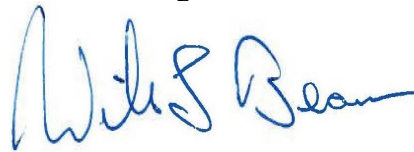


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

<p>Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income - Agricultural Act of 2014 5-PL</p>	<p>Amendment 7</p>
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Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 17 has been amended to incorporate the changes in program payment limitation amounts made by the Agriculture Improvement Act of 2018.

Subparagraph 42 E has been amended to remove a note with regard to trusts. A trust agreement is a legal document that may be used as documentation.

Paragraphs 74 through 78 have been amended to provide clarification for applying rules when there are changes in a farming operation that results in an increase in persons to which payment limitation applies.

Subparagraph 174 B has been amended to remove a reference to MLG's and LDP's. The 2018 Farm Bill decouples MLG and LDP payments from the ARC and PLC payment limitation effective for FY2019. Public Schools are no longer eligible for MLG and LDP payments.

Paragraph 213 has been amended to add niece, nephew and first cousin to the definition of family members. The paragraph provides guidance to COC's in seeking additional documentation when there may be reason to question a producer's representation of a family member relationship reported on form CCC-902. "Otherwise by marriage" is further clarified for purposes of defining family member.

Subparagraph 213 D has been amended to include a reminder that the rules for restricting the number of farm managers seeking to qualify for active engaged in farming using management alone must be considered in the situation described in Example 1.

Subparagraph 258 B has been amended to add that a copy of the trust agreement is not required to be provided if the grantor of trust is deceased. Upon death of the grantor, the corpus of the trust cannot be modified.

Amendment Transmittal

A Reasons for Amendment (Continued)

Subparagraph 484 C has been amended to provide a new web address for accessing the Payment Limitation EYR SharePoint site.

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Part 2 General Provisions

Section 1 Program Availability

15 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 Exhibits 5 and 6.--*

Program or Payment	Applicable Rules				
	Actively Engaged in Farming	Cash-Rent Tenant	Direct Attribution	Foreign Person	AGI
Conservation Programs					
CRP			X	X	X
ECP			X		X <u>1/</u>
EFRP			X		X <u>1/</u>
EQIP			X		X
Commodity Programs					
ARC and PLC	X	X	X	X	X
Cotton Transition	X	X	X	X	X
Disaster Assistance Programs					
ELAP			X		X
LFP			X		X
LIP			X		X
NAP			X		X
TAP			X		X
Price Support Programs					
LDP's	*--X	X	X	X	X
Loans				X	
MLG's	X	X--*	X	X	X
MPP				X	
Other Programs					
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 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.

16 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, 2013.

B Applicability of 1-PL and 4-PL

Persons and legal entities with CRP-1's that are **not** subject to the provisions of this handbook are subject to the provisions of both 1-PL and 4-PL.

17 Payment Limits and Rules

A Person or Legal Entity Payment Limitations

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

*--

Program Payment Type	Annual Limitation, Unless Otherwise Noted, 2014 Through 2023
Commodity and Price Support Programs	
ARC and PLC payments for other than peanuts	\$125,000 <u>8/</u>
ARC and PLC payments for peanuts	\$125,000 <u>8/</u>
Conservation Programs	
AMA	\$50,000 <u>1/</u>
CRP annual rental payment and incentive payment	\$50,000 <u>2/</u>
CSP	\$200,000 <u>3/</u>
ECP (per disaster event)	\$500,000
EFRP (per disaster event)	\$500,000
EQIP	\$450,000 <u>4/</u>
Disaster Assistance Programs	
* * * LFP	\$125,000 <u>5/</u>
NAP	\$125,000
TAP	<u>7/</u>
Other Programs	
TAAF	\$10,000

--*

17 Payment Limits and Rules (Continued)

A Person or Legal Entity Payment Limitations (Continued)

* * *

- 1/ The \$50,000 limitation is the total limit that a participant may receive under the AMA program in any FY.
- 2/ CRP contracts approved before October 1, 2008, may exceed the limitation, subject to payment limitation rules in effect on the date of contract approval.
- *--3/ The \$200,000 limitation is the total amount a person or legal entity can receive directly or indirectly in aggregate under all CSP contracts entered into during FY's 2014 through 2023.
- 4/ The \$450,000 limitation is the total amount of cost share and incentive payments a person or legal entity can receive directly or indirectly under all EQIP contracts (excluding Conservation Incentive Contracts) in aggregate entered into during FY's 2014 through 2018 or FY's 2019 through 2023.
- 5/ Total payments received under LFP may not exceed \$125,000. Effective January 1, 2017, the Bipartisan Budget Act of 2018 removed the \$125,000 payment limitation applicable to LIP. The Agriculture Improvement Act of 2018 removed the \$125,000 payment limitation applicable to ELAP.--*
- Note:** For SURE payments for losses on or before September 30, 2011, the payment limits regulations in effect when those losses occurred apply. The SURE limit is separate from the payment limitation amount applicable to ELAP, LFP, LIP, and TAP benefits authorized under the 2014 Farm Bill.
- *--6/ The Agriculture Improvement Act of 2018 provides a separate maximum limitation of \$125,000 on NAP payments for losses to crops with catastrophic coverage and a \$300,000 maximum limitation on NAP payments for losses to crops with buy-up coverage.--*
- 7/ Effective January 1, 2017 the Bipartisan Budget Act of 2018 removed the \$125,000 payment limitation applicable to TAP.
- *--8/ The Agriculture Improvement Act of 2018 provides that payment limitation is no longer applicable to LDP and MLG beginning in the year 2019.--*

18-28 (Reserved)

42 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 farm operating plans and AGI compliance certification statements.

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.

42 Documentation (Continued)

E Documentation That May Be Used

Supporting documents may include legal documentation, such as the following:

- articles of incorporation
- financial agreements, including letters of credit
- land and equipment leases
- land ownership records
- operating agreements
- partnership agreements
- trust agreements

* * *

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

--74 Changes in Farming Operations Resulting in an Increase in Persons--**A Background**

The Food Security Act of 1985, as amended by the Agricultural Act of 2014, 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. The Food, Conservation, and Energy Act of 2008 revised the definition of the term “person” to mean a “natural person” and does not include legal entity.

B Substantive Change 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 farming operation and the prior year’s farming operation in which a farm operating plan was filed and payment limitation is applied. Payment attribution will be used to determine increases in limitations.

Substantive change provisions apply to all programs subject to a payment limitation unless otherwise indicated in the program’s rule.

* * *

*--75 Application of Substantive Change Rule

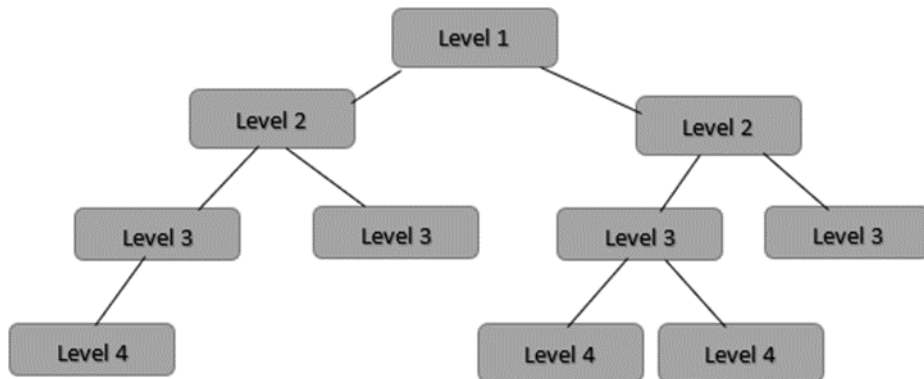
A Factors Requiring the Application of Substantive Change Rule

The Substantive Change Rule applies when **both** of the following elements are present:

- There are changes in a farming operation from a prior year that result in “commonality” between the farming operation in the current year and a farming operation in a prior year; in other words, there is the ability to link a person (directly or indirectly) **and** land to a farming operation in a prior year.
- There is an increase in the number of persons that have not participated in a program subject to payment limitation at or above, the 4th level of ownership in a legal entity or joint operation.

Note: Members added below the 4th level of ownership in a legal entity or joint operation are not considered an increase in persons to which payment limitation applies. Ownership interests below the 4th level of ownership are ineligible for payment.

The following diagram illustrates the 4 levels of ownership of a legal entity or joint operation.



--*

*--75 Application of Substantive Change Rule (Continued)

B When Substantive Change is Required

The following table illustrates that substantive change is required for the current year’s farming operation when both elements of commonality exist (some of the same persons, legal entities or joint operations farming some of the same land in a prior year’s farming operation) and there is an overall increase in persons to which payment limitation applies.

IF the farming operation is conducted by...	THEN substantive change is required when...
a new joint operation	any of the persons in the new joint operation did not participate (directly or indirectly) in a program subject to limitation in a prior year.
an existing joint operation	<p>1 or more persons are added to the existing joint operation that did not participate (directly or indirectly) in a program subject to limitation in a prior year, resulting in an overall increase in the number persons to which payment limitation applies.</p> <p>Note: Even if there is no overall increase in persons within the joint operation, substantive change is still required if both of the following apply:</p> <ul style="list-style-type: none"> • any of the departing persons continue to participate in a program subject to limitation on the same land farmed by the joint operation in a prior year; and • a new person is added to the farming operation that has not participated in programs subject to limitation in a prior year. <p>If there is addition of more than one person and the farming operation does not have a substantive change, a representative of the farming operation must identify which person(s) will not be recognized.</p>
a new legal entity	some, but not all, of the persons who are stockholders or partners in the new legal entity participated directly or indirectly in a program subject to limitation in a prior year; and any of the stockholders have other farming interests.
an existing legal entity	any of the persons who are stockholders, including stockholders in an embedded entity have ownership interest in any other farming operation.

--*

*--75 Application of Substantive Change Rule (Continued)

C When Substantive Change is Not Required

The following table illustrates when the substantive change rule does **not** apply even though there may be commonality between the current year’s farming operation and a prior year’s farming operation.

IF the farming operation is conducted by...	THEN substantive change is not required when...
an individual	the farming operation is that of the individual.
a new joint operation	<p>none of the persons who are members (including persons who are members of an embedded legal entity or joint operation) participated in programs subject to payment limitation or were associated with any farming operation that participated, directly or indirectly, in programs subject to limitation in a prior year.</p> <p>Or;</p> <p>all the persons (including persons who are members of an embedded legal entity or joint operation) participated in programs (directly or indirectly) subject to limitation in a prior year.</p>
a new legal entity	none of the persons who are shareholders (including persons who are members of an embedded legal entity or joint operation) participated, directly or indirectly, in programs subject to limitation in a prior year.
an existing legal entity	<p>1 or more persons are added to the legal entity and none of the persons who are stockholders have interest in any other farming operation.</p> <p>Note: The legal entity remains restricted to 1 limitation regardless of the number of shareholders.</p>

--*

***--75 Application of Substantive Change Rule (Continued)**

D Changes Made by June 1

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

IF the legal entity or joint operation...	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 or joint operation was formed.

E Changes Not Made by June 1

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 death of an interest holder
- the legal entity or joint operation did not exist on June 1 of the applicable year
- the change of ownership interest is due to the addition of a minor child (family member) when the parent or legal guardian is also a member, partner or stockholder in the same farming operation.

Note: COC must also consider rules for attributing payments to a minor child according to paragraph 108.

If the COC determines the change is **not** relevant or effective for the current year, consider the change to be effective for the subsequent year.--*

*--76 Substantive Change Requirements When an Increase in Limitation Occurs

A Meeting Substantive Change

When there is an increase in persons to which payment limitation applies and commonality is determined, the farming operation must have a substantive change for the determining authority to approve the increase in persons for payment limitations. If bona fide, any one of the following is considered a substantive change.

Change	Requirement
Family Member	Adding 1 or more family members (as defined in paragraph 213) to a farming operation (at any ownership level), is considered a substantive change and allows for recognizing the added persons for payment limitation purposes.
Land Rental	For a landowner only , a change from cash-rent to share-rent.
Increase in acres of Agricultural Land	<p>An increase through acquiring land used for agricultural purposes not previously involved in the farming operation. The increase in agricultural land:</p> <ul style="list-style-type: none"> • must be at least 20 percent or more of the total acres of agricultural land involved in the farming operation • will be applicable for the increase of only 1 person to the farming operation. <p>A State Office specialist may approve additional persons based on the magnitude and complexity of the change in the farming operation represented and if the increase in acres of agricultural land supports additional persons or legal entities to the farming operation. See subparagraph B.</p>
Ownership	<p>A change in ownership by sale or gift of equipment, land or livestock 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:</p> <ul style="list-style-type: none"> • the transferred amount is commensurate with the new person’s share of the farming operation • the sale or gift of land, equipment, or livestock was based on fair market value of the land, equipment, or livestock. • the former owner has no control over the sold or gifted land, equipment or livestock • the transaction was not financed by the former owner • preference was not given to the former owner to re-purchase the land, equipment, or livestock at a later date.

--*

***--76 Substantive Change Requirements When an Increase in Limitation Occurs (Continued)**

A Meeting Substantive Change (Continued)

Change	Requirement
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 (direct or indirect) share of the rental value of all equipment used in the farming operation.

Note: Substantive changes **must** be “arm’s length” business transactions. Documents **must** be provided to support any of the changes in this subparagraph.

B Increases of More Than 1 Person for Payment Limitation Purposes

If acres of agricultural land are increased more than 20 percent and the farming operation is requesting to add more than 1 member for payment limitation, the:

- authorized representative of the farming operation **must**:
 - submit written request for recognizing more than 1 additional member
 - include the reasons why additional members 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 the recording county COC, in writing, of the determination
 - instruct the recording county COC to provide written notification of the determination to the producer and include appeal rights if considered adverse.--*

--77 Determinations When Substantive Change is Not Met*A If Substantive Change Is Not Met**

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

- continue to recognize the persons for payment limitation purposes (that were recognized in the previous year) for the current and future years
- consider the new persons in the farming operation ineligible for payment when the farming operation did **not** meet the substantive change. The new persons not meeting substantive change will not be recognized for payment limitation purposes until substantive change is met by the farming operation.

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

B Duration of Ineligibility

Determinations that result in disapproving the increase in persons to which payment limitation applies will be perpetual until the farming operation realizes a bona-fide substantive change according to paragraph 3.

Users must ensure the substantive change determination is recorded in Business File according to 3-PL (Rev. 2) for the current determination and any subsequent determination that may be required, until it is determined the farming operation has met the substantive change requirements.--*

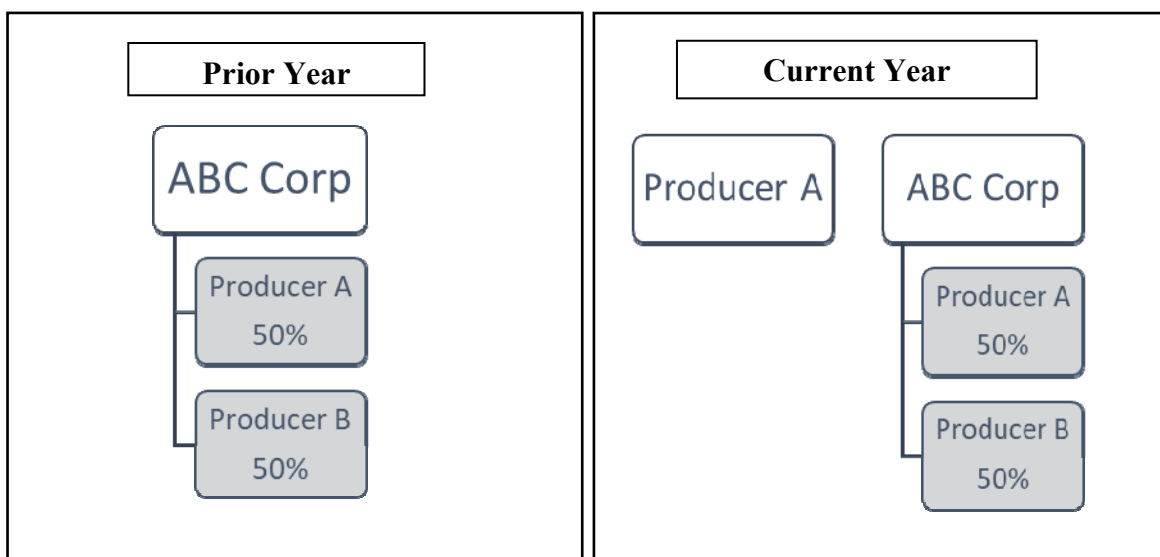
*--78 Examples for Applying Substantive Change

A Individual Beginning to Farm

Example 1

Situation: ABC Corp. operated farmland in the prior year and participated in programs subject to payment limitation provisions. Producer A and Producer B are equal share stockholders in the corporation. Neither Producer A nor Producer B had other farming interests.

In the current year, Producer A begins to farm some of the same land previously farmed by ABC Corp. Producer A will also retain their equal share in ABC Corp. for the current year, that will continue to farm the rest of the acreage from the prior year's farming operation



Analysis: Is there commonality in the two farming operations? Yes, the same member of ABC Corp. (Producer A) is farming some of the same land previously farmed by ABC Corp.

Is there an increase in persons to which payment limitation applies from ABC Corp. in the prior year? No. Payment limits are controlled by attribution of amounts received both directly and indirectly; therefore, the earnings of Producer A will be summed with Producer A's indirect earnings from ABC Corp. There is no increase in persons for payment limitation purposes.

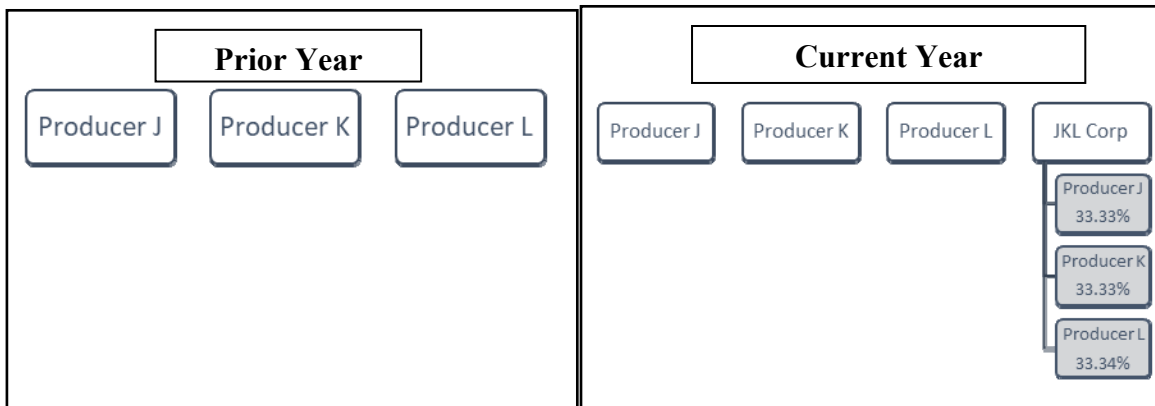
Determination: Substantive change requirements do not apply. Although there is commonality (same land and same persons) between the two farming operations, there is no overall increase in persons for payment limitation.--*

*--78 Examples for Applying Substantive Change (Continued)

B New Legal Entity Beginning to Farm (Continued)

Example 2

Situation: Producer J, Producer K, and Producer L each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producers J, K, and L propose a new farming operation by forming a corporation, JKL Corp., in which each person is an equal stockholder. The entity would cash lease a portion of the cropland previously operated by Producers J, K, and L.



Analysis: Is there commonality in the two farming operations? Yes. The new entity, JKL Corp, is comprised of the same persons J, K, and L, who participated in programs subject to limitation in the prior year **and** will be farming some of the same land previously farmed by one or more of the three persons.

Is there an increase in limitations from the 3 persons in the prior year? No. Payment limits are controlled by attribution, therefore the earnings of the three persons and their indirect earnings through JKL Corp. will not result in an overall increase in persons for payment limitation in the current year.

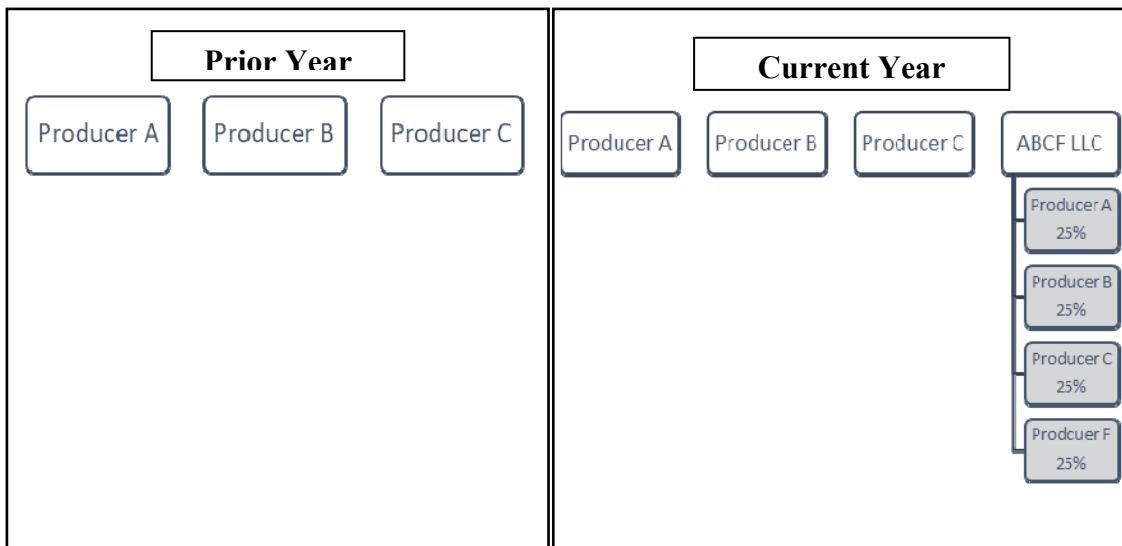
Determination: Substantive change requirements do not apply. There is no overall increase in persons for payment limitation considering payment attribution.--*

*--78 Examples for Applying Substantive Change (Continued)

B New Legal Entity Beginning to Farm (Continued)

Example 3

Situation: Producer A, Producer B, and Producer C each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producers A, B, and C propose a new farming operation, in addition to their individual operations, by forming a limited liability corporation, ABCF LLC. ABCF LLC adds an additional member, Producer F who has not participated in programs subject to limitation in a prior year. The four members are equal stockholders in the entity. The entity is **not** farming any of the land previously farmed by the three persons in the prior year.



Analysis: Is there commonality in the two farming operations? No. Although the new entity includes Producers A, B, and C who participated in programs subject to limitation in a prior year, the new entity is not farming any land previously farmed by Producers A, B, and C. There is no change in the prior year’s farming operation(s).

Is there an increase in limitations from the 3 persons in the prior year? No. ABCF LLC is a new legal entity that is not farming any of the land previously farmed by Producer A, Producer B, or Producer C. There is no change in Producer A’s, Producer B’s or Producer C’s farming operation from the prior year.

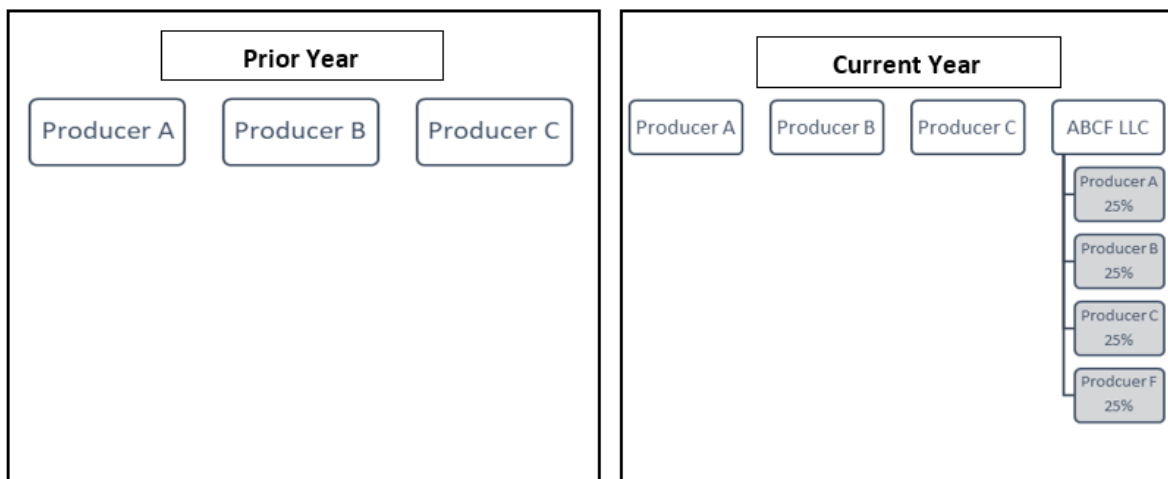
Determination: Substantive change requirements do not apply to the new legal entity. There is not commonality between the farming operations from the prior year, and the farming operation of the new legal entity. The new legal entity is not farming any of the same land previously farmed by Producers A, B and C. Therefore, there is no change in Producers A, B, and C’s individual farming operations from the prior year.--*

*--78 Examples for Applying Substantive Change (Continued)

B New Legal Entity Beginning to Farm (Continued)

Example 4

Situation: Producer A, Producer B, and Producer C each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producer A, B, and C propose a new farming operation, in addition to their individual operations, by forming a limited liability corporation, ABCF LLC. ABCF LLC adds an additional member, Producer F who has not participated in programs subject to limitation. The four members are equal stockholders in the entity. The new legal entity is farming some of the land previously farmed by the three persons in the prior year.



Analysis: Is there commonality in the two farming operations? Yes. The new legal entity includes Producers A, B, and C who participated in programs subject to limitation in a prior year; **and** the new legal entity is farming some of the same land previously farmed by Producers A, B, and C.

Is there an increase in limitations from the 3 persons in the prior year? Yes. Some, but not all, of the persons who are members of the new legal entity, ABCF LLC, participated in programs subject to limitation in a prior year. The addition of Producer F to the new legal entity results in an increase in persons for payment limitation.

Determination: Substantive change requirements apply to the new legal entity to recognize Producer F’s share. There is commonality between the farming operations from the prior year and the new legal entity’s farming operation. There is also an increase in persons to which payment limitation applies. The new legal entity must provide acceptable documentation supporting a bona fide change in the farming operation occurred.

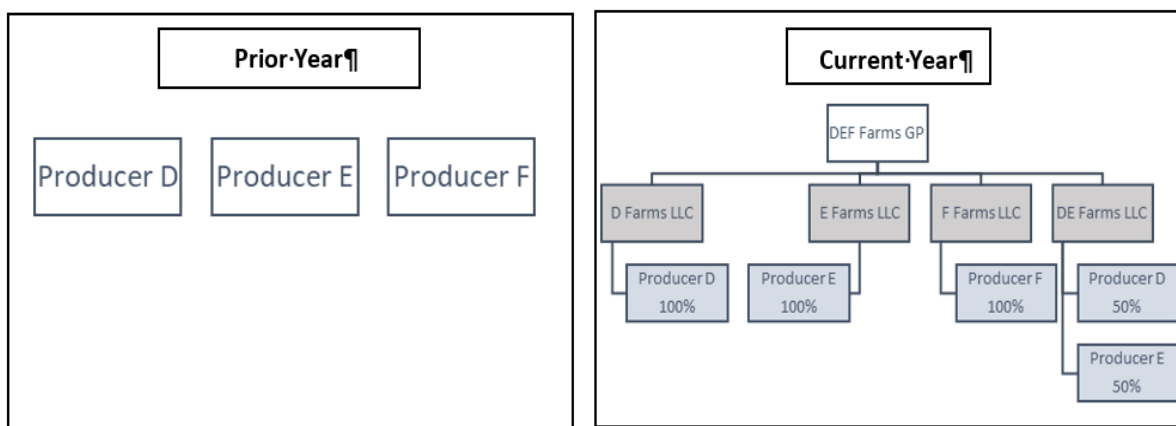
Result: Depending on the determination whether the new legal entity met substantive change, the substantive change determination for Producer F must be recorded in Business File as “Eligible” or “Not Eligible” according to 3-PL (Rev. 2). Producers A, B, and C will be set to “Eligible” to continue recognizing they are not an increase in persons for payment limitation from the prior year.--*

*--78 Examples for Applying Substantive Change (Continued)

C New Joint Operation Beginning to Farm

Example 5

Situation: Producer D, Producer E, and Producer F each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producers D, E, and F each individually create an LLC and form a new general partnership, DEF Farms, with each individual LLC as shareholders. A 4th LLC member, DE Farms LLC, with Producer D and Producer E as equal shareholders, is added to the general partnership. The four LLC's are equal members in DEF Farms, and the general partnership is farming all the land previously farmed by Producer D, Producer E, and Producer F in the prior year.



Analysis: Is there commonality in the two farming operations? Yes. DEF Farms GP is farming land previously farmed by Producers D, E, and F from the prior year and the members of each of the LLC's are Producers D, E, and F.

Is there an increase in persons for payment limitation from the 3 producers in the prior year? No. Payments are limited by attribution, therefore the earnings of the three producers as individuals and their indirect earnings through DE Farms LLC will not result in an overall increase in persons for payment limitation in the current year.

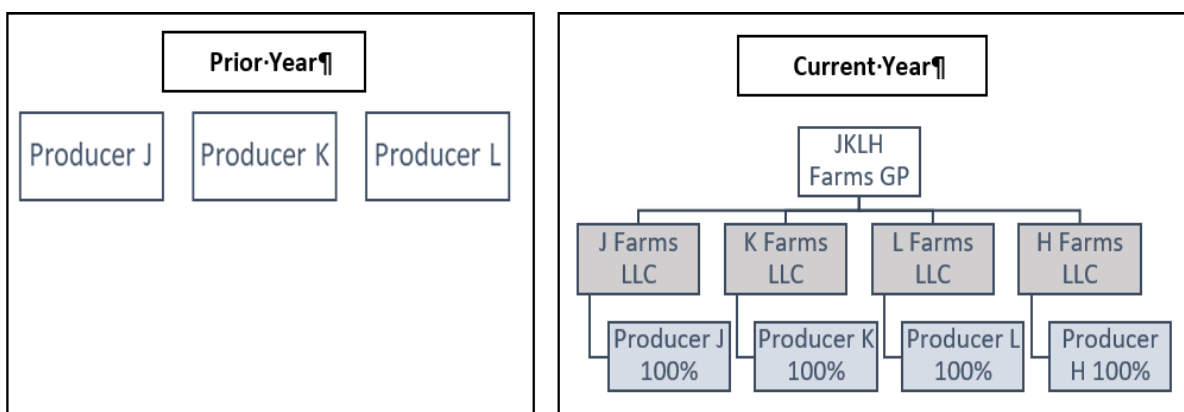
Determination: Substantive change requirements do not apply. There is no overall increase in persons for payment limitation through attribution.--*

*--78 Examples for Applying Substantive Change (Continued)

C New Joint Operation Beginning to Farm (Continued)

Example 6

Situation: Producer J, Producer K, and Producer L each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producers J, K, and L each individually create an LLC and form a new general partnership, JKLH Farms, with each individual LLC as members. A 4th LLC member, H Farms LLC, with Producer H as the sole member, is added to the general partnership. Neither H Farms LLC, nor Producer H have ever participated in programs subject to limitation. The four LLC's are equal members in, JKLH Farms, and the general partnership is farming all the land previously farmed by Producer J, Producer K, and Producer L in the prior year.



Analysis: Is there commonality in the two farming operations? Yes. JKLH Farms GP is farming land previously farmed by Producers J, K, and L who are also shareholders of the LLC's that are members of JKLH Farms GP.

Is there an increase in limitations from the 3 persons in the prior year? Yes. In this case, there are 3 new LLC's that include persons that participated in programs subject to payment limitation in a prior year. Producer H, through H Farms LLC is a new person that has not participated in programs subject to limitation in a prior year. Producer H, through H Farms LLC, is an additional person to which payment limitation applies.

Determination: Substantive change requirements apply. There is commonality between the 3 persons who participated in programs subject to limitation in a prior year and a 4th payment limitation was added in the current year to the new general partnership.

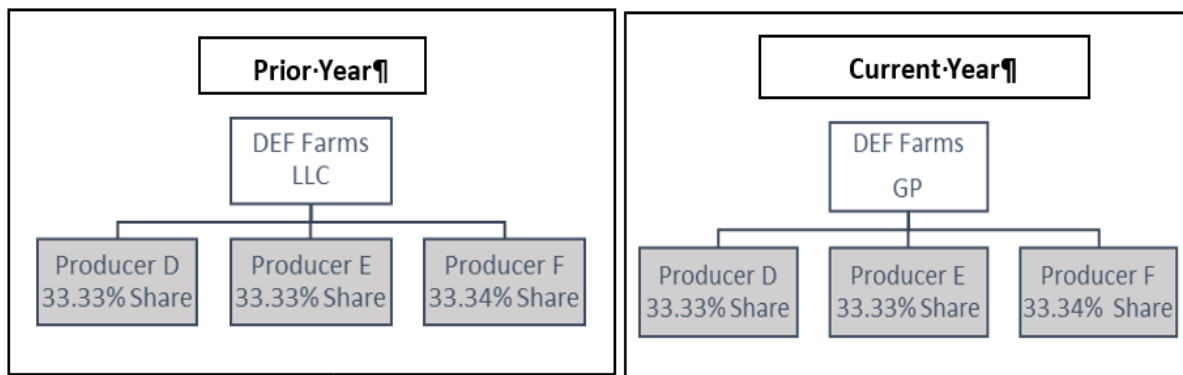
Result: Substantive change determinations must be recorded in Business File according to 3-PL (Rev. 2). Depending on the determination whether the farming operation of JKLH GP met substantive change, the determinations for Producer H (within H Farms LLC) must be recorded in Business File as "Eligible" or "Not Eligible" according to 3-PL (Rev. 2). --*

*--78 Examples for Applying Substantive Change (Continued)

C New Joint Operation Beginning to Farm (Continued)

Example 7

Situation: DEF LLC is comprised of three shareholders; Producer D, Producer E, and Producer F, all with equal shares of the LLC. The LLC participated in programs subject to payment limitations in the previous year and was eligible for 1 payment limit. In the current year, the producers decide to restructure DEF LLC and create DEF Farms GP. The general partnership will contain Producer D, Producer E, and Producer F as members with equal shares, and will farm all the land previously farmed by DEF LLC.



Analysis: Is there commonality in the two farming operations? Yes. DEF Farms GP will operate all the land that was previously farmed by DEF LLC, and all the members of DEF Farms were shareholders of DEF LLC in the previous year.

Is there an increase in limitations from the prior year? No. The members of DEF Farms GP participated in programs subject to payment limitation in a prior year indirectly through DEF Farms LLC.

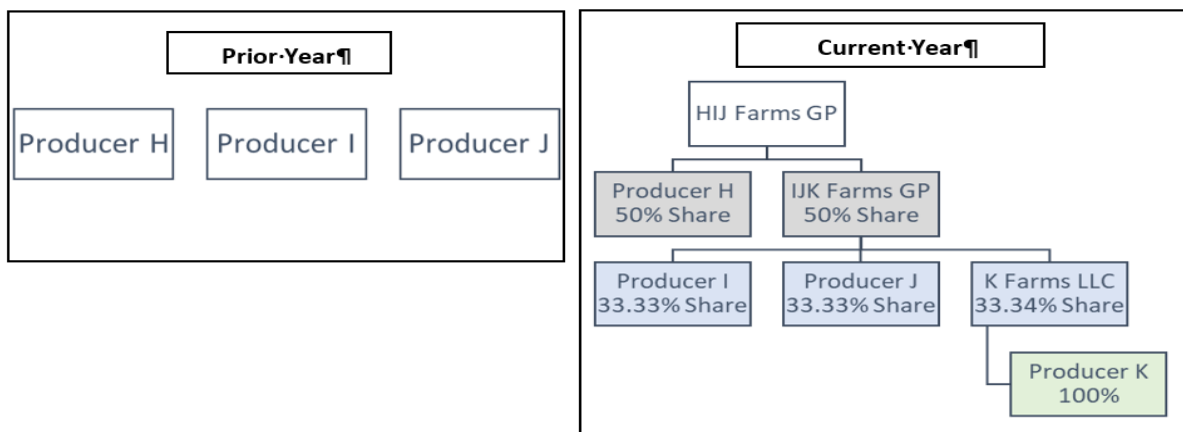
Determination: Substantive change requirements do not apply.--*

*--78 Examples for Applying Substantive Change (Continued)

C New Joint Operation Beginning to Farm (Continued)

Example 8

Situation: Producer H, Producer I, and Producer J each have separate and unrelated farming operations, which if continued unchanged, qualify for 3 separate payment limitations. Producers H, I, and J form a new general partnership, HIJ Farms GP, with Producer H and another new general partnership (IJK Farms GP) as members. IJK Farms GP consists of Producer I, Producer J, and K Farms LLC. Producer K (through K Farms LLC) has never participated in programs subject to payment limitation. HIJ Farms GP, is farming all the land previously farmed by Producer H, Producer I, and Producer J in the prior year.



Analysis: Is there commonality in the two farming operations? Yes. HIJ Farms GP is farming land previously farmed by Producers H, I, and J who are also members of the new general partnerships HIJ Farms GP and IJK Farms GP.

Is there an increase in persons to which payment limitation applies from the 3 persons in the prior year? Yes. Some, but not all the persons who are members of the new embedded general partnership, IJK Farms GP, participated in programs subject to payment limitation in a prior year. Producer K (through K Farms LLC) is an additional person to which payment limitation applies of the embedded general partnership from the prior year because Producer K (through K Farms LLC) participated in programs subject to limitation in a prior year.

Determination: Substantive change requirements apply. There is commonality between the 3 producers who participated in programs subject to limitation in a prior year and there is an increase in persons who have not participated in programs subject to payment limitation. Producer K (through K Farms LLC) was added in the current year to the new IJK Farms GP. HIJ Farms GP must have a substantive change to recognize the increase in ‘persons’ to which payment limitation applies.

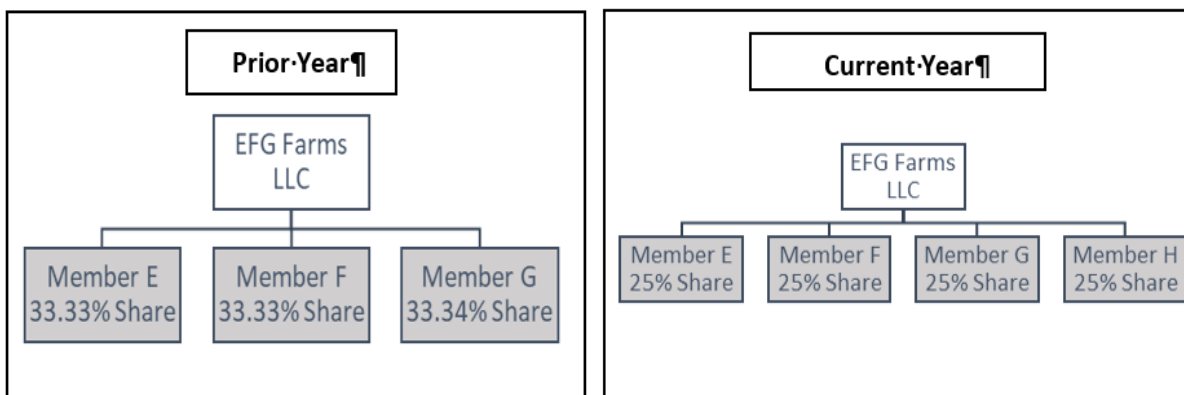
Result: Substantive change determinations must be recorded in Business File according to 3-PL (Rev. 2). Depending on the determination whether the farming operation of HIJ Farms GP met substantive change, the determinations for Producer K (within K Farms LLC) must be recorded in Business File as “Eligible” or “Not Eligible” according to 3-PL (Rev. 2).--*

*--78 Examples for Applying Substantive Change (Continued)

D Existing Legal Entity

Example 9

Situation: EFG LLC is comprised of Member E, Member F, and Member G; all with equal shares of the LLC. The LLC participated in programs subject to payment limitation provisions in the previous year and was eligible for 1 payment limit. In the current year EFG LLC will add Member H to now include 4 members with equal shares within the LLC. Member H has not participated in programs subject to limitation in a prior year. EFG LLC will continue to operate all the farmland it operated in the previous year. None of the members of the EFG Farms LLC has any other farming interests.



Analysis: Is there commonality in the two farming operations? Yes. EFG LLC is farming land previously farmed by the LLC from the prior year and one or more members are common to the prior year’s farming operation.

Is there an increase in payment limitations from the 1 limitation in the prior year? No. The addition of stockholder Member H to EFG LLC does not increase the overall persons for payment limitation allowed for the LLC.

Note: If any of the members do have an interest in any other farming operations, then the addition of Member H would be considered an increase in persons to which payment limitation applies.

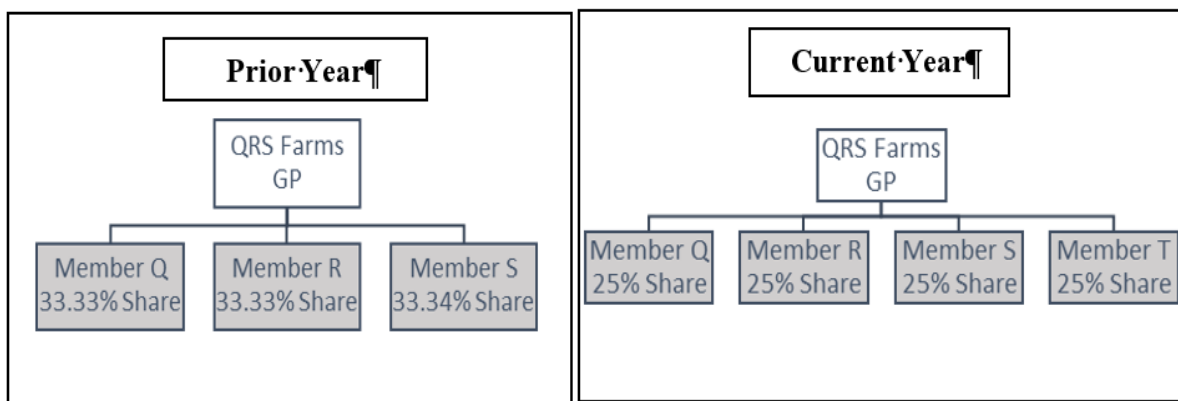
Determination: Substantive change requirements do not apply when none of the shareholders have other farming interests. Although there is commonality in the farming operations, the addition of Member H to EFG LLC does not result in an overall increase in the number of persons to which payment limitation applies from the prior year. --*

*--78 Examples for Applying Substantive Change (Continued)

E Existing Joint Operation

Example 10

Situation: QRS Farms is a general partnership comprised of three family members Producer Q, Producer R, and Producer S, all with equal shares of the general partnership. QRS Farms participated in programs subject to payment limitations provisions in a prior year and was eligible for 3 payment limits. In the current year, a 4th member (Member T) is added to the general partnership. Member T has not participated in programs subject to payment limitation in a prior year. The general partnership will contain Member Q, Member R, Member S, and Member T with equal shares, and will farm all the land previously farmed by QRS Farms.



Analysis: Is there commonality in the two farming operations? Yes. QRS Farms is farming all land previously farmed by the general partnership from the prior year and there are members in common between the current year’s farming operation and the prior year’s farming operation.

Is there an increase in persons for payment limitation from the 3 persons in the prior year? Yes. Some, but not all the 1st level members of the new General Partnership participated in programs subject to payment limitation in a prior year. The addition of Member T is an additional person for payment limitation from the prior year.

Determination: Substantive change requirements apply to the General Partnership. There is commonality between the prior year’s farming operation and the current year’s farming operation and there is an increase in persons to which payment limitation is applied in the current year.

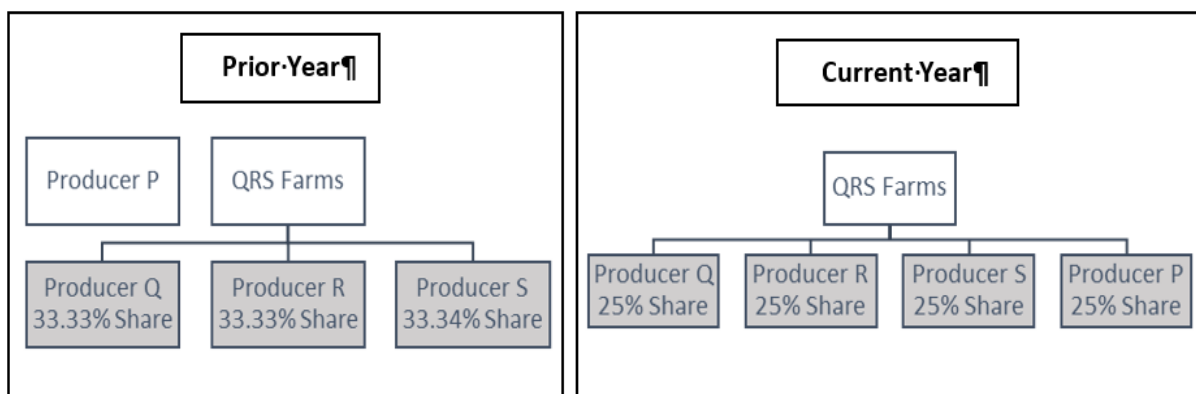
Result: Substantive change determinations for Member T will be recorded in Business File as “Eligible” or “Not Eligible” according to 3-PL (Rev. 2).--*

*--78 Examples for Applying Substantive Change (Continued)

E Existing Joint Operation (Continued)

Example 11

Situation: QRS Farms is a general partnership comprised of three members; Producer Q, Producer R, and Producer S all with equal shares of the general partnership. QRS Farms participated in programs subject to payment limitations provisions in the previous year and was eligible for 3 payment limits. In the current year, a 4th member (Producer P) is added to the general partnership. Producer P participated in programs subject to payment limitation in a prior year. The general partnership will contain Producers Q, Producer R, Producer S, and Producer P with equal shares, and will farm all the land previously farmed by QRS Farms and Producer P.



Analysis: Is there commonality in the two farming operations? Yes. QRS Farms is farming land previously by Producers P, and QRS Farms from the prior year.

Is there an increase in limitations from the 3 persons in the prior year? No. The addition of Producer P in QRS Farms does not represent an increase in persons to which payment limitation applies from the prior year because ALL members participated in programs subject to limitation in a prior year.

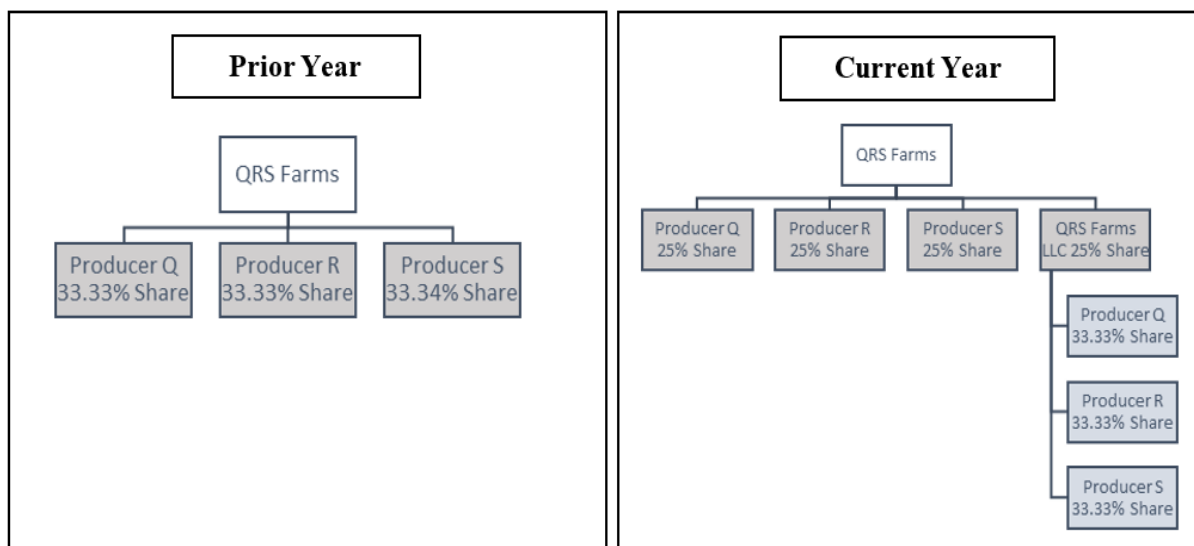
Determination: Substantive change requirements do not apply. There is no overall increase in persons to which payment limitation applies from the prior year.--*

*--78 Examples for Applying Substantive Change (Continued)

E Existing Joint Operation (Continued)

Example 12

Situation: QRS Farms is a general partnership comprised of three members Producer Q, Producer R, and Producer S, all with equal shares of the general partnership. QRS Farms participated in programs subject to payment limitations provisions in the previous year and was eligible for 3 payment limits. In the current year, the producers decide to form QRS Farms LLC, and add the LLC as a member in the general partnership. Producers Q, R, and S are all equal share members of the newly formed LLC. The general partnership will contain Producers Q, Producer R, Producer S, and QRS Farms LLC with equal shares, and will farm all the land previously farmed by QRS Farms.



Analysis: Is there commonality in the two farming operations? Yes. QRS Farms GP is farming all land previously farmed by the general partnership from the prior year.

Is there an increase in persons to which payment limitation applies from the 3 producers in the prior year? No. The creation of QRS Farms LLC is comprised of stockholders who participate in programs subject to limitation in a prior year. There is no overall increase in persons to which payment limitation applies.

Determination: Substantive change requirements do not apply. There is no overall increase in persons to which payment limitation applies.--*

79-90 (Reserved)

174 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:** From 2014 through 2018 ARC and PLC, price support, MLG and LDP payments received with respect to land owned by the State and used to support public schools are authorized, but limited to \$500,000 annually.

For 2019 and subsequent years, ARC and PLC payments received 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:** From 2014 through 2018, ARC and PLC, price support, MLG and LDP payments issued to States under Exception 1 are **not** limited if the State has a population of less than 1.5 million using the most recent U.S. Census Bureau data.

For 2019 and subsequent years, ARC and PLC payments issued to States under Exception 1 are **not** limited if the State has a population of less than 1.5 million using the most recent U.S. Census Bureau data.--*

Note: For 2014 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.

174 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	<p>Notify State producers before the end of applicable signup that:</p> <ul style="list-style-type: none"> • State producers may agree to a method of disbursing program payments • a drawing will be conducted to select the payment order in which participating eligible State producers will receive program payments, if no alternative payment method is agreed upon by the State producers • State producers shall contact the control County Office by the end of signup to give the alternative payment method agreed upon by all affected parties, if applicable • the method used for selection will apply for ARC and PLC applications.
2	<p>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:</p> <ul style="list-style-type: none"> • ARC and PLC applications • CCC-902E's • CCC-941's.
3	<p>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.</p> <p>Note: Notify the control County Office of any cancellations.</p>

213 Family Members in a Joint Operation

A Definition of Family Member [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 will include the following:

- 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
- *--niece
- nephew
- first cousin
- lineal relative by affinity 1/

1/ “Otherwise by marriage” means to be a lineal relative of a person’s spouse by affinity, commonly referred to as in-laws. An example is a joint operation comprised of a parent and the daughter’s husband (son-in-law). The daughter is not required to be a member of the joint operation to recognize this as a joint operation comprised of family members.

Note: COC can request additional documentation from family members in situations where it is questioned if a person meets the definition of family member.--*

B Making Determinations

In making determinations, COC must 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 will be considered actively engaged in farming for a joint operation composed of a majority of who 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.

213 Family Members in a Joint Operation (Continued)

* * *

D Example 1

Situation: In 2013, Partnership CD consisted of Person C and Grandfather D. In 2014, 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.

*--**Note:** The determination must also take into consideration the provisions restricting the number of managers in a non-family joint operation according to Section 3.5.--*

213 Family Members in a Joint Operation (Continued)

E Example 2

Situation: ABC Partnership is a family-held partnership consisting of Father A, Son B, and Daughter C. In 2014, 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 171 apply. Son-in-law D was brought into the farming operation using the family member provision.

* * *

Section 6 Trusts

258 Revocable and Irrevocable Trusts

A Types of Trusts

For payment limitation purposes, there are the following 2 types of trusts.

Trust Type	Characteristics
Revocable	<ul style="list-style-type: none"> • Can be modified or terminated by the grantor, or the assets revert to the grantor after a specific period of time. • Does not meet the criteria for an irrevocable trust.
Irrevocable	<ul style="list-style-type: none"> • May not be modified or terminated by the grantor. • The grantor does not have any future, contingent, or remainder interest in the corpus of the trust. • For trusts established after January 1, 1987, does not provide for transferring the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established, except in cases where the transfer is contingent upon the remainder beneficiary achieving at least the age of majority or upon the death of the grantor or income beneficiary. <p>Note: All trusts not meeting these requirements will be considered revocable trusts.</p>

B Trust Scrutiny

All trusts that receive payments must 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 will:

- *--require trusts to provide a copy of the trust agreement unless:
 - the trust is a revocable trust
 - the grantor of the trust is deceased--*
- determine whether provisions are included in the trust that would require the trust to be considered a revocable trust for payment limitation purposes.

259 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 **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 a valid 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-sharing plan **must** include documentation that:

- discloses the full trust agreement, naming the trust and trustee who will function for the trust about 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 are made or issued. The request must include a brief summary of the information provided for the IRA or profit-sharing plan and the reviewing authority's opinion of whether or not the IRA or profit-sharing plan meets the requirements to be considered a valid program participant.

Section 5 EYRT System**484 Introduction****A Definition of EYRT**

EYRT means a web-based system:

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

B EYRT Design

EYRT was designed for the following:

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

C Accessing EYRT and Versions Available

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

484 Introduction (Continued)

D Content of EYRT Database

*--The EYRT, database has been populated with the following:

- 2009 through 2013 DAFP EYR selections
- additional selections as determined by State Offices.

E State Office Action

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

- review the records for accuracy
- update the preloaded records, if necessary
- enter records for additional EYR selections made
- enter results as EYR's are completed
- periodically run various EYRT reports to check the status of review completion, and to track the results of 2009 through 2013 EYR's.--*

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

Forms (Continued)

Number	Title	Display Reference	Reference
CRP-1	Conservation Reserve Program Contract		16, 292, 295, Ex. 13
CRP-1F Addendum	CRP-1 Modification to Extend the Contract Expiration Date for _____ Years		Ex. 13
FSA-211	Power of Attorney		302
FSA-892	Request for an Exception to the 2017 WHIP Payment Limitation of \$125,000	312	
FSA-896	Request for Exception to the WHIP+ Payment Limit of \$125,000	312	
I-151 <u>1</u> /	Alien Registration Receipt Card		154
I-551	Permanent Resident Card/Resident Alien Card	154	155, 175, 195, 197, 216, Ex. 2
IRS Form 990	Return of Organization Exempt From Income Tax		138
IRS Form 990-T	Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))		296, Ex. 19
IRS-1040	U.S. Individual Income Tax Return		293, 294, 296, 309, 311, 312, Ex. 19
IRS-1041	U.S. Income Tax Return for Estates and Trusts		296, Ex. 19
IRS-1065	U.S. Return of Partnership Income		296, Ex. 19
IRS-1120	U.S. Income Tax Return for an S Corporation		296, Ex. 19
IRS-1120S	U.S. Income Tax Return for an S Corporation		296, Ex. 19
IRS Notice 1398	UD Department of Agriculture Form CCC-941 Consent to Disclosure of Tax Information - Individual and Legal Entity	Ex. 16	
IRS-2848	Power of Attorney and Declaration of Representative		302
IRS-3210	Document Transmittal	Ex. 15	301
IRS Form 4562	Depreciation and Authorization	Ex. 21	
IRS-4835	Farm Rental Income and Expenses	312	

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	Agricultural Management Assistance	15, 17, 291, 292
ARC	Agricultural Risk Coverage	Text
AWEP	Agricultural Water Enhancement Program	292
CPA	Certified Public Accountant	294, 301, 302, 308, 309, 311, 312, Ex. 19
CSP	Conservation Stewardship Program	17, 291, 292
EIN	employer identification number	211, 229, 244, 260, 301, Ex. 2
EYR	End-of-Year Report	431, 471, 472, 484-487, Ex. 2
EYRT	End-of-Year Review Tracking	471, 472, 484-487, Ex. 2
IRA	individual retirement account	259
LLP	limited liability partnership	44, 72, 229, 230, 232, 296
LP	limited partnership	44, 72, 175, 229, 230, 232, 296, Ex. 2
MFP	Market Facilitation Program	312
MLG	market loan gain	3, 15, 17, 44, 291, 311
PFC	production flexibility contract	3
PLC	Price Loss Coverage	Text
TAAF	Trade Adjustment Assistance for Farmers	15, 17, 44, 292
WHIP	Wildfires and Hurricanes Indemnity Program	312

Re delegations of Authority

This table lists redelegations of authority in this handbook.

Redelegation	Reference
Making Determination Decisions	328
Monitoring Determinations	328