

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Tree Assistance Program for
2008 through 2011 Crop Years
1-TAP (Revision 3)**

Amendment 5

Approved by: Acting Deputy Administrator, Farm Program



Amendment Transmittal

A Reasons for Amendment

Subparagraph 32 C has been amended to clarify that SED's have the authority to approve equitable relief cases on RMPR for 2009 and subsequent years.

Subparagraph 64 C has been amended to correct the example provided in practice code 01.

Subparagraph 64 D has been amended to change the word "lost" to "damaged".

Subparagraph 152 A has been amended to:

- update the notes in practice code 07 and clarify that smaller than 25-gallon containerized potted trees are not ordinarily rehabilitated, but are replaced
- add practice code 15 for cranberry replacement cost per vine of \$0.06; and practice code 16 for cranberry planting cost per vine of \$0.03
- clarify the footnote provided under the practice code matrix.

Subparagraph 152 C has been amended to correct the eligible practice codes for cranberries.

| Page Control Chart | | |
|---------------------------|--|----------------|
| TC | Text | Exhibit |
| | 2-5, 2-6 3-17, 3-18 3-21, 3-22 6-1, 6-2 6-2.5, 6-2.6 | |

31 General Eligibility Requirements (Continued)

H Equitable Relief Waivers

If a producer was unable to obtain a policy, plan of insurance, NAP coverage, and/or pay the buy-in fee by the applicable deadlines, and the producer showed good faith, the producer may be granted equitable relief. If the producer is granted equitable relief, then the producer is considered to have met RMPR. See paragraph 32 for additional information.

I SDA/LR/BF Waivers

Producers who meet SDA, LR, or BF requirements, as defined in Food, Agriculture, Conservation, and Trade Act of 1990, Section 2501(e) (7 U.S.C. 2279(e)), do **not** have to meet RMPR and; therefore, are **not** required to pay the buy-in fee.

J RMA Insurance Exceptions

Producers will be considered in compliance with RMPR if their share in a crop is insured based on 1 of the following RMA crop policy rules.

- **Husband/Wife** – Either spouse insures all interest in the crop under one policy.
- **Landlord/Tenant** – Either the landlord or tenant may insure both parties' share with permission of the other party.
- **Landlord Undivided Interest** – Land is jointly and severally owned with 1 person being the responsible person.
- **Joint Ventures** – One of the member's TIN is used to insure the entire interest of the joint venture with all members agreeing and signing the policy.

Note: This does **not** apply to corporations or any other entities with members.

- **Revocable Trusts** – An individual beneficiary's or grantor's TIN is used to insure the entire interest of the revocable trust. Documentation may include a copy of the statement advising where the authority can be found.
- **DBA** – A producer with TIN for DBA with only the individual as sole proprietor can insure using DBA's TIN. If DBA has substantial beneficial interest other than the individual, then DBA is **not** eligible for the exception.
- **Transfer of Indemnity** – A producer's share is insured under a policy purchased by another individual that transfers the insurance coverage to the producer. The original insured individual transfers the insurance coverage to another person. RMA may provide FSA with the original insured's TIN because only the crop insurance companies maintain transfer information. The producer **must** provide proof of transfer from their crop insurance agent.

32 Equitable Relief for 2008

A Overview

The 2008 Farm Bill provided equitable relief to eligible producers who failed to meet 2008 RMPR for TAP, because most sales closing dates for crop insurance and application closing dates for NAP occurred before the enactment. Equitable relief cases for 2008 **require** DAFP approval, because Buy-In 2 was available for 2008.

Note: STC has authority to grant equitable relief on a case-by-case basis for producers who missed the 2008 deadline for obtaining coverage. Requests for relief filed after February 16, 2009, **must** be submitted to DAFP for approval.

B Extent of Equitable Relief

Equitable relief may be granted on a case-by-case basis, to an eligible producer who failed to meet 2008 RMPR when the determination has been made that the producer made a good faith effort to comply, and when 1 of the following situations occurred:

- producer was unable to pay the 2008 buy-in fee for the crop by the September 16, 2008, deadline and the sales closing date for crop insurance or application closing date for NAP crops had passed
- producer was late-planting a crop because of weather-related causes
- actual use of the crop, which differs from the intended use, is uninsurable.

Note: See 7-CP, paragraph 63, to determine whether a producer made a good faith effort.

C Equitable Relief Not Granted

Equitable relief shall **not** be granted to a producer who failed to meet 2008 RMPR because of any of the following reasons:

- producer intentionally chose **not** to insure a covered crop under RMA or NAP
- a lack of good faith in reporting acreage or production
- ineligibility determinations were rendered under RMA or NAP regulations
- producer was prohibited from insuring acreage because the producer did **not** timely pay the crop insurance premiums in a prior year
- relief request was after February 16, 2009, when STC authority was suspended according to subparagraph H.

Note: STC has the authority to approve equitable relief cases on RMPR for 2009 and
--subsequent years.--

64 Payment Calculations (Continued)

C Multiple Loss Examples (Continued)

- **Loss 2:** On August 30, 2008, Roger suffered a subsequent disaster and reported 50 plum trees were damaged on 1 acre of the 5 acre orchard, and no tree loss. Roger submitted FSA-899 to rehabilitate all 50 of the lost trees. Roger indicated a producer’s share of 100 percent.

Roger is **not** eligible for payment because he did not suffer tree deaths in excess of 15 percent after adjustment for normal mortality. Each disaster event is separate in the mortality calculation.

- **Loss 3:** On October 20, 2008, Roger reported the loss of 100 additional plum trees, and damage of 50 additional plum trees on 2 acres of his 5-acre orchard. Roger reported that following Loss 2, he had 250 remaining plum trees. Roger indicated a producer’s share of 100 percent. COC representative visited the orchard and determined that, because of an eligible disaster condition, 100 plum trees were lost, and an additional 50 plum trees were damaged on 2 acres.

| | | |
|---------------------------|--------------------------------|-----|
| Stand Information: | Stand Number: | 456 |
| | Total Trees in Stand | 250 |
| | Total Acres in Stand | 5 |
| | Total Determined Lost Trees | 100 |
| | Total Determined Damaged Trees | 50 |
| | Total Acres Requested | 2 |

- The first calculation is to determine if Roger is eligible for TAP.

Calculate loss threshold and normal mortality on trees and acres as follows.

$$\begin{array}{r}
 250 \text{ trees in stand} \times 15\% \text{ loss threshold} = 38 \text{ trees} \\
 250 \text{ trees} \times 3\% \text{ normal mortality} = \underline{8 \text{ trees}} \\
 \mathbf{46 \text{ trees}}
 \end{array}$$

- Roger is eligible for TAP because the 100 trees lost and the 50 trees damaged are greater than the loss threshold of 46 trees.

64 Payment Calculations (Continued)

C Multiple Loss Examples (Continued)

- Loss 3 (Continued)

- The second calculation is to determine the trees/acres for payment.

Calculate trees and acres for payment as follows.

100 trees lost
 - 18 trees (100 tree loss x 18% (15% loss threshold + 3% normal mortality) = 18 trees))
82 trees eligible for payment

50 trees damaged
 - 9 trees (50 trees damaged x 18% (15% loss threshold + 3% normal mortality) = 9 trees))
41 trees damaged for payment

2.0 acre lost
 - .4 acre loss threshold (2.0 acre lost x 18% (15% loss threshold + 3% normal mortality) = .4 acre))
 1.6 acre eligible for payment

- Roger is eligible for payment on:
 - 82 lost trees
 - 41 damaged trees
 - 1.6 acres.
- The following DAFP-established practice rates and payment levels were used to determine Roger’s maximum eligible payment amount.

Practice Code 01 – (Fruit and Nut Tree Replacement Per Tree = \$8)

--82 lost trees x 100% (share) x \$8 per tree = \$ 656--

Practice Code 10 – (Tree Planting Cost = \$2 per tree)

82 lost trees x 100% (share) x \$2 per tree = 164

64 Payment Calculations (Continued)

D Multiple Loss With Replanting Examples (Continued)

- Loss 1 (Continued)
 - The following DAFP-established practice rates and payment levels were used to determine Lucy’s maximum eligible payment amount.

Calculate eligible trees for payment as follows.

Practice Code 01 - (Fruit and Nut Tree Replacement Per Tree)

$$205 \text{ trees} \times 100\% \text{ (share)} \times \$8 \text{ per tree} = \$1,640$$

Practice Code 10 – (Tree Planting Cost)

$$205 \text{ trees} \times 100\% \text{ (share)} \times \$2 \text{ per tree} = 410$$

Practice Code 14 – (Site Preparation Per Acre)

$$2.5 \text{ acres} \times 100\% \text{ (share)} \times \$500 = \underline{1,250}$$

Total maximum payment for all practices using DAFP-established rates = \$3,300

Actual cost receipts submitted by Lucy are calculated as follows.

| | |
|---|---------|
| Receipts for tree replacement: \$2,000 x 100% (share) x 70% (payment level) = | \$1,400 |
| Receipts for tree planting: \$1,500 x 100% (share) x 70% (payment level) = | 1,050 |
| Site preparation expense: \$1,200 x 100% (share) x 50% (payment level) = | 600 |

- Lucy is eligible for the **lesser** of the maximum payment or actual cost per practice as follows:
 - practice 01: \$1,400 (actual cost)
 - practice 10: \$410 (DAFP maximum payment)
 - practice 14: \$600 (actual cost).

In this example, Lucy’s estimated TAP payment amount is **\$2,410**.

64 Payment Calculations (Continued)

D Multiple Loss With Replanting Examples (Continued)

- Loss 2:** On August 30, Lucy reported that she **replanted** all 250 trees she lost on June 30 (Loss 1). Lucy had 250 remaining trees in stand after Loss 1, and replanted 250, for a total of 500 trees in the stand. Lucy reported 50 trees were damaged on 1 acre of her 6 acre orchard. Lucy submitted FSA-899 to rehabilitate all 50 of the damaged trees. Lucy indicated a producer’s share of 100 percent. COC representative subsequently visited the orchard and determines that, because of eligible disaster conditions, 50 trees were damaged on 1 acre.

| | | |
|---------------------------|--------------------------------|-----|
| Stand Information: | Stand Number: | 123 |
| | Total Trees in Stand | 500 |
| | Total Acres in Stand | 6 |
| | Total Determined Lost Trees | 0 |
| | Total Determined Damaged Trees | 50 |
| | Total Acres Requested | 1 |

- Calculate loss threshold and normal mortality on trees/acres as follows:**

$$\begin{aligned}
 500 \text{ trees in stand} \times 15\% \text{ loss threshold} &= 75 \text{ trees} \\
 500 \text{ trees} \times 3\% \text{ normal mortality} &= \underline{15} \text{ trees} \\
 &= \mathbf{90} \text{ trees}
 \end{aligned}$$

- Lucy is not eligible for TAP, because she did not suffer tree deaths in excess of 15 percent after adjustment for normal mortality. Each disaster event is separate in the mortality calculation.
- Loss 3:** On October 5, Lucy reported the loss of 100 trees and damage of 70 trees on 2 of her 6 acres. Lucy had 500 remaining trees in the stand after Loss 2. Lucy indicated a producer’s share of 100 percent. COC representative subsequently visited the orchard and determined that, because of eligible disaster conditions, 100 trees were lost and 70 were damaged on 2 acres.

| | | |
|---------------------------|--------------------------------|-----|
| Stand Information: | Stand Number: | 123 |
| | Total Trees in Stand | 500 |
| | Total Acres in Stand | 6 |
| | Total Determined Lost Trees | 100 |
| | Total Determined Damaged Trees | 70 |
| | Total Acres Requested | 2 |

Part 6 TAP Criteria

151 Stand Eligibility

A Eligible Causes of Loss

*--Eligible causes of loss are causes that are the result of natural disaster. See Exhibit 2 for a definition of natural disaster.

To be an eligible cause of loss, the natural disaster must have occurred between January 1, 2008, and September 30, 2011, for the trees, bushes, or vines.

Example: N & H Apple Mountain Farm is infected with fire blight on July 13, 2008, and the apple trees reach full mortality on September 1, 2009. N & H Apple Mountain Farm is eligible to participate in 2009 program year TAP, and mortality calculated for 2009.--*

B Eligible Stand

Eligible stand means a contiguous acreage of the same type of trees (including Christmas trees, ornamental trees, nursery trees, and potted trees), bushes (including shrubs), or vines.

Eligible stands **must**:

- have been impacted by an eligible cause of loss according to subparagraph A
- be grown for commercial purposes for the annual production of a crop, including immature trees
- sustain qualifying tree, bush, or vine deaths in excess of 15 percent because of an eligible natural disaster after adjustment for normal mortality for the individual stand.

C Individual Stand Eligibility

Eligible trees, bushes, or vines of the same crop type in a stand, but **not** in the same field or similar area, unless inter-planted, such as separated by a natural or man-made barrier, may be considered separate, individual stands, if COC determines there are significantly differing levels of loss susceptibility.

--Acreage stands with scattered plantings shall be determined based on recommended spacing requirements.--

Differences in loss susceptibility may be because of factors that are **not** natural disasters, such as:

- species
- the age of the tree, bush, or vine
- natural site conditions
- other natural causes or barriers as determined by STC.

152 TAP Payment and Mortality Rates

A Maximum Payment Rates

DAFP-established practice rates in the following table are maximum payment rates to eligible owners.

Note: STC may establish lower rates than the rates established by DAFP in this subparagraph. The rates established by STC shall **not** exceed the maximum rates established by DAFP.

| Practice Code | Practice | Maximum Rates |
|---------------|--|---------------|
| 01 | Fruit and nut tree replacement per tree (orchards). | \$8 |
| 02 | Fruit and nut tree rehabilitation per tree (orchards). | \$15 |
| 03 | Caneberry, grape, kiwi, and passion fruit replacement per vine. | \$4 |
| 04 | Caneberry, grape, kiwi, and passion fruit rehabilitation per vine. | \$3 |
| 05 | Maple tree for syrup replacement per tree. | \$8 |
| 06 | Maple tree for syrup rehabilitation per tree. | \$15 |
| 07 | Nursery tree (fruit, nut, ornamental, and Christmas trees) replacement per tree (field and container). Notes: Trees in a nursery operation, including Christmas trees, etc., are paid under this practice code. *--Research indicates that smaller than 25 gallon containerized potted trees are not ordinarily rehabilitated, but are replaced.--* | \$5 |
| 08 | Nursery tree rehabilitation per tree (field and container). Note: Rehabilitation for nursery tree containers is applicable to only industry standard large-size containers (25 gallon and above). | \$3 |
| 09 | Pecans rehabilitation, including pruning, site preparation, and debris removal per tree . | \$40 |
| 10 | Planting cost per eligible tree (including Christmas trees, fruit and nut trees, ornamental trees, nursery trees, and potted trees), bushes (including shrubs), and vines. | \$2 |

152 TAP Payment and Mortality Rates (Continued)

A Maximum Payment Rates (Continued)

| Practice Code | Practice | Maximum Rates |
|---------------|---|---------------|
| 11 | Pruning cost per eligible tree. <u>1</u> / Notes: Applies to rehabilitation only . Does not apply to TAP pecans. | \$7 |
| 12 | Rehabilitation cost per eligible tree (including Christmas trees and ornamental trees), bushes (including shrubs), and vines on a tree farm . Note: Research indicates that potted trees are not ordinarily rehabilitated, but are replaced. | \$4 |
| 13 | Replacement cost per eligible tree (including Christmas trees, ornamental trees, and potted trees), bushes (including shrubs), and vines on a tree farm . | \$2 |
| 14 | Site preparation per acre (including cleanup, tree and debris removal, and tillage). Note: Not applicable to Practice Code 09 (pecan rehabilitation) | \$500 |
| *--15 | Replacement cost per eligible cranberry plant. | \$0.06 |
| 16 | Planting cost per eligible cranberry plant. | \$0.03--* |

Note: See subparagraph C for practice code applicability.

--1/ Practice code 11 (Pruning - \$7) is only used, if pruning is the only practice completed. In all other cases, where stakes, ties, fertilizer, trellis, etc. are added to practice completion, practice code 02 (Rehabilitation - \$15) for orchards, which includes pruning, is eligible for payment. For orchards, applicant would never be eligible for both practice codes 02 and 11.--

152 TAP Payment and Mortality Rates (Continued)

B Normal Mortality

Eligible orchardists and nursery tree growers may be eligible for TAP if the **tree mortality**, as a result of an eligible cause of loss, exceeds 15 percent (adjusted for normal mortality).

Note: State Offices are responsible for establishing normal mortality rates for their State.

C Practice Code Applicability

The following table provides the list of crop codes and practices to where they can be applied.

| Crop Code | Crop | Crop Abbreviation | Eligible Practice Codes |
|------------------|--------------|--------------------------|--------------------------------|
| 0023 | Oranges | ORANG | 01, 02, 10, 11, 14 |
| 0024 | Tangelo | TANGL | 01, 02, 10, 11, 14 |
| 0028 | Almonds | ALMND | 01, 02, 10, 11, 14 |
| 0029 | Walnuts | WLNUT | 01, 02, 10, 11, 14 |
| 0030 | Grapefruit | GFRUT | 01, 02, 10, 11, 14 |
| 0034 | Peaches | PEACH | 01, 02, 10, 11, 14 |
| 0035 | Lemons | LEMON | 01, 02, 10, 11, 14 |
| 0036 | Limes | LIMES | 01, 02, 10, 11, 14 |
| 0048 | Tangerines | TANGR | 01, 02, 10, 11, 14 |
| 0053 | Grapes | GRAPE | 03, 04, 10, 14 |
| 0054 | Apples | APPLE | 01, 02, 10, 11, 14 |
| 0058 | Cranberries | CRNBR | *--14, 15, 16--* |
| 0060 | Figs | FIGS | 01, 02, 10, 11, 14 |
| 0100 | Maple | MAPSP | 05, 06, 10, 11, 14 |
| 0106 | Avocado | AVOCD | 01, 02, 10, 11, 14 |
| 0108 | Blueberries | BLUBR | 10, 12, 13, 14 |
| 0128 | Cherries | CHERY | 01, 02, 10, 11, 14 |
| 0144 | Pears | PEARS | 01, 02, 10, 11, 14 |
| 0146 | Pecans | PECAN | 01, 09, 10 |
| 0173 | Bananas | BANAN | 01, 02, 10, 11, 14 |
| 0175 | Coconuts | COCON | 01, 02, 10, 11, 14 |
| 0176 | Coffee | COFFE | 01, 02, 10, 11, 14 |
| 0181 | Papaya | PAPAY | 01, 02, 10, 11, 14 |
| 0186 | Plantain | PLANT | 01, 02, 10, 11, 14 |
| 0250 | Nectarines | NECTR | 01, 02, 10, 11, 14 |
| 0254 | Plums | PLUMS | 01, 02, 10, 11, 14 |
| 0326 | Apricots | APRCT | 01, 02, 10, 11, 14 |
| 0375 | Chestnuts | CHENT | 01, 02, 10, 11, 14 |
| 0376 | Hazel Nuts | HAZNT | 01, 02, 10, 11, 14 |
| 0463 | Kiwifruit | KIWIF | 03, 04, 10, 14 |
| 0465 | Persimmons | PERSI | 01, 02, 10, 11, 14 |
| 0466 | Plumcotes | PLUMC | 01, 02, 10, 11, 14 |
| 0467 | Pomegranates | POMEG | 01, 02, 10, 11, 14 |
| 0468 | Quinces | QUINC | 01, 02, 10, 11, 14 |
| 0469 | Macadamia | MACAD | 01, 02, 10, 11, 14 |
| 0470 | Pistachios | PISTA | 01, 02, 10, 11, 14 |
| 0496 | Dates | DATES | 01, 02, 10, 11, 14 |
| 0498 | Guavas | GUAVA | 01, 02, 10, 11, 14 |