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December 21, 2000

TO: Producer-Handlers
FROM: Erik F. Rasmussen, Market Administrator
SUBJECT: Forms of Ownership

This office has received inquiries concerning the use of Limited Liability Corporations (LLC) and its effect on producer-handler status.

Section 1001.10 states that a "Producer-handler means a person...". Legally a person may be an individual, a partnership, or a corporation. Producer-handler status will not be affected if the entire operation is in one of these ownership forms.

If a producer-handler wishes to have different ownership forms for different assets (plant as an LLC and farm as a partnership), this raises the issue as to whether the entire operation is at "the producer-handler's own enterprise and at its own risk."

If such ownership and percentage of ownership interests are identical for both the LLC and the partnership then producer-handler status can be maintained. If they are not identical, then the entity will not qualify as a producer-handler.

If a producer-handler enters into a mixed form of ownership, this office must be supplied with the ownership documents as proof of identical owners and ownership interest. This office must also be notified if changes in ownership occur. Failure to provide these documents may result, on audit, in disqualification of producer-handler status retroactively for a period of up to two years.

If there are any questions concerning this policy, please contact Steven Quadros at (617) 226-3541.