independently makes a significant contribution to a farming operation, of:

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

(2) Active personal labor or active personal management, or a combination of active personal labor and active personal management.

(c) In determining if the individual or entity is actively contributing a significant amount of active personal labor or active personal management the following factors shall be taken into consideration:

(1) The types of crops and livestock produced by the farming operation;

(2) The normal and customary farming practices of the area; and

(3) The total amount of labor and management necessary for such a farming operation in the area.

(d) In order to be considered to be actively engaged in farming an individual or entity specified in §§ 1400.202 through 1400.210 must have:

(1) A share of the profits or losses from the farming operation commensurate with the individual's or entity's contribution to the operation; and

(2) Contributions to the farming operation that are at risk.

§ 1400.202 Individuals.

An individual shall be considered to be actively engaged in farming with respect to a farming operation if the individual makes a significant contribution of:

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

(b) Active personal labor or active personal management, or a combination of active personal labor and active personal management.

§ 1400.203 Joint operations.

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

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

(2) Active personal labor or active personal management or a combination of active personal labor and active personal management.

(b) If a joint operation separately makes a significant contribution of capital, equipment, or land, or a combination of capital, equipment, or land, and the joint operation meets the provisions of § 1400.201(d), the members of the joint operation who make a significant contribution of active personal management, or a combination of active personal labor and active personal management to the farming operation shall be considered to be actively engaged in farming with respect to such farming operation.

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

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

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

(b) The partners, stockholders, or members collectively make a significant 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. The combined beneficial interest of all the partners, stockholders, or members 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.

§ 1400.205 Trusts.

A trust shall be considered to be actively engaged in farming with respect to a farming operation if:

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

(d) The trust has provided a copy of the trust agreement to the county committee unless the trust is a revocable trust.

§ 1400.206 Estates.

(a) For 2 program years after the program year in which an individual dies the individual's estate shall be considered to be actively engaged in farming if:

(1) The estate makes a significant contribution of either:

(i) Capital, equipment, or land; or

(ii) A combination of capital, equipment, or land; and

(2) The personal representative or heirs of the estate collectively make a significant contribution of either:

(i) Active personal labor or active personal management; or

(ii) A combination of active personal labor and active personal management.

(b) After the period set forth in paragraph (a) of this section, the deceased individual's estate shall not be considered to be actively engaged in farming unless, on a case by case basis, the Deputy Administrator determines that the estate has not been settled primarily for the purpose of obtaining program payments.

§ 1400.207 Landowners.

A person who is a landowner, including landowners with an undivided interest in land, making a significant contribution of owned land to the farming operation, shall be considered to be actively engaged in farming with respect to such owned land, if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results. A landowner also includes a member of a joint operation if the joint operation holds title to land in the name of the joint operation and if the joint operation or its members submit adequate documentation to determine that, upon dissolution of the joint operation, the title to the land owned by the joint operation will revert to such member of such joint operation.

§ 1400.208 Family members.

With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution of active personal management, active personal labor, or a combination of active personal labor and active personal management shall be considered to be actively engaged in farming.

§ 1400.209 Sharecroppers.

A sharecropper who makes a significant contribution of active personal labor to the farming operation shall be considered to be actively engaged in farming.

§ 1400.210 Deceased and incapacitated individuals.

The determining authority shall take into consideration the circumstances involving individuals who have died or become incapacitated during the program year or fiscal year, as applicable. If the individual dies or is incapacitated before a determination is made that the individual is ''actively engaged in farming,'' the representative of the deceased individual's estate or the incapacitated individual, or other person if necessary, must provide the determining authority information to verify that such individual did make a conscious effort to and would have been determined to be actively engaged in farming if not for the individual's death or incapacitation. If the individual dies or is incapacitated after being determined to be ''actively engaged in farming,'' the determining authority shall allow such determination to be in effect for that program year or fiscal year, as applicable. However, the following year such individual or the