UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Tree Assistance Program 1-TAP (Revision 4)	**Amendment 2**

Approved by: Deputy Administrator, Farm Program

Amendment Transmittal

A Reasons for Amendment

Subparagraph 31 B has been amended to clarify qualifying mortality and damage losses.

Subparagraph 31 C has been amended to clarify qualifying mortality losses in the case of plant disease.

Subparagraphs 31 D, 61 A, 62 C, and 63 A have been amended for clarity.

Subparagraph 63 C has been added to clarify that an FSA representative shall perform a field visit to verify practice completion.

Subparagraph 122 B has been amended to state that late-filed FSA-578's will be accepted for 2011 through 2014, without requiring the producer to pay a late-filed fee.

Exhibit 2 has been amended to remove "fire blight" because it is covered under plant disease as a natural disaster.

Page Control Chart		
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Part 2 General Eligibility Requirements

31 General Eligibility Requirements

A TAP Assistance

TAP provides disaster assistance to eligible orchardists and nursery tree growers to replant or rehabilitate trees, bushes, and vines that were lost or damaged because of an eligible natural disaster. TAP applies to orchardists and nursery tree growers who commercially raise perennial trees for production of an annual crop and sustain tree deaths in excess of 15 percent after adjustment for normal mortality. TAP authorizes payments to eligible orchardists and nursery tree growers who actually replant or rehabilitate eligible trees, bushes, and vines and who produce nursery, ornamental, fruit, nut, or Christmas trees for commercial sale. To be eligible for TAP, an eligible owner of trees, bushes, or vines, or a contract grower with a claim to ownership share in the crop, **must** have been located in an administrative county directly affected by an eligible natural disaster.

Note: A marketing or production contract grower **must** have production history for commercial purposes on planted or existing trees. Any questions on the eligibility of a grower's marketing or production contract should be referred to the appropriate OGC regional attorney.

Eligible tree losses must have occurred on or after October 1, 2011.

*--B Qualifying Mortality and Damage Losses

To be considered an eligible loss under TAP, eligible trees, bushes, or vines **must** have reached mortality (that is, died) above and below ground, as a result of an eligible natural disaster event, as identified in Exhibit 2. The individual stand must have sustained a mortality loss in excess of 15 percent after adjustment for normal mortality.

If a tree, bush, or vine is damaged to such an extent that it cannot produce fruit and cannot be rehabilitated to produce fruit, the tree, bush, or vine may be considered dead in determining the 15 percent mortality loss threshold.

Note: Death of a plant's graft or scion that necessitates removal and replacement of the plant's rootstock may be counted toward the 15 percent mortality, adjusted for normal mortality.

To be eligible for damage losses, the individual stand must have sustained **both** of the following:

- a mortality loss, in excess of 15 percent, after adjustment for normal mortality; and
- damage losses of 15 percent, adjusted for normal damage.**--***

31 General Eligibility Requirements (Continued)

*--C Qualifying Mortality Losses in the Case of Plant Disease

Determining mortality loss for plant disease differs from natural disaster because the time period between bacterial, fungal, or viral infection and symptom appearance can be from a few days to several years. Therefore, the 15 percent mortality threshold and normal mortality calculation for plant disease shall be cumulative based on the loss and time period, as approved by DAFP. STC's must submit documentation to DAFP for approval of STC determined loss and expected mortality time period according to subparagraph D.

D Requesting Approved Time Periods for Morality for Plant Disease

For plant disease mortality losses, STC's **must** submit to DAFP, reliable documentation to support confirmed prognosis and the determined loss period for the claimed infected trees, bushes, or vines, such as:

- plant pathology reports
- entomology laboratory reports
- related environmental factors
- integrated pest management data that may include timing of application, including**--*** biological, cultural, and chemical controls, as appropriate
- any other related data on periphery of pathogen and stage of trees affected.

Note: There may be regional differences in disease severity within a State; therefore, STC **must** document requests by region.

County Offices **must** retain the producer's initial CCC-899 on insect infestation and disease confirmation, and forward a copy to CCC representative to complete CCC-899, Part D when producer reports total mortality in subsequent years.

E Funding Authority

TAP is administered by FSA using funds from CCC.

Part 3 CCC-899's, Reimbursements, and Qualifying Losses

61 CCC-899, TAP Application for Assistance

A Filing CCC-899's

To apply for TAP benefits, applicants shall file an automated CCC-899 (paragraph 286) in their administrative County Office that maintains their farm records for the agricultural operation by crop type, stand, and producer share.

Applicants who suffered eligible tree, bush, and vine losses:

- **after** September 30, 2011, through the end of the 2014 calendar year must provide an application *** and supporting documentation to FSA by the later of January 31, 2015, or 90 calendar days after the disaster event or date when the loss is apparent to the producer

- on or after January 1, 2015, must provide an application *** and supporting documentation to FSA within 90 calendar days of each disaster event or date when the loss of trees, bushes, or vines is apparent to the producer.

--**Applicants who suffer multiple disasters during the calendar year may file multiple CCC-899's.**--

Applicants must certify and provide adequate proof that the losses were the direct result of an eligible natural disaster. ***

Notes: Applicants must be active in SCIMS with a legacy link to the administrative county accepting CCC-899 to apply and receive benefits under TAP.

Applicants must be active on a farm in the administrative county accepting CCC-899 to apply and receive benefits under TAP.

If an applicant is not in SCIMS with a legacy link to the administrative county accepting CCC-899, do the following:

- add the applicant to SCIMS
- create the legacy link according to 1-CM.

61 CCC-899, TAP Application for Assistance (Continued)

A Filing CCC-899's (Continued)

Each eligible applicant with a share interest in a stand who wants TAP payments **must** complete and sign a separate CCC-899 for that share of the stand.

Example 1: John Brown and others suffered eligible fruit tree losses and have the following interests in 2 counties that are administered in Jefferson County:

- B and B General Partnership has a permanent TIN and owns citrus groves in Jefferson County
- John Brown as 100 percent individual owner of pecan trees in Jefferson County
- John Brown and Jane Brown share owners of huckleberry bushes in Jefferson County; John Brown and Jane Brown have separate TIN's and jointly own the bushes on a 25-75 percent share
- John Brown as 100 percent individual owner of a stand of citrus trees in De Soto County that is administered in Jefferson County.

Assuming John Brown and others want TAP payments for their share of each stand, the following CCC-899's would need to be submitted:

- one CCC-899 for B and B General Partnership for 100 percent share of the citrus trees in Jefferson County
- one CCC-899 for John Brown for 100 percent interest in the pecan stand in Jefferson County
- one CCC-899 for John Brown for 25 percent interest in the huckleberry bushes operation in Jefferson County he shares with Jane Brown
- one CCC-899 for Jane Brown for 75 percent share of the citrus grove in Jefferson County she shares with John Brown
- one CCC-899 for John Brown with 100 percent share of the citrus grove physically located in De Soto County, but administered in Jefferson County.

62 Reimbursement and Qualifying Losses

A Eligibility Overview

TAP provides assistance to eligible orchardists and nursery tree growers to replant and rehabilitate trees, bushes, and vines that were lost and damaged because of an eligible natural disaster as defined in Exhibit 2.

Important: An individual stand that did not sustain a mortality loss is **not** eligible for payment.

B Eligibility for TAP for Producers Who Planted Trees

Eligible orchardists or nursery tree growers who planted trees for commercial production, but lost the trees because of an eligible natural disaster, may be reimbursed for the cost of replanting trees and/or rehabilitating trees damaged, in excess of 15 percent mortality or damage (adjusted for normal tree mortality), as follows:

- for replanting and the cost of seedlings or cuttings, for tree, bush, or vine replacement the lesser of either of the following:

  - 65 percent of the actual total cost of the practice
  - total amount calculated using rates established by DAFP for the practice

- for the cost of pruning, removal, and other costs incurred for salvaging existing trees, bushes, or vines, or in the case of mortality, to prepare the land to replant trees, bushes, or vines, the lesser of either of the following:

  - 50 percent of the actual cost of the practice
  - amount calculated using rates established by DAFP for the practice.

62 Reimbursement and Qualifying Losses (Continued)

C Eligibility for TAP for Producers Who Did Not Plant Trees

Eligible orchardists or nursery tree growers that have a production history for commercial purposes on planted or existing trees, but lost the trees because of an eligible natural disaster, may be eligible for TAP on lost and damaged trees, if **both** of the following occur:

- tree mortality exceeds 15 percent (adjusted for normal mortality)
- tree damage exceeds 15 percent (adjusted for normal tree damage).

Note: Eligible producers who did not plant or own trees will not be eligible for TAP payments for replanting practices.

--**If there is tree damage, then tree loss (mortality plus normal mortality) **must** be met**-- **before** eligibility for tree damage can be determined. Payments for pruning, removing, and other costs incurred for salvaging existing trees or, for tree mortality, to prepare the land to replant trees, is the lesser of the following:

- 50 percent of the actual total cost of the practice
- total amount calculated using rates established by DAFP for the practice.

Note: Losses from different stands with the same crop type will **not** be averaged to determine loss eligibility.

*** * ***

63 Required Field Visits by FSA Official

--A Required Field Visits to Verify Loss--

Before approving CCC-899, Part E, an FSA representative shall perform a field visit and document the following:

- total determined number of actual trees in the stand
- total determined number of actual trees lost/damaged because of an eligible natural disaster for payment
- total determined number of acres in the stand
- total determined number of acres in the stand for payment.

Note: Contracted LA's, used for NAP purposes, are **not** authorized to perform field visits for TAP, because special funding for LA's is specific to NAP.

Important: COC's may require information from a qualified expert to determine the extent of loss in cases of plant disease or insect infestation.

B Verifying Losses

Regardless of the number of trees for which the applicant requests TAP, the FSA representative must be able to determine the actual number of trees and acres in the stand, and actual trees lost and damaged because of an eligible natural disaster, to ensure that the correct eligible loss threshold calculation is performed.

Example: The applicant reports he or she will only replace 30 trees in a 10-acre orchard. FSA representative visits the orchard and determines the total number of trees in the stand is 1,000, and actual trees lost is **400**, which meets the 15 percent mortality loss threshold (15 percent **+** 3 percent normal mortality) (1,000 **x** 18 percent = 180 trees that must be lost).

***--Notes:** If at the time the applicant reports the completed practices, records show 100 trees were replanted instead of the 30 trees, the applicant will be eligible for reimbursement on the 100 trees. This applies because the maximum number of trees for TAP assistance that may be paid in this example is 328 trees:

400 trees lost **x** 18% (15% mortality **+** 3% normal mortality) = 72 trees
400 trees lost **-** 72 trees = 328 trees eligible for payment.

CCC-899 **must** be modified to reflect the change and approved by COC (Part 10, Section 1, Subsections 2 and 3).

C Field Visit to Verify Practice Completion

Before approving CCC-899, Part G, an FSA representative shall perform a field visit to verify practice completion, and that all eligibility requirements have been met.**--***

64 Payment Calculations

A Approved Acres, Trees, Bushes, and Vines

An eligible applicant shall qualify for TAP **only**, if the tree, bush, or vine mortality in each stand, for each eligible natural disaster or plant disease, exceeds the 15 percent loss threshold, plus normal mortality. Losses from different stands with the same crop type will **not** be averaged to determine loss eligibility. If the 15 percent tree mortality qualifying threshold plus normal mortality is **not** met, the applicant is **not** eligible for TAP.

Note: To be eligible for TAP, **both** the following **must** be met:

- eligible trees, bushes, or vines must have been lost or damaged as a result of eligible natural disaster as determined by the Deputy Administrator

- the individual stand must have sustained a mortality or damage loss in excess of 15 percent after adjustment for normal morality or damage, to be determined based on the following:

  - each eligible natural disaster event, except for losses because of plant disease

  - for plant disease, the time period, as determined by the Deputy Administrator, for which the stand is infected according to subparagraph 31 C.

Qualifying applicants are eligible for the **lesser** of either of the following:

- 65 percent of their actual cost for replanting trees (in excess of 15 percent mortality, adjusted for normal mortality) **and** 50 percent of the actual cost of pruning, removing, and other costs incurred to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees, in excess of 15 percent mortality and damage (adjusted for normal mortality)

- payment amount calculated using the maximum DAFP-established practice payment rates.

After the applicant qualifies for payment by meeting the 15 percent tree mortality threshold plus normal mortality, payments will be calculated as the **lesser** of the following:

- Actual Cost Receipts **x** Percent Applicant Share **x** Percent Payment Level = Total Payment

- Total Determined Trees Lost, Trees Damaged, and Acres **x** Percent Applicant Share **x** Practice Payment Rate = Total Payment.

92 Successor-in-Interest (Continued)

A Eligibility of Successors (Continued)

The extent of TAP payments that will be made available to successors on a CCC-899 is limited to that of the predecessor. This does **not** mean the successor will be paid what the predecessor may have been paid, it simply means that the successor **cannot** be paid more than what would have been paid the predecessor if there had been no succession.

County Offices will have to manually control payments to predecessors and successors.

B Payment Limitation

Successors and predecessors each have to meet common eligibility provisions and a successor cannot be paid more than what would have been paid to an approved predecessor if there had been no succession. However, except as specified in subparagraph D, the successor's actual TAP payments cannot exceed the applicable limitation for an eligible individual or entity.

--Example:** An individual who has already reached the TAP payment limitation on their**-- own CCC-899 is ineligible for further TAP payments as a successor.

C Inheritance

If ownership of an eligible orchard or nursery is acquired because of inheritance, the heirs will be eligible for **only** TAP payments that the predecessor decedent would have been paid if not for the death of the decedent. In this case, the eligible heirs will be paid based on the decedent's payment limitation and eligibility **without** regard to the heir's own limitation or eligibility.

Heirs who succeed to decedents interests will have to provide legal documents attesting to the death of the predecessor and the heir's right to succeed. See subparagraph 91 B.

92 Successor-in-Interest (Continued)

D Examples of Succession-in-interests

Example 1: Owner A owns a 10-acre stand of apples. On June 25, 2012, Owner A lost the apple trees because of damage from Hurricane Helen. Owner A timely filed CCC-899 for replanting the 10 acres of apple trees. COC approved Owner A's CCC-899 and Owner A met all eligibility requirements. In August 2012, Entity B acquired ownership of the 10 acres that was the subject of Owner A's CCC-899. Owner A submitted a written statement agreeing to allow Entity B to seek TAP benefits that Owner A would have obtained if Owner A had not conveyed the acreage to Entity B. Entity B signed CCC-899 assuming full responsibility for completing all approved incomplete practices.

Result 1: Provided that Entity B meets all other eligibility requirements of paragraph 91, Entity B is eligible for TAP payments on the successor CCC-899 not to exceed the extent to which Owner A was eligible.

Example 2: N & H Nursery suffered an eligible loss of trees and had an approved CCC-899 with 100 percent of the 15 acres of damaged trees. Based on the damage sustained on the 15 acres, N & H Nursery was eligible for TAP payments that would have been limited to $100,000. N & H Nursery was sold and the 15 acres was divided among 4 different buyers. N & H Nursery submitted a written statement to FSA advising that it agreed to allow new owners to apply for TAP benefits that N & H Nursery would have obtained had N & H Nursery not conveyed the property to new owners. Two of the new owners signed a successor CCC-899 assuming full responsibility for completing all approved incomplete practices on the acreage that had been part of N & H Nursery.

Result 2: The eligibility of N & H Nursery was determined based on the entire 15-acre stand of trees. All the new owners who chose to be successors cannot be paid more than what N & H Nursery would have been paid irrespective of owners who chose not to succeed. County Office will have to manually control payment limitation for N & H Nursery and any successors.

93-120 (Reserved)

Part 5 Payment, Acreage, and Compliance Provisions

121 Payment Provisions

A Availability of Funds

TAP will be administered by FSA using funds from CCC according to the 2014 Farm Bill. Approved CCC-899's will **not** be subject to a national payment factor.

B Prompt Payment Interest

The Prompt Payment Act provisions apply to TAP according to 61-FI, **except** that interest shall apply to payments issued more than 30 calendar days after **all** of the following have been completed:

- participant completed and signed CCC-899 along with all required forms

- all documentation required from the participant has been submitted, such as sales receipts, etc.

- all referrals to OIG have been returned or cases completed

- participant appeals have been finalized for CCC-899's disapproved by COC.

C Assignments and Offsets

County Offices shall:

- accept assignments according to 63-FI
- apply offsets according to 58-FI.

D Payment Limitation

The 2014 Farm Bill limits how much a producer may receive from the Supplemental Agricultural Disaster Assistance programs. The regulations at 7 CFR Part 1416, Subpart B, specify the payment limits.

A $125,000 payment limitation applies to TAP. Follow procedure in 5-PL.

E Foreign Person Provisions

All applicants **must** meet the foreign person requirements in 7 CFR Part 1400, Subpart E.

122 Acreage Provisions

A Acreage Limitations

The cumulative total quantity of acres planted to trees, bushes, or vines, where a producer may receive TAP, shall **not** exceed 500 acres annually.

Example: On April 24, 2012, producer was approved for loss on 100 acres. On July 7, 2012, producer reported another loss on 300 acres. Producer would **only** be eligible for payment on an additional 100 acres, for a total of 500 acres for all losses under TAP, for 2012.

B FSA-578's

FSA-578 is required for TAP. Each CCC-899 requires the producer to identify the crop type, trees and acres in stand, and applicant's share. Geographical physical location can be identified with an aerial photocopy and filed in producer's farm folder. Therefore, FSA-578 **must** be filed **before** CCC-899 can be approved by COC.

--Note:** 2-CP, subparagraph 21 C does not allow producers to late-file FSA-578's after natural disasters occur. However, for 2011 through 2014, 2-CP, subparagraph 21 C is waived to authorize acceptance of these late-filed FSA-578's, provided that all other requirements for late-filed FSA-578's are met according to 2-CP. If physical evidence is not available, follow subparagraph 62 D.**--

Definitions of Terms Used in This Handbook

Bush

Bush (including shrubs) means a low, branching, woody plant, from which an annual fruit crop is produced for commercial purposes, such as a blueberry bush.

Commercial Use

Commercial use means used in the operation of a business activity engaged in as a means of livelihood for profit by an eligible grower.

County Committee (COC)

COC means the respective FSA COC.

County Office

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

Cutting

Cutting means a piece of vine which was planted in the ground to propagate a new vine for the commercial production of fruit, such as grapes, kiwi fruit, passion fruit or similar fruit.

Eligible Orchardist

Eligible orchardist means a person or legal entity that produces annual crops from trees, bushes, or vines for commercial purposes.

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.

Farm

Farm means, for determining TAP eligibility, **all** crop acreage in **all** counties that a producer planted or intended to be planted for harvest for normal commercial sale.

Definitions of Terms Used in This Handbook (Continued)

Fruit Tree

Fruit tree means a woody perennial plant having a single main trunk, commonly exceeding 10 feet in height and usually devoid of branches below, but bearing a head of branches and foliage or crown of leaves at the summit that is grown for the production of an annual crop, including nuts, for commercial market.

Individual Stand

Individual stand is an area of fruit (including nut) trees, Christmas 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 separate individual stands if COC determines that the trees, bushes, or vines are susceptible to losses at significantly differing levels.

Lost

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 cost effective to replace the tree or plant than to leave it in its deteriorated, low-producing state.

Mortality

Mortality means tree, bush, or vines that died and/or were damaged during a specific growing period, because of natural disaster.

Natural Disaster

Natural disaster means:

- drought
- excessive rain and wind damage
- earthquake
- fire

*** * ***

- flood
- freeze