

Commodity Credit Corporation, USDA

§ 1400.602

significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, for the purposes of qualifying only one person or entity as actively engaged in farming.

§ 1400.601 Definitions.

(a) The terms defined in §1400.3 are applicable to this subpart and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions are also applicable to this subpart:

Active personal management means personally providing and participating in management activities considered critical to the profitability of the farming operation and performed under one or more of the following categories:

(i) Capital, which includes:

(A) Arranging financing and managing capital;

(B) Acquiring equipment;

(C) Acquiring land and negotiating leases;

(D) Managing insurance; and

(E) Managing participation in USDA programs;

(ii) Labor, which includes hiring and managing of hired labor; and

(iii) Agronomics and marketing, which includes:

(A) Selecting crops and making planting decisions;

(B) Acquiring and purchasing crop inputs;

(C) Managing crops (that is, whatever managerial decisions are needed with respect to keeping the growing crops living and healthy—soil fertility and fertilization, weed control, insect control, irrigation if applicable) and making harvest decisions; and

(D) Pricing and marketing of crop production.

Significant contribution of active personal management means active personal management activities performed by a person, with a direct or indirect ownership interest in the farming operation, on a regular, continuous, and substantial basis to the farming operation, and meets at least one of the following to be considered significant:

(i) Performs at least 25 percent of the total management hours required for the farming operation on an annual basis; or

(ii) Performs at least 500 hours of management annually for the farming operation.

Significant contribution of the combination of active personal labor and active personal management means a contribution of a combination of active personal labor and active personal management that:

(i) Is critical to the profitability of the farming operation;

(ii) Is performed on a regular, continuous, and substantial basis; and

(iii) Meets the following required number of hours:

TABLE 1 TO PARAGRAPH (iii) OF THE DEFINITION OF SIGNIFICANT CONTRIBUTION OF THE COMBINATION OF ACTIVE PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT

Combination of active personal labor and active personal management minimum requirement for a significant contribution		
Management contribution in hours	Labor contribution in hours	Meets the minimum threshold for significant contribution, in hours
475	75	550
450	100	550
425	225	650
400	250	650
375	375	750
350	400	750
325	425	750
300	550	850
275	575	850
250	600	850
225	625	850
200	650	850
175	675	850
150	800	950
125	825	950
100	850	950
75	875	950
50	900	950
25	925	950

[85 FR 73602, Nov. 19, 2020]

§ 1400.602 Restrictions on active personal management contributions.

(a) If a farming operation includes any nonfamily members as specified under the provisions of §1400.201(b)(2) and (3) and the farming operation is seeking to qualify more than one person as providing a significant contribution of active personal management, or

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a significant contribution of the combination of active personal labor and active personal management, then:

(1) Each person must maintain contemporaneous records or logs as specified in § 1400.603; and

(2) Subject to paragraph (b) of this section, if the farming operation seeks not more than one additional person to qualify as providing a significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, because the operation is large, then the operation may qualify for one additional person if the farming operation:

(i) Produces and markets crops on 2,500 acres or more of cropland;

(ii) Produces honey with more than 10,000 hives; or

(iii) Produces wool with more than 3,500 ewes; and

(3) If the farming operation seeks not more than one additional person to qualify as providing a significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, because the operation is complex, then the operation may qualify for one additional person if the farming operation is determined by the FSA state committee as complex after considering the factors described in paragraphs (a)(3)(i) and (ii) of this section. Any determination that a farming operation is complex by an FSA state committee must be reviewed and DAFP must concur with that determination for it to be implemented. To demonstrate complexity, the farming operation will be required to provide information to the FSA state committee on the following:

(i) Number and type of livestock, crops, or other agricultural products produced and marketing channels used; and

(ii) Geographical area covered.

(b) FSA state committees may adjust the limitations described in paragraph (a)(2) of this section up or down by not more than 15 percent if the FSA state committee determines that the relative size of farming operations in the state justify making a modification of either or both of these limitations. If the FSA state committee seeks to

make a larger adjustment, then DAFP will review and may approve the request.

(c) If a farming operation seeks to qualify a total of three persons as providing a significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, then the farming operation must demonstrate both size and complexity as specified in paragraph (a) of this section.

(d) In no case may more than three persons in the same farming operation qualify as providing a significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, as defined by this subpart.

(e) A person's contribution of active personal management, or the contribution of the combination of active personal labor and active personal management, to a farming operation specified in § 1400.601(b) will only qualify one member of that farming operation as actively engaged in farming as defined in this part. Other individual persons in the same farming operation are not precluded from making management contributions, except that the contributions will not be recognized as meeting the requirements of being a significant contribution of active personal management.

[80 FR 78128, Dec. 16, 2015, as amended at 85 FR 52040, Aug. 24, 2020]

§ 1400.603 Recordkeeping requirements.

(a) Any farming operation requesting that more than one person qualify as making a significant contribution of active personal management, or a significant contribution of the combination of active personal labor and active personal management, must maintain contemporaneous records or activity logs for all persons that make any contribution of any management to a farming operation under this subpart that must include, but are not limited to, the following:

(1) Location where the management activity was performed; and

(2) Time expended and duration of the management activity performed.