§ 1400.203 Joint operations.

(a) A member of a joint operation will be considered to be actively engaged in farming with respect to a farming operation if the member:

(1) Makes a significant contribution of:

(i) Capital, equipment, or land or a combination of capital, equipment, or land and

(ii) Active personal labor or active personal management, or a combination of active personal labor and active personal management, and that are:

(A) Performed on a regular basis,

(B) Identifiable and documentable, and

(C) Separate and distinct from such contributions of any other member of the farming operation;

(2) Has a share of the profits or losses from the farming operation commensurate with the member’s contributions to the operation; and

(3) Makes contributions to the farming operation that are at risk for a loss, with the level of risk being commensurate with the member’s claimed share of the farming operation.

(b) For a farming operation conducted by a joint operation in which the capital, land, or equipment is contributed by such joint operation, such capital, land, or equipment:

(1) Must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, co-signed, or secured by:

(i) Any other person, joint operation, or legal entity that has an interest in such farming operation;

(ii) Such joint operation by any other person, joint operation, or legal entity that has an interest in such farming operation or

(iii) Any other person, joint operation, or legal entity in whose farming operation such joint operation or legal entity has an interest; and

(2) If acquired as a result of a loan made to, guaranteed, co-signed, or secured by the persons, joint operations, or legal entities, the loan must:

(i) Bear the prevailing interest rate and

(ii) Have a repayment schedule considered reasonable and customary for the area.

§ 1400.204 Limited partnerships, limited liability partnerships, limited liability companies, corporations, and other similar legal entities.

(a) A limited partnership, limited liability partnership, limited liability company, corporation, or other similar
legal entity will be considered to be actively engaged in farming with respect to a farming operation if:

(1) The legal entity independently and separately makes a significant contribution to the farming operation of capital, equipment, or land, or a combination of capital, equipment, or land;

(2) Each partner, stockholder, or member with an ownership interest makes a contribution, whether compensated or not compensated, of active personal labor, active personal management, or a combination of active personal labor and active personal management to the farming operation; that are:
   (i) Performed on a regular basis;
   (ii) Identifiable and documentable; and
   (iii) Separate and distinct from such contributions of any other partner, stockholder or member of the farming operation;

(3) The contribution of the partners, stockholders and members is significant and commensurate;

(4) The legal entity has a share of the profits or losses from the farming operation commensurate with the legal entity’s contributions to the operation; and

(5) The legal entity makes contributions to the farming operation that are at risk for a loss, with the level of risk being commensurate with the legal entity’s claimed share of the farming operation.

(b) If any partner, stockholder, or member fails to meet the requirements in paragraph (a)(2) of this section, any program payment and benefit subject to this subpart provided to the legal entity will be reduced by an amount commensurate with the ownership share held by that partner, stockholder, or member in the legal entity.

(c) For a farming operation conducted by a legal entity in which the capital, land, or equipment is contributed by the legal entity, such capital, land, or equipment:

(1) Must be contributed directly by the legal entity and must not be acquired as a loan made to, guaranteed, co-signed, or secured by:
   (i) Any person, legal entity, or joint operation that has an interest in such farming operation, including the legal entity’s members;
   (ii) Such joint operation by any person, legal entity, or other joint operation that has an interest in such farming operation; or
   (iii) Any person, legal entity, or joint operation in whose farming operation such legal entity has an interest, and

(2) If acquired as a result of a loan made to, guaranteed, co-signed, or secured by the persons, legal entities, or joint operations as defined, the loan must:
   (i) Bear the prevailing interest rate and
   (ii) Have a repayment schedule considered reasonable and customary for the area.

§ 1400.205 Trusts.
A trust will be considered to be actively engaged in farming with respect to a farming operation if:

(a) The trust independently and separately makes a significant contribution to the farming operation of capital, equipment, or land, or a combination of capital, equipment, or land;

(b) The income beneficiaries collectively make a significant contribution of active personal labor or active personal management, or a combination of active personal labor and active personal management, to the farming operation. The combined interest of all the income beneficiaries providing active personal labor or active personal management, or a combination of active personal labor and active personal management, must be at least 50 percent;

(c) The trust has a share of the profits or losses from the farming operation commensurate with the legal entity’s contributions to the operation;

(d) The trust makes contributions to the farming operation that are at risk for a loss, with the level of risk being commensurate with the legal entity’s claimed share of the farming operation;

(e) The trust has provided a tax identification number of the trust unless the trust is a revocable trust and the grantor is the sole income beneficiary; and

(f) The trust has provided a copy of the trust agreement to the county