

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

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| <b>Payment Eligibility, Payment Limitation, and<br/>Average Adjusted Gross Income<br/>4-PL</b> | <b>Amendment 3</b> |
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Approved by: Deputy Administrator, Farm Programs



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 140 B has been amended to insert CCC-902E, page 1.

Subparagraph 242 A has been amended to remove AGI compliance as a requirement in payment eligibility and payment limitation determination written notifications. AGI compliance written notification will be a separate notification.

**B Amendment 2 Transmittal Correction**

The amendment transmittal for Amendment 2 inadvertently listed Exhibit 11 but should have been Exhibit 9, which provides a reference guide for the payment eligibility and payment limitation provisions that apply to disaster assistance programs.

| <b>Page Control Chart</b> |                            |                |
|---------------------------|----------------------------|----------------|
| <b>TC</b>                 | <b>Text</b>                | <b>Exhibit</b> |
|                           | 4-107, 4-108<br>7-51, 7-52 |                |



**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.

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|   |   |   |  |   |  |
|---|---|---|--|---|--|
| This form is available electronically. <span style="float: right;">(See Page 5 for Privacy Act Statement.)</span><br><b>CCC-902E</b><br>(03-26-09)  |   | U.S. DEPARTMENT OF AGRICULTURE<br>Commodity Credit Corporation  |  | 1. County<br><b>Johnson</b>   | 3. Program Year<br><b>2009</b>   |
| <b>FARM OPERATING PLAN FOR AN ENTITY</b><br><b>2009 and Subsequent Program Years</b>  |   |   |  | 2. State<br><b>TX</b>   |  |
| 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. |   |   |  |   |  |
| <b>PART A - ENTITY INFORMATION</b>  |   |   |  |   |  |
| 1. Farming Entity's Name and Address (Include Zip Code)<br><b>Beringer Partners</b><br><b>205 Southland Rd</b><br><b>Claburne, TX 73333</b>   |   |   | 2. Tax Identification Number (If the taxpayer identification number is already on file with FSA, only the last 4 digits are required)<br><b>1263</b> |   | 3. Date of Formation (MM-DD-YYYY)<br><b>10-30-2008</b>                         |
| <b>PART B - TYPE OF OPERATION (Select only one)</b>   |   |   |  |   |  |
| 1. Select appropriate type of operation that defines the entity identified in Part A:   |   |   |  |   |  |
| <input checked="" type="checkbox"/> General Partnership<br><input type="checkbox"/> Joint Venture<br><input type="checkbox"/> Sole Proprietorship/DBA<br><input type="checkbox"/> Corporation   |   | <input type="checkbox"/> Limited Partnership<br><input type="checkbox"/> Limited Liability Company<br><input type="checkbox"/> Revocable/Living Trust<br><input type="checkbox"/> Irrevocable Trust |  | <input type="checkbox"/> Estate<br><input type="checkbox"/> Charitable/Tax-exempt Organization<br><input type="checkbox"/> Public School<br><input type="checkbox"/> City, County or State-owned Entity<br><input type="checkbox"/> Indian Tribe<br><input type="checkbox"/> 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.   |   |   |  |   |  |
| <b>PART C - MEMBER INFORMATION (Use CCC-902E Continuation if additional space is needed for any information in Part C)</b>  |   |   |  |   |  |
| 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<br>\$0   | self  | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO            |
| Ana Beringer  | 8328  | 25  | partner<br>\$0   | Wife of Jack  | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO            |
| Bobby Beringer  | 6101  | 25  | partner<br>\$0   | Brother to Jack   | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO            |
| Ida Beringer  | 4377  | 25  | partner<br>\$0   | Wife of Bobby   | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO            |
|   |   |   | \$   |   | <input type="checkbox"/> YES <input type="checkbox"/> NO                       |
|   |   |   | \$   |   | <input type="checkbox"/> YES <input type="checkbox"/> 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<br><b>BB; IB JB; AB</b>  |
|   |   |   |  |   | 2. Date<br><b>4/15/2009</b>  |
| 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.   |   |   |  |   |  |
| <input type="checkbox"/> Check if CCC-901 is attached. <input type="checkbox"/> 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  |   |  |
|   |   |   |  |   |  |
|   |   |   |  |   |  |

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**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.