§ 760.505 Application.

(a) To apply for TAP, a producer that suffered eligible tree, bush, or vine losses that occurred:

(1) During calendar years 2008, 2009, or 2010, prior to May 7, 2010, must provide an application for payment and supporting documentation to FSA no later than July 6, 2010.

(2) On or after May 7, 2010, must provide an application for payment and supporting documentation to FSA within 90 calendar days of the disaster event or date when the loss of trees, bushes, or vines is apparent to the producer.

(b) The producer must submit the application for payment within the time specified in paragraph (a) of this section to the FSA administrative county office that maintains the producer’s farm records for the agricultural operation.

(c) A complete application includes all of the following:

(1) A completed application form provided by FSA;
(i) The amount calculated using rates established by the Deputy Administrator for the practice.

(b) An orchardist or nursery tree grower that did not plant the trees, bushes, or vines, but has a production history for commercial purposes on planted or existing trees and lost the trees, bushes, or vines as a result of a natural disaster, in excess of 15 percent damage or mortality (adjusted for normal damage or mortality), will be eligible for the salvage, pruning, and land preparation payment calculation as specified in paragraph (a)(2) of this section. To be eligible for the replanting payment calculation as specified in paragraph (a)(1) of this section, the orchardist or nursery grower who did not plant the stock must be a new owner who meets all of the requirements of §760.504(b) or be considered the owner of the trees under provisions appearing elsewhere in this subpart.

(c) Eligible costs for payment calculation include costs for:

(1) Seedlings or cuttings, for tree, bush, or vine replanting;

(2) Site preparation and debris handling within normal horticultural practices for the type of stand being re-established, and necessary to ensure successful plant survival;

(3) Pruning, removal, and other costs incurred to salvage damaged trees, bushes, or vines, or, in the case of tree mortality, to prepare the land to replant trees, bushes, or vines;

(4) Chemicals and nutrients necessary for successful establishment;

(5) Labor to plant seedlings or cuttings as determined reasonable by the county committee; and

(6) Labor used to transplant existing seedlings established through natural regeneration into a productive tree stand.

(d) The following costs are not eligible:

(1) Costs for fencing, irrigation, irrigation equipment, protection of seedlings from wildlife, general improvements, re-establishing structures, and windbreaks.

(2) Any other costs not listed in paragraphs (c)(1) through (c)(6) of this section, unless specifically determined eligible by the Deputy Administrator.

(e) Producers must provide the county committee documentation of actual costs to complete the practices, such as receipts for labor costs, equipment rental, and purchases of seedlings or cuttings.

(f) When lost stands are replanted, the types planted may be different from those originally planted. The alternative types will be eligible for payment if the new types have the same general end use, as determined and approved by the county committee. Payments for alternative types will be based on the lesser of rates established to plant the types actually lost or the cost to establish the alternative used. If the type of plantings, seedlings, or cuttings differs significantly from the types lost, the costs may not be approved for payment.

(g) When lost stands are replanted, the types planted may be planted on the same farm in a different location than the lost stand. To be eligible for payment, site preparation costs for the new location must not exceed the cost to re-establish the original stand in the original location.

(h) Eligible orchardists or nursery tree growers may elect not to replant the entire eligible stand. If so, the county committee will calculate payment based on the number of qualifying trees, bushes, or vines actually replanted.

(i) If a practice, such as site preparation, is needed to both replant and rehabilitate trees, bushes, or vines, the producer must document the expenses attributable to replanting versus rehabilitation. The county committee will determine whether the documentation of expenses detailing the amounts attributable to replanting versus rehabilitation is acceptable. In the event that the county committee determines the documentation does not include acceptable detail of cost allocation, the county committee will pro-rate payment based on physical inspection of the loss, damage, replanting, and rehabilitation.

(j) The cumulative total quantity of acres planted to trees, bushes, or vines for which a producer may receive payment under this part for losses that occurred between January 1, 2008, and
§ 760.507 Obligations of a participant.

(a) Eligible orchardists and nursery tree growers must execute all required documents and complete the TAP-fund ed practice within 12 months of application approval.

(b) Eligible orchardist or nursery tree growers must allow representatives of FSA to visit the site for the purposes of certifying compliance with TAP requirements.

(c) Producers who do not meet all applicable requirements and obligations will not be eligible for payment.

Subpart G—Supplemental Revenue Assistance Payments Program

SOURCE: 74 FR 68490, Dec. 28, 2009, unless otherwise noted.

§ 760.601 Applicability.

(a) This subpart specifies the terms and conditions of the Supplemental Revenue Assistance Payments Program (SURE).

(b) Assistance in the form of SURE payments is available for crop losses occurring in the crop year 2008 through September 30, 2011, caused by disaster as determined by the Secretary. Crop losses must have occurred in crop year 2008 or subsequent crop years due to an eligible disaster event that occurs on or before September 30, 2011.

(c) SURE provides disaster assistance to eligible participants on farms in:

1. Disaster counties designated by the Secretary, which also includes counties contiguous to such declared disaster counties, if the participant incurred actual production losses at least 10 percent to at least one crop of economic significance on the farm; and

2. Any county, if the participant incurred eligible total crop losses of greater than or equal to 50 percent of the normal production on the farm, as measured by revenue, including a loss of at least 10 percent to at least one crop of economic significance on the farm.

(d) Subject to the provisions in subpart B of this part, SURE payments will be issued on 60 percent of the difference between the SURE guarantee and total farm revenue, calculated using the National Average Market Price as specified in this subpart.


§ 760.602 Definitions.

(a) The following definitions apply to all determinations made under this subpart.

(b) The terms defined in parts 718, 1400, and 1437 of this title and subpart B of this part will be applicable, except where those definitions conflict with the definitions set forth in this section. In the event that a definition in any of those parts conflicts with the definitions set forth in this subpart, the definitions in this subpart apply. Any additional conflicts will be resolved by the Deputy Administrator.

Actual crop acreage means all acreage for each crop planted or intended to be planted on the farm.

Actual production history yield means the average of the actual production history yields for each insurable or noninsurable crop as calculated under the Federal Crop Insurance Act (FCIA) (7 U.S.C. 1501–1524) or Noninsured Crop Disaster Assistance Program (NAP) as set forth in part 1437 of this title, respectively. FSA will use the actual production history yield data provided for crop insurance or NAP, if available, in the SURE payment calculation.

Actual production on the farm means, unless the Deputy Administrator determines that the context requires otherwise, the sum obtained by adding:

1. For each insurable crop on the farm, excluding value loss crops, the product obtained by multiplying:
   (i) 100 percent of the per unit price for the crop used to calculate a crop insurance indemnity for the applicable crop insurance if a crop insurance indemnity is triggered. If a price is not available, then the price is 100 percent of the NAP established price for the crop, times
   (ii) The relevant per unit quantity of the crop produced on the farm, adjusted for quality losses, plus

2. For each noninsurable crop on the farm, excluding value loss crops, the product obtained by multiplying: