


For: State and County Offices

Requirements for 2010 Payment Eligibility

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

Numerous comments were received on the interim rule for 7 CFR Part 1400 published in December 2008. In response to these comments and other technical corrections, revisions were made in the final rule scheduled for publication on/or about January 7, 2010. This final rule provides notice to the public on provisions in effect for 2010.

Effective for 2010, the following changes are being implemented.

- Exception for contributions of members of legal entities if at least 50 percent of the interest is held by members that are providing active personal labor or active personal management, and the total direct payments received both directly and indirectly by all members does not exceed the amount of 1 limitation.
- The date of June 1 will be used for the determination of a minor child for application of the minor child rules.

B Purpose

This notice provides information and instructions for:

- implementing changes for 2010 payment eligibility determinations
- exceptions allowed for specific operations and situations
- application of all payment eligibility requirements for 2010.

| | |
|----------------------|--|
| Disposal Date | Distribution |
| October 1, 2010 | State Offices; State Offices relay to County Offices |

2 Current Provisions for 2010 Payment Eligibility

A Actively Engaged in Farming

The determination of actively engaged in farming requires significant contributions to a farming operation of:

- capital, land, or equipment; and
- active personal labor or active personal management, unless an exception, such as for landowners, applies.

B Other Requirements

The payment eligibility and limitation provisions that remain applicable for 2010 include:

- cash rent tenant
- minor child rules
- spousal provisions
- requirement for each stockholder, partner, or member of a legal entity to contribute active personal labor and/or active personal management
- substantive change provisions for the increase of persons or legal entities eligible for payment in a farming operation.

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3 Changes for 2010 Payment Eligibility Determinations

A Exception for Contributions of Member of Legal Entities

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 that meet all of the following:

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

A payment reduction will be applied to the payment entity if any of the partners, stockholders, or members, fail to meet this requirement.

Effective for 2010, an exception may apply if:

- at least 50 percent of the interest is held by members that are providing active personal labor or active personal management; and
- the members are collectively receiving, directly and indirectly, total payments that are less than or equal to 1 limitation.

B Determination of Minor Child

The date of April 1 of the current crop, program, or FY has been used for the determination of a minor child for direct attribution for payment limitation.

Effective for 2010, and subsequent crop, program, or FY's, June 1 will be used for determination of a minor child for direct attribution for payment limitation purposes.

4 Form Requirements

A Forms CCC-902I and CCC-902I Short Form

CCC-902I and CCC-902I Short Form are to be used by an individual person:

- with a social security number
- that is a program participant with owned and rented land
- that is a program participant with all owned land.

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4 Form Requirements (Continued)

B Form CCC-902E and CCC-901

These forms are to be used by a joint operation or legal entity:

- with or without an employer ID number
- that is a program participant, or
- that is a member of another joint operation or legal entity that is a program participant.

C New Forms or Previously Completed Forms

For 2010:

- program participants are required to:
 - complete all forms along with other related forms for payment eligibility and payment limitation if the operation has had major changes or has been re-structured since the previous year; or
 - review the forms that were previously filed for 2009 and notate minor changes for 2010 if needed

Note: Upon completing the review, the producer **must** sign and date all forms previously filed for 2009 that are to be used for 2010 determinations.

- if the revisions in subparagraph 3 A and B apply to a farming operation, COC or State Office reviewing authority is required to:
 - make new determinations for the farming operation for 2010 payment eligibility and payment limitation according to the requirements in 4-PL and the final rule by completing a new CCC-903 worksheet
 - provide written notice, to the participant, of the determination effective for 2010
 - record determination in the subsidiary/eligibility files according to procedure in 3-PL (Rev. 1).

Note: See Exhibit 1 for an example of the revised CCC-903 for 2010 and subsequent years.

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4 Form Requirements (Continued)

D Availability of Forms

All forms will be available to all participants for 2010 crop, program, or FY programs:

- at each FSA County Office
- online at either of the following:
 - <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html>
 - <http://fsaintranet.sc.egov.usda.gov/fsa/>
- through the authorized use of FSA's approved spreadsheet package available at <http://intranet.fsa.usda.gov/dafp>.

E State and County Office Action

For 2010 or until notified otherwise, State and County Offices are to:

- read and follow the contents of this notice
- publicize **all** payment eligibility and payment limitation requirements applicable to 2010 crop, program, or FY programs.

CCC-903 Example

Following is an example of CCC-903 for 2010 and Subsequent Years.

| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|---------------------------------|---|---|--|---------------------------------|---|--|--|--|--|--|---------------------------------------|--------------------------------------|--|--|--|
| <p>This form is available electronically. CCC-903 (12-08-09) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> | | 1. NAME Beringer Partners II | | | | | | | | | | | | | | | | | |
| <p>WORKSHEET FOR PAYMENT ELIGIBILITY AND PAYMENT LIMITATION DETERMINATIONS</p> | | 2. COUNTY AND STATE Johnson, TX | | | | | | | | | | | | | | | | | |
| | | 3. PROGRAM YEAR (select one) <input checked="" type="checkbox"/> 2010 <input type="checkbox"/> 2011 <input type="checkbox"/> 2012 | | | | | | | | | | | | | | | | | |
| <p>PART A – TYPE OF OPERATION</p> | | | | | | | | | | | | | | | | | | | |
| 4. The operation reviewed is a: | | | | | | | | | | | | | | | | | | | |
| <table style="width:100%; border: none;"> <tr> <td><input type="checkbox"/> Person</td> <td><input type="checkbox"/> Sole Proprietor/Small Business</td> <td><input checked="" type="checkbox"/> General Partnership</td> <td><input type="checkbox"/> Limited Partnership</td> </tr> <tr> <td><input type="checkbox"/> Estate</td> <td><input type="checkbox"/> City, County or State-owned Entity</td> <td><input type="checkbox"/> Joint Venture</td> <td><input type="checkbox"/> Limited Liability Company</td> </tr> <tr> <td><input type="checkbox"/> Charitable/Non-Profit</td> <td><input type="checkbox"/> Indians rep. by BIA</td> <td><input type="checkbox"/> Revocable Trust</td> <td><input type="checkbox"/> Other: _____</td> </tr> <tr> <td><input type="checkbox"/> Corporation</td> <td><input type="checkbox"/> Irrevocable Trust</td> <td><input type="checkbox"/> Public School</td> <td></td> </tr> </table> | | | | <input type="checkbox"/> Person | <input type="checkbox"/> Sole Proprietor/Small Business | <input checked="" type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Estate | <input type="checkbox"/> City, County or State-owned Entity | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Charitable/Non-Profit | <input type="checkbox"/> Indians rep. by BIA | <input type="checkbox"/> Revocable Trust | <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Corporation | <input type="checkbox"/> Irrevocable Trust | <input type="checkbox"/> Public School | |
| <input type="checkbox"/> Person | <input type="checkbox"/> Sole Proprietor/Small Business | <input checked="" type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Estate | <input type="checkbox"/> City, County or State-owned Entity | <input type="checkbox"/> Joint Venture | <input type="checkbox"/> Limited Liability Company | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Charitable/Non-Profit | <input type="checkbox"/> Indians rep. by BIA | <input type="checkbox"/> Revocable Trust | <input type="checkbox"/> Other: _____ | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Irrevocable Trust | <input type="checkbox"/> Public School | | | | | | | | | | | | | | | | | |
| <p>PART B - REVIEW OF ELIGIBILITY REQUIREMENTS AND CONTRIBUTIONS</p> | | | | | | | | | | | | | | | | | | | |
| Answer the following questions by checking "YES", "NO" or "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] | YES | NO | N/A | | | | | | | | | | | | | | | |
| | 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: • has a separate and distinct interest in the land, crops, and livestock • demonstrates separate responsibility for the interest in land, crops and livestock • maintain 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) <input checked="" type="checkbox"/> active personal labor, or <input type="checkbox"/> active personal management and equipment (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 11] | | | x | | | | | | | | | | | | | | | |
| 16 | Substantive change rules were met by (check each applicable substantive change): [4-PL Part 2, Section 5] | | | | | | | | | | | | | | | | | | |
| | <input checked="" type="checkbox"/> Addition of 1 (number) adult family member(s) | x | | | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> For a landowner only, a change from cash rent to share rent | | | x | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> A 20% increase in base acres, allowing recognition of one person or legal entity for payment | | | x | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> A qualifying change in ownership of equipment | | | x | | | | | | | | | | | | | | | |
| | <input checked="" type="checkbox"/> A qualifying change in ownership of land | x | | | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> Addition of equipment not previously involved in the farming operation | | | x | | | | | | | | | | | | | | | |

CCC-903 Example (Continued)

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Participant's Name: Beringer Partners II

Crop Year: 2010

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: | <input type="checkbox"/> ACTIVE PERSONAL LABOR <input type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| 2 | The JOINT OPERATION is determined to make the following CONTRIBUTION(S). | <input checked="" type="checkbox"/> LAND <input checked="" type="checkbox"/> CAPITAL <input checked="" type="checkbox"/> EQUIPMENT |
| MEMBERS of the JOINT OPERATION are determined to make the following CONTRIBUTIONS: | | |
| | Member(s) Name(s): Jack Beringer | <input checked="" type="checkbox"/> ACTIVE PERSONAL LABOR <input checked="" type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): Bobby Beringer | <input checked="" type="checkbox"/> ACTIVE PERSONAL LABOR <input checked="" type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): Ana Beringer | <input checked="" type="checkbox"/> ACTIVE PERSONAL LABOR <input checked="" type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): Ida Beringer | <input checked="" type="checkbox"/> ACTIVE PERSONAL LABOR <input checked="" type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): Jason Beringer | <input checked="" type="checkbox"/> ACTIVE PERSONAL LABOR <input checked="" type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): | <input type="checkbox"/> ACTIVE PERSONAL LABOR <input type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): | <input type="checkbox"/> ACTIVE PERSONAL LABOR <input type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| | Member(s) Name(s): | <input type="checkbox"/> ACTIVE PERSONAL LABOR <input type="checkbox"/> ACTIVE PERSONAL MANAGEMENT <input type="checkbox"/> LAND <input type="checkbox"/> CAPITAL <input type="checkbox"/> EQUIPMENT |
| <input type="checkbox"/> Additional Pages are attached to show significant contributions of additional members. | | |
| <input checked="" type="checkbox"/> 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? <input type="checkbox"/> YES <input type="checkbox"/> 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? - 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 - 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. <input type="checkbox"/> YES <input type="checkbox"/> 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. | |

CCC-903 Example (Continued)

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Participant's Name: Beringer Partners II

Crop Year: 2010

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] | | × |
| 2 | LANDOWNER PROVISIONS apply to all or part of this participant's farming operation. [4-PL Paragraph 62] | × | |
| 3A | For PERSONS or LEGAL ENTITIES: The person's or entity's contributions are SIGNIFICANT, COMMENSURATE and AT RISK; <u>And</u> the person or entity is ACTIVELY ENGAGED IN FARMING. (If "NO", explain in REMARKS) [4-PL Paragraphs 126-131; 146-170] | × | |
| 3B | For JOINT OPERATIONS ONLY, each member's contributions are SIGNIFICANT, COMMENSURATE and AT RISK; <u>And</u> 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] | | × |
| 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] | | × |
| 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 <i>/s/ Roger Johnson</i> | 2. Title Chairperson, COC | 3. Date 12/22/09 |
|--|----------------------------------|-------------------------|

PART G – ACTIONS COMPLETED

| | Action | Date |
|---|--|----------|
| 1 | Written NOTICE OF DETERMINATION issued to all parties. [4-PL Part 7] | 12/23/09 |
| 2 | Determinations recorded in the WEB ELIGIBILITY files. [3-PL (Rev. 1) Paragraphs 24-31] | 12/23/09 |
| 3 | For Entities and Joint Operations: Subsidiary files were verified or updated to reflect correct: - members - shares - member contributions - substantive change status | 12/23/09 |
| 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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