. |

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***--ARCT Help Guide**

The following is the ARCT Help Guide.

## AGI - Review and Compliance Tracking System (ARCT) Help

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*--ARCT Help Guide (Continued)

## AGI - Review and Compliance Tracking System (ARCT) Help

### Logging into ARCT System:

You should have eAuthentication level-2 access and have your FSA-13A approved to log into ARCT.

### Reconciliation:

ARCT system enables you to search producers and enter reconciliation information.

### Search Producers for Reconciliation:

1. Enter your eAuth ID and password to log into ARCT. Upon successful login, the default page displays Search producer for reconciliation screen.
2. Enter Program Year, State and County of the producer you would like to search for. You may also optionally enter or select the following to narrow down the results:
   a. Producer Name (Last name)
   b. last four digits of Producer's TIN
   c. TIN Type
3. Click **Search** button. The screen displays a list of Producers matching the criteria you entered.
4. You can sort the search results by clicking on the column headers as shown in Figure-1.

**Figure 1: Sort Search results**

| Producers | | | | |
|---|---|---|---|---|
| Producer Name ▲ | Last Four SSN/TIN-Type | USDA Core Customer ID | Producer Type | Determination |

### Edit Producer Record:

1. Search for the list of producers as mentioned in **Search Producers for Reconciliation**.
2. From the list of producers that is displayed on the screen, click on the name of a producer you would like to edit.
3. The screen displays the Producer's record with their profile in read-only, and enables you to enter information for the following fields:
   a. Valid CCC-931 Received by County Office? (Options: Yes, No, and N/A)
   b. Valid CCC-931 Returned by IRS (Select from the list provided)
   c. Determination (Select "AGI Certification Withdrawn", "Ineligible", or "No Determination Required")
   d. Receivable(s) Amount Established (Enter dollar amount with cents)
   e. Determination Letter Sent On (Enter date)
   f. Response Documents Received On (Enter date)
4. Click **Save** button.
5. You may also click **Save>>** button that saves the producer's record and navigates you to the next producer record.

### Generate Reports for Reconciliation:

ARCT enables you to generate **AGI Review & Reconciliation Tracking Report** and **New Producers Report for Reconciliation**.

1. Click **ARCT Home** in the Menu tab.
2. On the left navigation, under Reconciliation, click **Review & Reconciliation Tracking Report.**
3. Select Program Year, State, and County from the dropdown lists.
4. Click **Generate Report** button.
5. The screen displays a dialog box.
6. Click **Open** to view immediately or **Save** it on your desktop.
7. For generating New Producers Report, click **New Producers Report** under Reconciliation.

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## *--ARCT Help Guide (Continued)

# AGI - Review and Compliance Tracking System (ARCT) Help

## Compliance:

ARCT system enables you to search producers and enter compliance information.

### Search Producers for Compliance:

1. Enter your eAuth ID and password to log into ARCT. Upon successful login, the default page displays Search producer for reconciliation screen.
2. In the left navigation, click **Search Producers for Compliance**.
3. Enter Program Year, State and County of the producer you would like to search for. You may also optionally enter or select the following to narrow down the results:
   a. Producer Name (Last name)
   b. last four digits of Producer's TIN
   c. TIN Type
4. Click **Search** button. The screen displays a list of Producers matching the criteria you entered.
5. You can sort the search results by clicking on the column headers as shown in Figure-2.

**Figure 2: Sort Search results**

| Producers | | | | |
|---|---|---|---|---|
| Producer Name | Last Four SSN/TIN-Type | USDA Core Customer ID | Producer Type | Review Completed ▼ |

### Edit Producer Record:

1. Search for the list of producers as mentioned in **Search Producers for Compliance**.
2. From the list of producers that is displayed on the screen, click on the name of a producer you would like to edit.
3. The screen displays the Producer's record with their profile in read-only, and enables you to either select or enter information for the following fields:
   a. Is Compliance review required?
   b. Type of Tax Documentation Submitted
   c. Determination for $500K NFI
   d. Determination for $750K FI
   e. Determination for $1M NFI
   f. Review Completed
   g. Adverse Determination Date
   h. Subsidiary Updated
   i. Total Receivables Established
   j. Appeal Documents Filed
4. Click **Save** button.
5. You may also click **Save>>** button that saves the producer's record and navigates you to the next producer record.

### Generate Reports for Compliance:

ARCT enables you to generate **AGI Review & Compliance Tracking Report** and **New Producers Report for Compliance**.

1. Click **ARCT Home** in the Menu tab.
2. On the left navigation, under Compliance, click **Review & Compliance Tracking Report.**
3. Select Program Year, State, and County from the dropdown lists.
4. Click **Generate Report** button.
5. The screen displays a dialog box.
6. Click **Open** to view immediately or **Save** it on your desktop.
7. For generating New Producers Report, click **New Producers Report** under Compliance.

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*--ARCT Help Guide (Continued)

## AGI - Review and Compliance Tracking System (ARCT) Help

### Tools:

ARCT system provides a Compliance Calculation Worksheet link to assist in calculating the eligibility for Compliance.

### Compliance Calculation Worksheet:

1. In the left navigation, click **Compliance Calculation Worksheet**.
2. Select a Program Year from the dropdown list.
3. Enter Total AGI (both nonfarm and farm) for the applicable years.
4. Enter AGI derived from all activities related to Farming, Ranching, and Forestry Operations for the applicable years.
5. Enter the Total AGI derived from Equipment sales and input services for the applicable years.
6. Click on the Calculate Button in order to process the business rules and show the Compliance Calculations results messages.

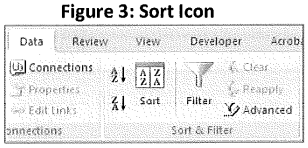
### Help to Format Excel Worksheet

**Note:** ***The following help on MS Excel provides quick tips only. Please visit Microsoft website or click F1 for comprehensive help on MS Excel.***

### Sort Columns in the Report:

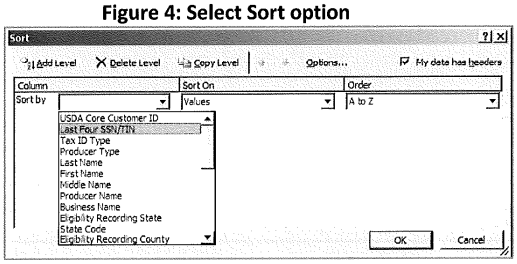
1. Save the Excel report.
2. Select the data along with the column headers in the generated excel spreadsheet.
3. Click **Data** tab on the Excel Menu tab, then click **Sort** icon as shown in Figure-3.

**Figure 3: Sort Icon**




4. A dialog box shall be displayed as shown in Figure-4. Select any column from the **Sort by** dropdown list, select Sort On and Order as desired. You may optionally **Add Level** to filter the results further down.

**Figure 4: Select Sort option**




### Hide/Unhide Columns in the Report:

1. Save the Excel report.
2. Select columns you want to hide. Use Ctrl key to select multiple columns.
3. You can right click and then select Hide/Unhide.
4. From **Home** menu tab, click **Format** icon in the Cells as shown in Figure-5.
5. Select Hide & Unhide from the list and then Hide Columns.
6. To unhide a column, select the Columns adjacent to the hidden column and follow steps 3 and 4 from above.

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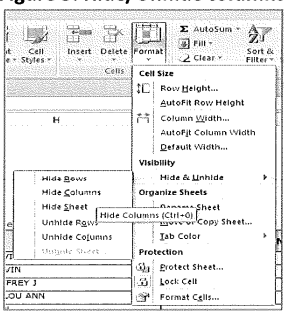
***--ARCT Help Guide (Continued)**

## AGI - Review and Compliance Tracking System (ARCT) Help

**Figure 5: Hide/Unhide columns**

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*--ARCT Help Guide (Continued)

## AGI - Review and Compliance Tracking System (ARCT) Help

### Frequently Asked Questions:

1. What is ARCT system?
   AGI- Review & Compliance Tracking System (ARCT) is a web application that enables users to enter Reconciliation and Compliance information.

   **Reconciliation:** ARCT enables users to enter Reconciliation related information for the producers who have **not** submitted the required written consent to disclosure (CCC-927, CCC-928, or CCC-931) to IRS with a 2009, 2010, and/or 2011 eligibility record. Users can also enter reconciliation information for the producers into the system and generate reports with producer data.

   **Compliance:** KCMO matches the SSN/EIN of each Participant to FSA subsidiary records (including Customer ID) and compares the IRS reported income limitation flag against current subsidiary system flags for each limitation. ARCT enables users to enter Compliance related information for those producers who have been listed on the reports generated by KCMO.

2. Who can use ARCT system?
   Users are identified and approved by FSA/DAFP/PECD prior to using ARCT. Users must be FSA personnel with eAuthentication level-2 access.

3. Who are the Producers in ARCT System?

   **Producers for Reconciliation:** All persons and legal entities who have **not** submitted the required written consent to IRS for 2009 and later years average AGI verification purposes.

   **Producers for Compliance:** All persons and legal entities who have been listed in the KCMO reports as mentioned in the question #1.

4. Why can't I view complete TIN number?
   Only last four digits of the TIN number are displayed on the screens and report due to privacy restrictions.

5. What is USDA Core Customer ID?
   It is the unique alphanumeric identifier that was given to each producer by the FSA-USDA.

6. How do I sort the Producers list?
   Click on the header fields in the grid that displays Producers list. You can sort by the following fields:
   a. Producer Name
   b. TIN
   c. USDA Core Customer ID
   d. Producer Type Determination (for Reconciliation)
   e. Review Completed (for Compliance)

7. Why does it say, "There are no producers matching the search criteria."
   This message is displayed when there are no matching records to the criteria you selected. Click **Modify Criteria** to change your criteria and continue search.

8. Do I have to enter all the information about the Producer before saving the record?
   No. All data that you enter into the system is optional.

9. What are Previous and Next links?
   **Previous** and **Next** links enable you to navigate and open Producer's record that is in the order displayed in the search results grid.

10. How do go back to the Search screen when I completed editing a Producer record?
    Click **Back to List** link either at the top or bottom of the Edit producer screen.

11. How do I generate a report for all producers in a State?
    On the generate Report screen, Select "All" in the **County** dropdown list.

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*--ARCT Help Guide (Continued)

## AGI - Review and Compliance Tracking System (ARCT) Help

**Glossary:**

| Term | Description |
|---|---|
| AGI | Average Gross Income |
| CCC-931 | AVERAGE ADJUSTED GROSS INCOME (AGI) CERTIFICATION AND CONSENT TO DISCLOSURE OF TAX INFORMATION |
| Program Year | The year during which the producer participated in certain FSA farm program. |
| TIN | Tax Identification Number |

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