

§ 782.25

for inspection by representatives of USDA.

§ 782.25 Length of time records are to be kept.

The records required to be kept under this part shall be retained for 3 years following the filing date of the applicable record. Records shall be kept for such longer period of time as may be requested in writing by USDA representatives.

PART 783—TREE ASSISTANCE PROGRAM

- Sec.
- 783.1 Applicability.
- 783.2 Administration.
- 783.3 Definitions.
- 783.4 Eligibility.
- 783.5 Application.
- 783.6 Benefits.
- 783.7 Obligations of a participant.
- 783.8 Multiple benefits.
- 783.9 Miscellaneous.

AUTHORITY: 7 U.S.C. 8201 *et seq.*

SOURCE: 69 FR 9745, Mar. 2, 2004, unless otherwise noted.

§ 783.1 Applicability.

This part governs and provides the requirements and authorities for administration of the Tree Assistance Program (TAP) of the Farm Service Agency. This program shall operate only to the extent funds are appropriated for this program. Payments will be limited to lost eligible trees, bushes or vines, and all claims are subject to the availability of funds.

§ 783.2 Administration.

(a) The program will be administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. In the field, the regulations in this part will be administered by the FSA State and county committees.

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by the regulations of this part that the county committee

7 CFR Ch. VII (1-1-05 Edition)

has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Deputy Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other non-statutory requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) Data furnished by the applicants will be used to determine eligibility for program benefits. Although participation in TAP is voluntary, program benefits will not be provided unless the participant furnishes all requested data.

§ 783.3 Definitions.

(a) The definitions in part 718 of this chapter apply to TAP except when they conflict with paragraph (b) of this section.

(b) The following definitions apply to TAP:

Cutting means a vine, which was planted in the ground for commercial production of grapes, kiwi fruit, or passion fruit or similar fruit as approved by the Deputy Administrator.

County office means the FSA or USDA Service Center that is responsible for servicing the farm on which the trees, bushes or vines are located.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or a designee.

Eligible bush means, a low, branching, woody plant from which an annual fruit or vegetable crop is produced for commercial purposes, such as a blueberry bush.

Eligible orchardist means an individual, or legal entity, including an Indian tribe as defined under the Indian Self-Determination and Education Assistance Act; an Indian organization or entity chartered under the Indian Reorganization Act; a tribal organization as defined under the Indian Self-Determination Education and Assistance Act; or, an economic enterprise as defined under the Indian Financing Act of 1974, which owns a tree, bush or vine as defined in this part.

Eligible tree means, a tall, woody plant having comparatively great height, as determined by the Deputy Administrator, and a single trunk from which an annual crop is produced for commercial purposes, such as maple tree for syrup, papaya tree, or orchard tree. Plantain and banana plants are also included. Trees used for pulp or timber are not considered eligible trees under this part.

Eligible vine means a plant with a flexible stem supported by climbing, twining, or creeping along a surface and from which an annual fruit or vegetable crop is produced for commercial purposes, such as grape, kiwi fruit, or passion fruit.

Individual stand means an area of trees, bushes or vines that are tended by an owner as a single operation, whether or not such trees, bushes or vines are planted in the same field or similar location. Trees, bushes or vines in the same field or similar area may be considered separate individual stands if the county committee determines that the trees, bushes or vines are susceptible to losses at significantly differing levels.

Lost means with respect to the extent of damage to a tree or other plant that the damage is such that it would, as determined by FSA, be more economically beneficial to replace the plant rather than to leave it in its deteriorated, low producing state.

Natural disaster means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other natural occurrence of such magnitude or severity so as to be considered disastrous, as determined by FSA.

Normal mortality means the percentage, as established by the State Committee, of lost trees, bushes or vines in

the individual stand that normally occurs in a 12-month period.

Program year means a calendar year for which funding is available.

Seedling means a tree, bush or vine which was planted in the ground for commercial purposes.

§ 783.4 Eligibility.

(a) To be considered an eligible loss:

(1) Eligible trees, bushes or vines must have been located and lost as a result of natural disasters determined and announced by FSA as set forth in the TAP application.

(2) The individual stand must have sustained a loss in excess of 15 percent after adjustment for normal mortality;

(3) The loss could not have been prevented through reasonable and available measures; and

(4) The tree, bush or vine, in the absence of a qualifying disaster, would not normally have been rehabilitated or replanted within the 12-month period following the loss.

(b)(1) The damage must be visible and obvious to the county committee except that if the damage is no longer visible, the county committee may accept other evidence of the loss as it determines is reasonable.

(2) The county committee may require information from an expert in the case of plant disease or insect infestation.

(c)(1) To be eligible for TAP benefits the eligible orchardist must:

(i) Own the stand on which the claim for benefits is based;

(ii) Have owned the stand at the time the natural disaster occurred;

(iii) Have continuously owned the stand until the TAP application is submitted; and

(iv) Not exceed or be in violation of any other limitations on payments.

(2) Federal, State, and local governments and agencies and political subdivisions thereof are not eligible for benefits under this part.

(d)(1) A new owner of an orchard is allowed to receive TAP benefits in an amount not to exceed those approved for the predecessor owner of the orchard and not paid to the predecessor owner, if the predecessor owner of the orchard agrees to the succession in writing and if the new owner: