

For: State and County Offices

**The Farm Security and Rural Investment Act of 2002 (the Act)
Payment Eligibility and Limitation Provisions**

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A

Background

The Act was signed into law on May 13, 2002. The Act includes changes that impact current payment eligibility and payment limitation provisions. For example, oilseeds are included as a “covered commodity” for direct and counter-cyclical payment purposes. Additionally, benefits for peanuts authorized by the Act are subject to payment limitation.

Questions have been asked about the application of payment eligibility and payment limitation provisions to determinations for the 2002 program year.

B

Purpose

This notice provides information and guidance on:

- application of the status date to 2002 “person” determinations
- “person” determinations for spouses.

Disposal Date	Distribution
December 1, 2002	State Offices; State Offices relay to County Offices

Notice PL-107

2 2002 “Person” Determinations

A

Background

In many cases, various 2002 program payments have already been issued based on payment eligibility and payment limitation determinations that are effective for 2002. Payment eligibility and payment limitation determinations effective for 2002 apply for all 2002 payments and benefits.

B

Application of the Status Date

The status date for 2002 remains as April 1, 2002. The status of an individual or entity as of April 1, 2002, shall be the basis for a “person” determination for payment limitation purposes applicable to the 2002 program year.

Actions taken by an individual or entity after the 2002 status date shall not be used to determine whether there has been an increase in the number of “persons” for 2002 program payment purposes.

Example: Individual A held more than 50 percent interest in Corporation B as of April 1, 2002. Individual A and Corporation B shall be considered as 1 “person” for the 2002 program year.

C

“Person” Determinations for Spouses

As provided in 1-PL, paragraph 253, spouses may be considered separate “persons” if certain criteria are met. Many farming operations involve both a husband and wife who could qualify as separate “persons,” but, for various reasons, only 1 spouse has been the program participant and payment recipient. In these cases, both spouses were part of the farming operation as of the April 1 status date, but the farming operation was not necessarily represented as being comprised of both spouses.

If a husband and wife request after April 1 to be considered separate “persons” for 2002 and meet the requirements provided in 1-PL, paragraph 253, the spouses may be considered separate “persons,” and payments limited accordingly, effective for 2002. However, as provided in subparagraph A, payment eligibility and payment limitation determinations that apply for 2002, apply to all 2002 payments and benefits. If based on a revised 2002 “person” determination, a spouse would not be eligible for the amount of payment already received, the amount of the overpayment must be refunded before the revised determination can be applied.

Note: All other eligibility requirements must also be met for the spouses to receive payment, including any applicable signature deadlines. For example, the deadline to sign a production flexibility contract (PFC) is August 1, 2002.

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2 2002 "Person" Determinations (Continued)

D

Example, Revised "Person" Determinations for Spouses

Situation: A husband and wife farm as a husband and wife joint operation and jointly provide all inputs to the farming operation. Program payment limitations have not been a concern. Although the requirements for spouses to be considered separate "persons" have been met, forms have been completed and benefits have been requested in the husband's name only. The FY 2002 PFC payment for their farming operation was requested by and issued to the husband only.

Result: The same determinations must be applied to all applicable programs in the same year. Therefore, for the spouses in this example to be considered separate "persons" for 2002, the 2002 payments received by the husband, which would have to be issued to him and issued to his wife if they were considered separate "persons," must be refunded before the spouses can be considered separate "persons" for other programs. Once the overpayment has been refunded and the spouses have completed and signed forms reflecting the revised description of their farming operation for 2002, payments can be issued, if all other eligibility requirements have been met.

Note: The deadline to sign PFC and provide related documentation for FY 2002 is August 1, 2002.

E

Husband and Wife Operations

Example 1 - The farming operation was previously described to FSA as being conducted by John Jones with all contributions made by him. Mr. Jones was determined 1 "person" with all 2002 PFC payments issued to him. On June 20, Mr. and Mrs. Jones submitted CCC-502B that described the farming operation as a 50/50 joint operation. Separate "person" status was requested for 2002 payment limitation purposes.

Information submitted at that time revealed that Mrs. Jones was on the land deeds, bank notes, conducted business and kept all records for the operation. Also, neither held an interest in any other farming operation.

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2 2002 "Person" Determinations (Continued)

E

**Husband and
Wife Operations
(Continued)**

Determination - Separate "person" status could be determined effective for 2002. The farming operation did not change; only the manner in which it was described to the Agency for program payment purposes. The wife met all requirements to be considered a separate "person" before the status date, but for whatever reason, was not included on any contract or applications for program benefits. The substantive change requirement was met for an increase in the number of "persons" from the previous year through the rule for spouses.

All contracts and applications would be required to be updated to reflect the producer as being a husband and wife joint operation. Mr. Jones would be required to refund overpayments based on the revised "person" determination. Payments could then be re-issued to the joint operation or members according to the designated shares **if all payment and program eligibility requirements were met, including the August 1, 2002, deadline for PFC signatures.**

Example 2 - The farming operation was previously described to FSA as being conducted by Bill and Mary Smith and determined 1 "person" with all program benefits issued Mr. Smith. It was previously disclosed that Mr. and Mrs. Smith could not meet requirements for separate "person" status because Mrs. Smith held a 12 percent interest in a corporation (comprised entirely of close relatives and siblings) that also received program benefits. However, on July 3, Mr. and Mrs. Smith submitted CCC-502B that described the farming operation as a 50/50 joint operation. Separate "person" status was requested for 2002 payment limitation purposes.

Information submitted at that time further revealed that before the April 1 status date, Mrs. Smith divested stock in the corporation and now held only 8 percent interest. Mrs. Smith for many years had also been included on the land deeds and bank notes with her husband as well as conducted business and kept all records for their farming operation.

Determination - Separate "person" status could be determined effective for 2002. The farming operation did not change; only the manner in which it was described to the Agency for program payment purposes. The wife holds an interest in an entity that is considered a separate "person" and that receives program payments. However, the interest is now less than 10 percent and therefore, not considered a substantial beneficial interest. There is an increase in the number of "persons" from the previous year and the rule for spouses satisfies the substantive change requirement.

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2 2002 "Person" Determinations (Continued)

E

**Husband and
Wife Operations
(Continued)**

All contracts and applications would be required to be updated to reflect the producer as the husband and wife joint operation. The husband would be required to refund overpayments based on the revised "person" determination. Payments could then be re-issued to the joint operation or members according to the designated shares **if all other payment and program eligibility requirements were met, including the August 1, 2002, deadline for PFC signatures.**

Example 3 - Similar situation as 2 except that the wife became the sole stockholder in the corporation before the April 1 status date. The wife now holds a substantial beneficial interest in an entity.

Determination - Separate "person" status could be determined effective for 2002. Even though the wife holds a substantial beneficial interest in an entity that earns program payments, the entity and the wife would be considered 1 "person" since the wife is the majority stockholder. Therefore, the husband and the wife meet the requirements to be considered separate under the husband and wife rules. All 2002 contracts and applications would be required to be updated to reflect the producer as the husband and wife joint operation. The husband would be required to refund overpayments based on the revised "person" determination. Payments could then be re-issued to the joint operation or members according to the designated shares **if all other program and payment eligibility requirements were met, including the August 1, 2002, deadline for PFC signatures.**

Example 4 - Similar situation as 2 except that the corporation in which the wife holds minority interest refunds all 2002 program benefits before the status date. The wife continues to hold a substantial beneficial interest in another entity, but the entity does not receive program benefits.

Determination - Separate "person" status could be determined effective for 2002. Even though the wife holds a substantial beneficial interest in another entity, and the entity is considered a separate "person" from the wife, the entity is not a recipient of program benefits. Therefore, the husband and wife meet the requirements to be considered separate under the "person" rules for spouses. All 2002 contracts and applications would be required to be updated to reflect the producer as the husband and wife joint operation. The husband would be required to refund overpayments based on the revised "person" determination. Payments could then be re-issued to the joint operation or members according to the designated shares **if all other program and payment eligibility requirements were met, including the August 1, 2002, deadline for PFC signatures.**
