

§ 783.3 Definitions.

(a) In determining the meaning of the provisions of this part, unless the context indicates otherwise, singular terms include the plural and plural terms include the singular, masculine terms include the feminine, and terms used in the present tense include the future.

(b) The following terms contained in this part shall have the following meanings:

Annual gross revenue means, with respect to a person as defined in part 1400 of this title:

(1) For a person who receives more than 50 percent of such person's gross income from farming, ranching, and forestry operations, the total gross income received from such operations.

(2) For a person who receives 50 percent or less of such person's gross income from farming, ranching, and forestry operations, the total gross income from all sources.

(3) The determinations made in accordance with 7 CFR part 1400, subpart B, shall include all entities in which an individual or entity has an interest, whether or not such entities are engaged in farming.

(4) The year for which the annual gross income shall be received for the purpose of this definition shall be the 1996 tax year.

Cutting means a vine which was planted in the ground for commercial production of grapes, kiwi fruit, or passion fruit.

Eligible owner means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity and includes any Indian tribe under the Indian Self-Determination and Education Assistance Act; any Indian organization or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Assistance Act; and, any economic enterprise under the Indian Financing Act of 1974 which meets the requirements of this part.

Eligible trees means papaya trees or orchard trees grown for commercial production of fruit and nuts.

Eligible vines means grape, kiwi fruit, or passion fruit vines grown for commercial production.

Individual stand means an area of eligible trees or vines which are tended by an eligible owner as a single operation, whether or not such trees or vines are planted in the same field or similar location, as determined by the Deputy Administrator. Differing species of trees or vines in the same field or similar area may be considered to be separate individual stands if FSA determines that the species have significantly differing levels of freeze, drought, earthquake, hurricane, or typhoon susceptibility.

Local county office means the county FSA office or USDA Service Center that services the farm if an FSA farm serial number has been assigned or, if no serial number is assigned, then the office that services the county in which the eligible trees or vines are located.

Natural disaster means drought, excessive moisture, hail, freeze, tornado, hurricane, earthquake, or excessive wind.

Normal mortality means the percentage of plant loss on the individual stand of eligible trees or eligible vines which normally occurs in a 12-month period.

Orchard means eligible trees planted for commercial annual production of fruit or nuts.

Owner means a person who has legal ownership of the eligible trees or vines as determined by FSA. Eligible tree or vine owners need not own the land on which the trees or vines are planted.

Seedling means an eligible tree which was planted in the ground for commercial purposes.

Total mortality means the actual percentage of eligible tree or eligible vine losses on a given individual stand.

(c) The definitions set forth in this section shall be applicable for all purposes of administering the Tree Assistance Program. The terms defined in part 718 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section.

§ 783.4 Program deadlines.

(a) A request for benefits under this part to reimburse for losses to eligible

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trees and eligible vines must be submitted to FSA at the local county office by close of business on Friday, September 26, 1997.

(b) All related and supporting documentation shall be submitted at the time the request for assistance is filed or no later than September 30, 1997.

(c) The State committee shall allow the county committee to approve late-filed requests received after the enrollment period ends, but no later than September 30, 1997. Late-filed requests will be accepted only for those owners who applied late due to circumstances beyond their control as determined by the county committee and concurred with by the State committee.

(d) The State committee may approve an extension, not to exceed 24 months beyond the date of application, to complete TAP practices if delays are determined to be beyond the control of the applicant.

§ 783.5 Ownership, income and payment limitations.

(a) An eligible owner must:

(1) Own less than 500 acres of each type of eligible tree or eligible vine, regardless of their size or condition, which produce annual crops for commercial purposes, or are grown for harvest for commercial purposes; and

(2) Have owned the eligible trees or eligible vines at the time the natural disaster occurred and continuously until the application for TAP benefits is submitted.

(b) No person, as defined in part 1400 of this title, as applicable, with an annual gross revenue in excess of \$2.5 million for the 1996 tax year will be eligible for TAP benefits.

(c) The amount of payments which any person, as determined in accordance with part 1400 of this title, may receive under this part in connection with losses of eligible trees and eligible vines, shall not exceed \$25,000.

(d) An owner who acquires eligible trees or eligible vines from a previous owner approved for 1997 TAP shall not receive additional program benefits due to an increase in the number of persons associated with the new ownership. A new owner is allowed to receive TAP benefits not paid to the previous owner if the new owner:

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(1) Acquires ownership of land or trees for which TAP benefits have been approved;

(2) Meets the income and payment limitation under this part;

(3) Agrees to complete all practices which the original owner has not completed; and

(4) Agrees to receive any remaining payments and assumes full responsibility for all provisions of TAP, including refund of payments made to the previous owner, if necessary.

(e) In the event the total amount of claims submitted under this part during the sign-up period exceeds the applicable funds available for such period, such payments shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

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

§ 783.6 Qualifying loss.

(a) An eligible owner may receive assistance under this part for qualifying loss of eligible trees, eligible orchard tree seedlings, eligible vines or cuttings as determined by the Deputy Administrator for Farm Programs, FSA:

(1) Which were destroyed or injured as a result of a natural disaster, as determined by the county committee in accordance with the instructions of the Deputy Administrator; and

(2) For which the total mortality rate equals or exceeds 20 percent, after deducting the normal mortality the owner would have incurred.

(b) Qualifying loss determinations shall be made on an individual stand basis. A qualifying loss shall be the loss for the individual stand of eligible trees, or eligible vines, as appropriate, after deducting the normal mortality of such trees or vines, equal to or in excess of 20 percent mortality.

(c) Qualifying losses of eligible trees or vines shall not include:

(1) Losses which could have been prevented through readily-available horticultural measures; or